PROCEEDINGS OF THE NATIONAL TAX ASSOCIATION
PROCEEDINGS
OF THE
EIGHTEENTH ANNUAL CONFERENCE
ON TAXATION
UNDER THE AUSPICES OF THE
National Tax Association
HELD AT NEW ORLEANS, LOUISIANA
NOVEMBER 9–13, 1925
EDITED BY
ALFRED E. HOLCOMB, Secretary
NEW YORK, N. Y.
NATIONAL TAX ASSOCIATION
1926
NATIONAL TAX ASSOCIATION

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1925-1926

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Little Rock, Ark.

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(v)
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Term Expiring 1926

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CONSTITUTION OF THE NATIONAL TAX ASSOCIATION

As Amended at the Seventh Annual Meeting, October 25, 1913, and at the Ninth Annual Meeting, August 13, 1915

ARTICLE I
Name and Objects

Section 1. The name of this association shall be "National Tax Association."

Sec. 2. Its objects shall be to formulate and announce, through the deliberately expressed opinion of an annual conference, the best informed economic thought and ripest administrative experience available for the correct guidance of public opinion, legislative and administrative action on all questions pertaining to taxation, and to interstate comity in taxation.

ARTICLE II
Membership

Section 1. Any person in sympathy with the objects of the association shall be eligible to membership. All memberships shall be continuing and the dues therefor shall be paid annually unless the membership is discontinued by reason of death, resignation or non-payment of dues.

Sec. 2. The annual membership dues shall be five dollars, and shall be payable in advance, on the date of application for membership, and annually thereafter. Any member who shall fail to pay his dues within one year from the date when payable shall be dropped from membership on account of such non-payment.

Sec. 3. All members not in arrears for annual dues shall be entitled to receive, without charge, one copy of the proceedings of the annual conference for the current year, and one copy of such reports, bulletins, pamphlets, and documents as may be issued by the association from time to time for general circulation.

ARTICLE III
Annual Conference

Section 1. An annual national conference on taxation shall be held under the auspices of this association during the month of September in each year, or at such time and place as its executive committee may determine. The details of each conference shall be arranged by the executive committee in cooperation with such special and standing committees as may be created by this association at its annual meetings for such purposes.
CONSTITUTION OF NATIONAL TAX ASSOCIATION

Sec. 2. The administrative personnel of each annual conference shall be composed of three delegates appointed by the governor of each State, and public officials holding legislative or administrative positions charged with the duty of investigating, legislating upon, or administering tax laws.

Sec. 3. The educational personnel of each annual conference shall be composed of persons identified with universities and colleges that maintain a special course in public finance, or at which that subject receives special attention in a general course of economics; members of the profession of certified public accountants; and public men, editors, writers and speakers who hold no educational or official position but who have developed a special interest in the subject of taxation.

Sec. 4. The voting power in each conference upon any question involving an official expression of the opinion of the conference shall be vested in delegates appointed by governors of states; universities and colleges, or institutions for higher education, and state associations of certified public accountants, each of whom shall have one vote.

Sec. 5. Voting by proxy shall not be allowed.

Sec. 6. No member of this association shall have the right to vote in any annual conference by virtue of such membership.

Sec. 7. The last session of each annual conference, or so much of it as may be necessary, shall be devoted to the consideration of the report of the conference committee on resolutions and conclusions. The report of this committee, as adopted by the conference, shall be its official expression of opinion, and it shall not be held to have endorsed any other expression of opinion by whomsoever made. The voting power of the conference upon an official expression of its opinion, is limited with the purpose of safeguarding the conference from the possibility of having its expression of opinion influenced by any class interest; or consideration for those who devote their time to the work or management of this association; or favor for those who contribute money for its support. The annual conference will be the means used by the association for carrying into practical effect its purpose to secure an expression of opinion that will formulate and announce the best informed economic thought and ripest administrative experience available for the correct guidance of public opinion, legislative and administrative action on all questions pertaining to taxation, and to interstate comity in taxation.

Sec. 8. Organization of the Conference. The temporary and permanent chairman; secretary and official stenographer; address of welcome and response to the same; meeting place, accommodations for delegates, and all necessary preliminary details for each conference, and also the program of papers and discussions, shall be arranged for the conference by the executive committee of this association. All other details of the organization and work of the conference shall be arranged by the delegates present in such manner as they may from time to time decide.

ARTICLE IV

ANNUAL AND SPECIAL MEETINGS OF THE ASSOCIATION

Section 1. The annual meeting of the association shall be held in connection with the annual conference and at such time as the executive committee may determine. Sixty days' notice shall be given to all members of the time and place at which such annual meeting is to be held.
CONSTITUTION OF NATIONAL TAX ASSOCIATION

Sec. 2. Special meetings of this association may be held at any time and place, when called by its executive committee. At least thirty days' notice shall be given to all members of each special meeting, which notice shall specify the purpose for which the meeting is called, and no business shall be transacted at such meeting other than that specified in the call.

Sec. 3. A majority of all members present at any annual or special meeting of this association shall constitute a quorum for the transaction of business, but such quorum shall at no time be less than fifteen, and whenever the attendance of members and delegates exceeds one hundred, twenty-five shall constitute a quorum.

Article V
Officers and Executive Committee

Section 1. The affairs of this association shall be administered by a president, a vice-president, a secretary, a treasurer and an executive committee consisting of the president, vice-president, secretary, treasurer and nine additional members to be elected by the association at its annual meetings and to hold office until their successors are duly elected. In the discretion of the association the same person may serve both as secretary and treasurer. The ex-presidents at their option may become ex-officio members of the executive committee, and two honorary members of the executive committee may be elected annually representing the Dominion of Canada.

Sec. 2. Officers shall be elected for terms of one year and shall be eligible for re-election. Three active members of the executive committee shall be elected each year for terms of three years each, except that at the first election following the adoption of this amendment three such members shall be elected for terms of three years, three for terms of two years and three for terms of one year each. After the election in 1915 no such member of the executive committee shall be re-elected to succeed himself thereon.

Sec. 3. A vacancy in any office or in the membership of the executive committee or of any standing committee may be filled by the executive committee for the unexpired term.

Article VI
Duties of Officers and Committees

Section 1. The officers of this association shall perform the customary duties of their respective offices, and such other duties as may be assigned to or required of them from time to time by its executive committee, or by the association.

Sec. 2. When compensation is paid to any officer of this association, the amount thereof shall be fixed by the executive committee, and payment shall be made only as authorized by that committee.

Sec. 3. The Executive Committee shall have power to appoint additional officers, heads of departments and agents, from time to time, prescribe their duties, fix their term of office, and their compensations, and also to appoint standing or special committees and prescribe their powers and duties. All committees appointed by the executive committee shall report to that committee.
Sec. 4. The Executive Committee and all standing committees created by this association shall perform such general and special duties as may be assigned to them by the association.

Sec. 5. Such Standing and Special Committees may be created from time to time by this association as may be deemed necessary for the efficient promotion of the work being undertaken. All committees appointed by the association shall report to the association.

ARTICLE VII
FINANCIAL MANAGEMENT

Section 1. This Association, its Executive Committee, or any of its officers, agents, or employees shall have no power to contract a debt, or liability of any kind, for which the association or its members collectively or individually can be held responsible, in excess of the amount of its funds available for the payment of the same.

Sec. 2. The fiscal year of the association shall begin with the first day of the month of July and end with the last day of the month of June in each year.

Sec. 3. The accounts of the Association for each fiscal year shall be closed on the 30th day of June in each year. They shall be audited by a chartered or certified public accountant, who shall certify to the correctness of the financial reports submitted to the association at its annual meeting.

ARTICLE VIII
GENERAL OFFICES AND LIBRARY

Section 1. The offices and library of this association shall be established and maintained at such place or places as may be determined by its executive committee.

Sec. 2. This Association shall accumulate and properly index, as rapidly as its funds will permit, a reference and circulating library which shall contain one or more copies of every useful leaflet, pamphlet, address, document, and book on the subject of taxation. As far as is possible with the funds available for the purpose, this library shall be kept continuously written up to date and indexed so as to enable its custodian to supply on application correct and full reference to all authorities on any phase of the subject of taxation, the decisions of courts, the statistical results of taxation laws and of changes made in such laws from time to time.

Sec. 3. The services of this library shall be without charge to all members of this association and to all legislative, executive, and judicial officers of states and of their political subdivisions, and to every person desiring to study, discuss or speak upon any feature of the subject of taxation.

ARTICLE IX
PROCEEDINGS AND PUBLICATION

Section 1. At each annual meeting the association shall elect, or authorize its president to appoint, a standing publication committee, under whose supervision a full report of the proceedings of the annual conference last held shall be edited and published. This committee shall also edit and
supervise the publication of all reports, pamphlets, and literature in other forms issued by this association.

Sec. 2. The Executive Committee shall authorize the terms of sale or of distribution of all publications issued by this association.

ARTICLE X

BY-LAWS

SECTION 1. The Executive Committee is authorized to formulate, adopt, and from time to time amend, such by-laws as it may deem necessary for the good government of the affairs of this association, and of the official conduct of its officers and committees.

ARTICLE XI

AMENDMENTS

SECTION 1. This Constitution may be amended at any annual or special meeting of this association by a two-thirds vote of all members present, provided, the full text of the amendment shall have been submitted to the membership by the executive committee or by the member or members proposing the same, at least thirty days before the date of the meeting at which such proposed amendment is acted upon.
FIRST SESSION

Monday Evening, November 9, 1925

THOMAS W. PAGE, President of the National Tax Association, presiding.

PRESIDENT PAGE: The first business on our program this evening is the selection of a permanent chairman of this conference. What is your pleasure?

HENRY F. LONG (Massachusetts): Mr. President, I know that I express the feeling of all who are gathered for this conference, in nominating as the person we wish to have as chairman of this conference one in whom we have a great deal of pride and for whom all have admiration. It is with great pleasure that I move as permanent chairman of this conference Dr. Thomas W. Page.

(Motion duly seconded)

(Motion put by Mr. Long; ayes and noes)

MR. LONG: It is a unanimous vote, Dr. Page.

CHAIRMAN PAGE: It is now necessary for you to select a secretary for the conference.

HARLEY L. LUTZ (California): I should like to move that the conference choose Mr. Alfred E. Holcomb of New York City, as permanent secretary of the conference.

(Motion duly seconded)

CHAIRMAN PAGE: You have heard that motion, duly seconded. Are there other nominations?

(No further nominations)

(AYES AND NOES)

CHAIRMAN PAGE: Mr. Holcomb is elected unanimously.

I should like to say that at this, the first meeting of the conference, for organization, there are already present 285 duly designated representatives; that 41 states are represented, in addition to the District of Columbia, and three of the Provinces of Canada.

Now I have the pleasure of introducing to you Mr. Harry

1
Gamble of New Orleans, who will tender to you the welcome which Governor Fuqua of Louisiana intended to offer to you in person—Mr. Gamble.

Harry Gamble (Louisiana): Mr. Chairman, ladies and gentlemen of the National Tax Conference:

On behalf of the Governor of Louisiana, who is unable to be present tonight, due to previous engagement in another state, I am commissioned to welcome you to the State of Louisiana.

We appreciate the social contact with so many of the citizens of the United States and other countries, and I hope we are not unmindful of the advertising value to our city that your presence here will bring, but our real and sincere welcome arises because we have been acquainted with the fact that your active attending membership comprises some of the greatest public economists in the country, some of the most practical tax experts and business men of wide influence in the business world.

We are reliably informed that after the eighteen or twenty years of your national existence, your deliberations, conclusions and recommendations have come to have more influence on the vexing problem of taxation than any other private body in the United States. Our welcome, therefore, is colored with self-interest. We expect our enterprising press to take advantage of the exceptional opportunity offered by your presence, to provide their readers with information from your enlightened discussions of this question.

Taxation is, it is trite to say, a fundamental of government, and it would seem that there is no subject about which a greater number of people, in a self-governing country, ought to know more about than taxes; and yet I think I may safely say that there is no subject about which a greater number of our most intelligent and successful taxpayers know less about than taxes.

By way of illustration—and don't think I am going into a long discussion of taxation in Louisiana—and the illustration no doubt can be duplicated in all of the other states of the Union, in one way or another, we have in Louisiana a 5½ mill property tax, and on an average about 20 mills on the dollar of a local or district tax, making a total of about 25 mills. You will notice that of the taxes that are divided between the local and state governments, about 80 per cent is local and 20 per cent is state. Of the amount which goes into the state treasury—of the 5½ mills—2½ mills is a special tax, voted by the people and written into the constitution, for public education. In other words, it goes into the state treasury and right out again, back into the local schools. Three-quarters of one mill is voted in the same way, and likewise in the constitution, for the Confederate Veterans; 1.15 of a mill is annually applied to the retirement of our old reconstruction debt; and .32 of a mill goes to what we call the engineer fund or to state levees. The addition
will show that out of 5½ mills I have accounted for 4.62, leaving off what we ordinarily call governmental purposes, .53 of a mill, or, in speaking of it, we may say ½ of one mill of the property taxes of this state.

Now, that sum goes to the eleemosynary institutions of the state to pay public officers, judicial salaries, judges and district attorneys. And yet, I have no doubt that under similar circumstances you have heard, during the quadrennial campaign, candidates for high public office, and sometimes candidates for governor, go around among the people and talk about “down with taxes.” Of course they mean state taxes, because they are talking to local audiences, and they are not going to be unpopular by talking to local people about reducing local taxes.

I have already shown you that the governor, or the legislature, has no discretion, practically, except over a very small portion of our state tax. We believe, therefore, that a more widespread information of such matters as I am discussing will not only rid us of the candidate ignoramus but will lead to constructive thought among the people themselves, with more care in the expenditure of taxes, and no doubt more prudence in laying them.

I am prepared to say for the Governor of Louisiana that he believes that one of the most constructive and useful services he can render during his administration is to devise some way, at reasonable expense, to get out to the greatest number of taxpayers in each county, or parish as we call it, information showing the source and disposition of the taxes they pay.

He found during the campaign that sometimes when he told the most intelligent men in the country about the origin and disposition of their local taxes, they were utterly astounded. He believes, therefore, that this subject needs a wider spread of information among the taxpayers; and if it accomplished no other purpose, it would enable the people who had learned something about the subject of taxation to educate candidates on that subject, and rid us of some of that quadrennial annoyance.

Perhaps on an occasion of this kind it would ordinarily be expected that the governor, perhaps not so much his humble representative, would make some remarks about the peaks of taxation of the state in which you happen to be meeting, but I understand that at a very early day you will be addressed on the tax system of the State of Louisiana by the chairman of our very efficient tax commission, Honorable Robert W. Riordan, who we here in Louisiana are very fond of believing to be one of the ablest and most conscientious tax administrators in the country.

Mr. Chairman and Gentlemen of the Convention, let me again say that it is a real pleasure, both a social pleasure and a selfish pleasure, to have you among us. We know that you are going to
work hard, because this body has that reputation in all of the places that it has ever been. But, we believe here in New Orleans in mixing a little pleasure with work, and we hope that you will take time off for that purpose, and we believe that you will find some means of diverting yourselves between the sessions of your very useful body.

Chairman Page: The Mayor of New Orleans sends a message through Mr. T. S. Walmsley of this city—Mr. Walmsley.

T. S. Walmsley: Mr. Chairman, Ladies and Gentlemen: It is indeed with deep regret that his Honor, Mayor Behrman, is unable to be here and let you know how genuinely sincere is his appreciation of your coming to the second port of the United States. I can assure you that there is not a man in the United States who appreciates your work more than he.

During his previous campaigns and experiences as mayor of this city he learned the true value of taxation and of exercising that power with wisdom.

I can assure you that one of the foremost planks of his recent campaign was the promise not to raise the taxes of the people of the city of New Orleans one iota. In the face of that pledge he promised them many things, among others an extension of our park system, and only recently he has concluded negotiations for a park system, at a cost of two millions of dollars, without one penny of increased taxation to the people of this city.

In addition to that, he has likewise made arrangements for an expenditure of $800,000 for a garbage incinerator system, without one cent increase of taxation.

He has accomplished these things merely by conserving expenditures and properly directing them along a proper budget system. It is easy to limit your taxation through your constitution, but the real limitation of taxation, in his Honor's opinion, is in the wise expenditure of the people's funds, for it is only by the curtailment of these expenses that you can reduce the ultimate tax of the people.

That is getting somewhat beside the subject, because I was only commissioned to come here and welcome you into the heart of New Orleans and to assure you that anything you wanted in the city was yours for the asking; and the local committee knows exactly what that welcome means from the city of New Orleans. Those of you who have not been here merely have to ask, and I am sure you will find that we have here more than merely the spirit of hospitality. I thank you.

Chairman Page: I should like to say to the spokesman for His Excellency the Governor, and to the spokesman for His Honor the Mayor, and to the good people of New Orleans, that we regret the
enforced absence of your Governor and your Mayor; we regret it all the more, for the reason that it is an unusual experience for us to be deprived of the personal attendance at our conferences of the chief officials of the state where the conference is held.

In behalf of the National Tax Association I thank you for the welcome you have extended in the name of those gentlemen who could not be with us. Your expressions are quite in accord with the tradition of your city for hospitality and kindly attention to its visitors.

In thanking you for your welcome I should like to make you better acquainted with the organization to which you extend it. Although this is the eighteenth conference of the National Tax Association, its personnel and its purposes are less widely known than the importance of its work would lead you to expect. This is for the reason that the association has always avoided notoriety; it has eschewed propaganda and it has shunned the ordinary artifices to obtain publicity. It has taken its meetings seriously, conducted them with order and adjourned quietly. Its coming and its going, therefore, have attracted the notice of few among the classes of our people who are accustomed to the excursions and alarums of groups who meet less for work than for some ulterior purpose.

I remember well the dismay some years ago at one of our popular resorts when our dour and serious-minded members descended upon the place. Here was a large assemblage of men who did not talk politics, who touched but lightly on golf, but who spent long hours in meetings and stalked solemnly through the hotel lobbies, unmindful of the jazz orchestras and bridge tables that beguiled the evenings. One denizen of the place, finally overcome by curiosity, inquired of the Governor's aide, "Who are these weird people that the Governor has been welcoming among us?" I should like the citizens of New Orleans to know that "these people" are neither weird nor unduly weighted down by the gravity of their work, even though they do take it seriously.

The membership of the National Tax Association consists in considerable part of those federal and state officials whose duties are connected with the raising and spending of government funds. It consists in part of university men who are called upon to study and to teach the purposes for which government exists and the means by which those purposes can be efficiently fulfilled without unduly burdening the people. It includes many of the certified public accountants, who endeavor to show the true meaning of financial statistics. The membership includes also a large number of private citizens who realize the close relation between liberty and property, who know that the power to tax is the power to destroy and who believe that in a country like ours all reasonable functions of government can be financed without oppressing the
citizens or disturbing industrial enterprise, provided that legislation is wise and that administration is intelligent and honest.

These are the people now gathered here for the eighteenth meeting that has been held since they first effected an organization. I should be glad to have you know likewise the purposes which these men hope to accomplish through their association. In the first place, they wish to aid those public officials who are charged with the administration of our revenue laws as they are. The problems and the difficulties encountered in efforts to enforce the tax laws are multitudinous and exceedingly grave. Officials who attempt in isolation and unaided to meet these difficulties have a task which is beyond the power of an ordinary human being. They have found in association and intercourse with their fellows at our annual meetings moral support and helpful suggestion in regard to the methods of performing their duties in the most effective way.

In the second place, the association aims to disclose defects as they arise in our legislative provisions and to lay before legislative bodies information that would assist in effecting reform. It aims to promote equality among individual citizens and so much uniformity among the states as is consistent with their varying needs for revenue, by pointing out needed reforms both in the law itself and in the administration of the law.

In the third place, the association seeks to inform public opinion, by assembling the facts essential for a wise judgment and by presenting them in a form that will be accessible and intelligent to the masses of our people.

Our method of accomplishing these objects consists primarily in frank and full discussion among men who have had practical experience in making and administering tax laws and men whose scholarly study of the principles of taxation and governmental policies give them a broad vision of the ideals possible of achievement. The success of our work is due in large measure to the avoidance of any pressure on our members to reach an agreement, beyond the pressure that is exercised by ascertaining facts. Naturally there is wide and frequent disagreement, but it is a striking merit of American citizenship that sincere discussion usually wins acceptance for the truth which it develops.

A foreigner once asked a Southern citizen how it happened that one political party continued to dominate the whole South. "Don't your people disagree," he asked, "about the tariff and about colonial expansion and other political issues?" "Yes," replied the Southerner, "but in the South we always aim to keep the Democratic Party out of politics." We too have always aimed, and I may say with greater success, to keep the National Tax Association out of politics. No party bias nor sectional jealousy nor class interest finds recognition in our proceedings. The association cannot
be stampeded into a hasty judgment on factional and local issues. Our resolutions have carried weight because they have been the product of mature deliberation and open debate.

As a result this association has deserved and has won the confidence of the country. No state would now undertake to reform its revenue system and no officials would set out to revise their methods of administration without turning to the National Tax Association for help. In our publications we have accumulated the greatest mass of practical information about taxation that exists and our members have become the expert counsellors of federal and state governments. The secretariat of the association receives requests for information and advice continually, and its response has been practical and helpful. Indeed, if I were asked to name the men that for half a generation have rendered service to the country wide in scope, wise in character and practical in application, I believe the first name that I should be inclined to put in that list would be the secretary of the National Tax Association, Alfred E. Holcomb, of New York. (Extended applause)

In accepting the invitation to hold its eighteenth annual conference in New Orleans, where strains of old Spanish, old French and old English blend pleasingly with a strain that is all American, the association was aware that it was visiting a city unique among the cities of America. It gives me pleasure both to thank you for your greeting and to assure you that the organization which has heard your welcome is worthy to receive it.

We have the distinguished honor, as well as the pleasure of having with us this evening the Hon. R. W. Craig, Attorney General of the Province of Manitoba, Canada; and the association and the people of New Orleans would be very grateful for a few words from Mr. Craig.

Hon. R. W. Craig, K.C. (Attorney General of Manitoba, Canada): Mr. President, Ladies and Gentlemen: May I take the liberty on behalf of those who came a long distance from Canada to this conference to express our satisfaction with the very suitable and eloquent response that has been made by the president of the conference to the very courteous and hospitable welcome so eloquently extended by the representatives of the State of Louisiana and the City of New Orleans this evening.

May I be pardoned just a personal word, Mr. President, because I come from the Province of Manitoba, when I say that after all, Manitoba and the State of Louisiana have something in common. It has been said here tonight that this city is the second port of the United States; therefore, by necessary inference, this is a maritime state, and we in Manitoba, after a number of years, hope that we are about to achieve a distinction which we long have anticipated,
that apart from being called a prairie province, as we usually are, it will not be long before we also can call ourselves a maritime province, because we in the north have a great sea, just as you have a great sea in the south, and it may be that in the very near future the tides of traffic shall go north and south between Hudson Bay and the Gulf of Mexico, in a way that will link closer than ever before the State of Louisiana and the Province of Manitoba.

And that reminds me, Sir, that the City of Winnipeg from which I come has one—I won't say clear, shall I say muddy?—likeness to the City of New Orleans, because as I looked at the Mississippi River this afternoon from the top of the Hibernia bank building, I recognized the color of the water of the Mississippi, and I remembered at once that Winnipeg is the Indian name for muddy water.

And, another link that exists between my city and this city is the fact that this city is the southern terminus, and Winnipeg is the northern terminus, of the international highway known as the Jefferson Highway, and I trust that many of the people in the southern states may make it their pleasure and profit to come north on that highway, and if you do, you may be assured of a truly western welcome.

Now, let me speak for Canada as a whole. I speak now for all Canada, although it is true that there are only three provinces of Canada represented at this conference, the Provinces of Manitoba, Ontario and Quebec. I mention Manitoba first because I am giving them in alphabetical order, although I might easily do it otherwise; but nevertheless I am representing all the interests of Canada when I say that we appreciate the welcome that has been so cordially extended to us tonight, not only as visitors and guests, but as friends and neighbors of the people of the United States.

It is a common thing to speak of all the things we have in common, so that I need not recite them to you here tonight. They are many, and there are difficulties, and we in Canada, just as you do in the United States, recognize by virtue of all these things that we have in common, how closely we are associated, the people of the United States and Canada; but whatever those various associations may be, and however it may be accounted for, the fact remains that there has been an enduring peace between these two countries for more than one hundred years, and it is also the greatest aspiration of the people of both countries, I believe, that that peace shall be an enduring peace forever and a day.

Let me say, Mr. President, just another personal word. However it may be taken as a compliment by the audience which I see before me now, it was taken as a compliment by me when many years ago I was taken for an American by an American. It is true that he immediately followed the compliment by asking me to loan him a ten-dollar bill, but it is equally true that I returned the
compliment. The fact is, it was borne upon me more particularly than ever before when I had occasion last year not only to visit the countries of the British Isles but other European countries—France, Belgium, Switzerland and Italy. I was there for a period extending over a number of months. I speak now with strict mathematical accuracy when I say that without one single exception, there never was a stranger I met in any one of those countries that did not take me for an American citizen. That is not an infrequent nor uncommon experience.

Many Canadians were over there last year at the joint meeting of the American, Canadian and British Bars, and it was a matter of common exchange in conversation, the frequency with which that would happen. In fact, Sir, on a motor trip that I had taken through England and Wales, I stopped one morning to get a newspaper. It was at a little village just on the border line between England and Wales. I went to one news shop; the papers were all sold. At the next one the papers were all sold; and at the third one the papers were gone. At the fourth one the proprietor of the news shop was reading his paper himself. He jumped up quickly when he ascertained what I was after, stating that this was the only paper he had left, but he said to me quickly, “Your man won.” I was puzzled for a moment. Suddenly I remembered it was the morning after the Tommy Gibbons and Jack Bloomfield fight; and it was your man that won, not mine.

But, seriously, Mr. President, we have a great distinction here in the United States and in Canada; we have that international friendship which I believe is the warmest and closest friendship between nations that exists in the civilized world. And, more than that, Mr. President, it has become the exemplar for all international relationships, between all countries of the world. That is something that Canada and the United States together have accomplished in common. They have set that up; an international beacon of good will and of peace, that we trust, as I said a moment ago, will endure forever between these countries. And in so far as that beacon set up shines over this whole state and in so far as that accomplishes something towards the peace of the world, just in so far will those two countries, Canada which I represent, and the United States which you represent, have contributed something worth while to the peace of civilization. (Applause)

CHAIRMAN PAGE: We now have some matters of business to transact, and the first is the adoption of rules for the order of this conference—Mr. Secretary.

SECRETARY A. E. HOLCOMB: I should like to suggest that the rules that we have adopted in the past and which are printed in last year’s volume, be adopted as the rules of the conference. I will
read them, and suggest that if any one feels that there can be any improvement in any way, it would be very well to have those improvements suggested now, because we are accustomed to carry on these rules from year to year.

The rules are as follows:

Rules of Order

The program as printed and distributed is adopted and shall be followed, with such modification as may be required by reason of absence, vacancies, or other causes.

The usual rules of parliamentary procedure shall control.

Each speaker shall be limited to twenty minutes for the presentation of a formal paper. He shall be warned two minutes before the expiration of such period. The time of such speaker may be extended by unanimous consent of those present.

In general discussion each speaker shall be limited to seven minutes and such time shall not be extended. No person shall speak more than once during the same period of discussion until others desiring to speak have been given opportunity to do so.

Questions addressed to speakers shall be propounded through the chairman of the session.

Voting Power

The voting power of the conference upon any question involving an official expression of opinion on the subject of taxation shall be vested in delegates in attendance appointed by governors of states, by universities and colleges or institutions for higher education, and by state associations of certified public accountants. No person shall have more than one vote by reason of his appointment as a delegate from more than one source.

The voting shall be by ayes and nays, unless a roll call be demanded by request of at least three delegates coming from different states, whereupon a roll call shall be had and each state, province and possession shall be entitled to cast one vote, such vote to be determined by a majority of the delegates present at the meeting from such state, province and possession. On all other questions the voting shall be by vote of all in attendance. The receipt of reports made to this conference by committees of the National Tax Association shall not be considered as expressing its opinion on the subjects treated.

Committees

The following committees shall be appointed:

(a) A committee of three on credentials, to be appointed by the chairman, who shall designate the chairman of such committee.

(b) A committee on resolutions, composed of one delegate from each state, province and possession, selected from among the delegates; but in case of the non-attendance of any such, any person from such state may be appointed. The chairman shall designate the chairman of this committee, such person to arrange for its organization.
RESOLUTIONS

All resolutions involving an expression of opinion of the conference on the subject of taxation shall be read to the conference before submission to the committee, and shall be immediately referred without debate.

I move the adoption of these rules, Mr. Chairman.

(Motion seconded)

DELEGATE: May I inquire if those rules apply also to the conference on inheritance taxation of tomorrow?

CHAIRMAN PAGE: They do not. They apply to the National Tax Conference and not to the conference on Inheritance Taxation.

You have heard the motion. Is there any discussion? The motion is to adopt the rules as read by the secretary, the same which have governed the conference in former years. Are you ready to vote?

(Calls for the question)

(Ayes and noes)

CHAIRMAN PAGE: The rules are adopted.

You will note that those rules call for the appointment, or rather the selection of a committee on resolutions. The chairman of that committee on resolutions is designated by the chairman of the conference, but the members of that committee, representing each of the states, are to be selected by their fellow delegates from their respective states. I wish to suggest, therefore, that as soon as our regular order of business is completed, the representatives from the different states shall meet, if possible this evening, and agree upon a chairman of their state delegation, who shall be the representative of that delegation on the committee on resolutions of the National Tax Conference.

I shall appoint or designate the chairman of the committee on resolutions in a few minutes, after a little consideration, and likewise a committee on credentials. In the meantime I should like to know whether there are other announcements that the secretary has to make.

SECRETARY HOLCOMB: Mr. Sneed may have some. The only thing I have to suggest is that we be sure to have our delegates register. That is one of our difficulties. So many of our people are apt to forget that little function of registering. We like to have a full registration, so that the minutes and the other official announcements may be properly circulated. So, please do not forget to register downstairs this evening if possible and secure your badge, and thereby keep in touch with the organization in the
future. Mr. Sneed may have some local announcements, Mr. Chairman.

Chairman Page: Mr. Sneed.

H. P. Sneed (Louisiana): Ladies and Gentlemen: On behalf of your local committee I merely wish to say that we have tried to restrict your labors as little as possible, and the plans for your entertainment will not conflict with the work of the conference or any of your own private enterprises, and there may be chances for such private enterprises.

There is one thing, though, that I should like to mention. It is the purpose of the committee to tender the visiting ladies a luncheon on next Thursday, and some of the members who have been registering themselves failed to note the fact that they are accompanied by their wives, so I should like all the ladies present to see that they are properly registered, so that we may inform the hostess of the occasion just how many to expect on Thursday at the luncheon, which will be at the Patio Royal, on Royal street, which you can locate by looking at the map down in the hall, which I drew with a good deal of amateurishness and experiment.

The only other entertainment that has been planned will be an excursion on the steamer Capitol, which leaves at the foot of Canal street at half-past two Wednesday. This is a very large and commodious boat and it is believed will be much more satisfactory than any smaller craft which we might be able to get. That ride will last about two and one-half hours, bringing the delegates back to the head of Canal street in plenty of time to get to the hotel for dinner.

There has been no especial arrangement made to transport the delegates from the hotel to the boat or the river front, because the distance is very short, and the confusion resulting from an effort at transportation we thought would be much greater than the simple six or seven blocks' walk from the hotel to the place.

Now, just another little word. I don't want any of you people to be afraid of anything that you might run across in New Orleans. Years ago there was a feeling that the water in New Orleans would be bad. It is not. You can safely drink from any faucet which runs.

Also, as to the oysters you get here; they come from places along the Gulf coast where no drainage empties. They are perfectly good and healthy; they have a clean bill of health from our own Dr. Dowling, who has made a national and international reputation as a health authority. So, you may eat the oysters without any fear of typhoid fever or any other thing that people usually associate with bad oysters.

As a matter of fact, I am told that even a second glass of goods
which a bootlegger purveys is less gleeful in its effect than it is in other parts of the country.

Chairman Page: I wish to ask the following gentlemen to be good enough to serve on the committee on credentials:
Mr. William H. Blodgett, of Connecticut, as chairman; Mr. Mark Danford, of Wyoming, and Mr. T. H. H. Thoresen, of North Dakota.

For chairman of the committee on resolutions, I am sure the conference will agree with me in congratulating ourselves that we can persuade the acceptance by Mr. Sneed, who has just spoken to you.

I must interrupt the organization of the conference for just a moment, to return to the organization of the National Tax Association.

G. W. Gerstenberg: I move that the president be authorized to name a committee of three members and such ex-presidents of the association as may be present, to nominate officers and the members of the executive committee whose terms expire this year.

Chairman Page: Is there a second to that motion?

(Motion duly seconded)

Chairman Page: You have heard the motion that a committee be appointed consisting of such ex-presidents of the association as are present and three other members, selected by the president, to act as a nominating committee for the National Tax Association.

(Ayes and noes)

Chairman Page: Motion carried.

Is there any new business or anything that members of the association wish to bring up this evening?

Mr. Sneed: One announcement I forgot. I want to say for the benefit of those who play golf, that the New Orleans Country Club will be glad to admit any of those golfers to their links on exhibition of their badges.

Chairman Page: Be sure to go. We do not want the people of New Orleans to think you weird.

Unless there is some other business, we will adjourn until tomorrow morning.

(Adjournment)
SECOND SESSION

TUESDAY MORNING, NOVEMBER 10, 1925

CHAIRMAN PAGE: The meeting will come to order. I suggest that the gentlemen in attendance come up as near to the front as they conveniently can. It is a little difficult for the speakers to address this audience if they are so far away.

Mr. Long of Massachusetts has kindly consented to take charge of our morning session.

HENRY F. LONG of Massachusetts presiding.

CHAIRMAN LONG: Mr. President and members of the conference: I feel that it is hardly to be said that I have agreed to take charge. I think rather I should congratulate myself on the opportunity of presiding at this first real session of the conference. I am sure that we all appreciate very much the welcome that we received last night to New Orleans and Louisiana, and I hope for one that this conference will be all that could be desired.

This morning we are going to hear something in relation to Louisiana, and I take it that this first session of our conference will be an indication of the fine sessions which are to come.

We are first privileged to hear from the chairman of the Louisiana Tax Commission, who will speak on tax progress in Louisiana, Mr. Robert W. Riordan.

ROBERT W. RIORDAN (Louisiana).—

TAX PROGRESS IN LOUISIANA

ROBERT W. RIORDAN
Chairman, Louisiana Tax Commission

Tax progress in Louisiana began in 1906, under the administration of the late Governor N. C. Blanchard. The constitution of 1898 continued the general property tax and again vested in the Governor, with certain exceptions, the appointment and removal of most state and local officials, including assessors. The experience he obtained during the first two years of his administration, his deep study of assessment and taxation, together with his experience on the supreme bench of the state, convinced him of the need for a change in the method of government. On May 15th, 1906, in a very able message to the legislature on the subject of
revenue and taxation, Governor Blanchard requested that body, among other things, to reduce the bonded indebtedness of the state, to lower the tax rate and to reform the method of assessment. I can best present his views upon the question of reforms in assessments by quoting excerpts from his message:

"The Constitution of 1879 placed a vast power of patronage in the hands of the Governor. The Constitution of 1898 continued it in his hands, but that there might be no inducement for him to use it to secure his own re-election, the latter Constitution declared him ineligible to a second consecutive term.
"Notwithstanding this, public sentiment gradually developed in the direction of demanding that offices appointive be made offices elective.
"In the campaign for the last gubernatorial nomination the question was discussed extensively on the stump and in the press, and figured largely in the election.
"With regard to assessors, I recommend three things, and they should be linked together:

1. The election of assessors by the people of the parishes respectively in which their duties are to be performed, including the Parish of Orleans, one assessor for each municipal district of the city.
2. That the police juries of the parishes and the City Council of New Orleans be given authority to sit as boards of reviewers to equalize assessments as between individual property holders, or taxpayers, in their respective jurisdictions.
3. That a State Board of Equalization of Assessments be provided for, to the end of equalizing assessments as between the parishes—one parish with another parish, or one group of parishes with another group, or other groups.

"These three things or propositions should constitute the system, and it is the ideal system, as the experience of other states and countries shows. They should be adopted together—no one or two of them without the third.
"In Louisiana assessors are now and have heretofore been distinctively state officials, their responsibility being direct to the state government.
"They assess property from the standpoint of the state and for the state. 'The valuations,' declares the Constitution, 'put upon property for the purposes of state taxation shall be taken as the proper valuation for purposes of local taxation, in every subdivision of the state.' This shows the intent of the fundamental law.
"Assessment of property for taxation is made for the state. Assessors are state and not parochial officials.
"As long as we have in Louisiana a general state tax, the state's interest in the assessments must always be held para-
mount, and the assessors' first duty should be to the state. This is the case now.

"When, however, the assessor is made elective, the practical result will be to change his status and his responsibility. He becomes a parish official, and his responsibility is virtually no longer to the state, but to the people of the parish who elected him.

"The danger is he will look first, not to the state's interest, but assess property rather from the standpoint of the parish's needs. Hence the necessity of a State Board of Equalization of Assessments.

"Again, each assessor elected will be, as it were, 'a law unto himself.' His responsibility to the people who elected him will be too remote. It may be as much as four years before they get the opportunity to vote for his successor. And we all know how full of delays and vexations, and, therefore, how practically unavailing are the methods provided by the Constitution and laws for the removal of officials.

"Being without direct and immediate responsibility to some higher authority, the assessor may value property in his parish at figures totally disproportionate to what other assessors in other parishes may value property of like character and quality, and thus destroy the equality and uniformity in taxation commanded by the Constitution.

"If an assessor values the property of a taxpayer too high—beyond its actual cash value—the law gives the right to the owner to sue in the courts to reduce it; but I can find no law which will reach an assessor who undervalues the property of a given taxpayer and compel him to raise it on a parity with the valuations put upon like property owned by his neighbors. Hence the necessity for the police jury to be given authority as a board of review.

"Again, when the assessor's office is made elective, many candidates in each parish will announce for the nomination for such office, and in the sharp contest and rivalry that ensue, there is danger that some candidates may yield to the temptation and barter away the honest and conscientious discharge of their duties for votes.

"A distinguished citizen of the state, holding high station and wielding large influence, in writing me recently said:

'It strikes me that it is as plain as anything can be that an assessor whose hope of re-election must depend upon the favor of the person whose property he will be called upon to assess will find himself constantly in the position of having either to renounce his hope of re-election, or renounce the idea of performing his entire duty. Even under the appointive system the task of the assessor is hard enough. He is in some sort the embodiment of the taxing power; he is the taxing power in the concrete; it is he who in a sense regulates the amount of the taxes.
Every voter feels that it lies within the power of the assessor to reduce or increase his taxes, and it is notorious that men of the nicest sense of business integrity in other matters will avoid the payment of their just proportion of taxes if they can possibly do so.'

"I have given much study and thought to the question under discussion, and am convinced—profoundly so—that the change of policy from appointive assessors to elective assessors, unless accompanied by the creation of a State Board of Equalization of Assessments, will result in disaster.

"The inequality of assessments, now notorious, will be greater still. One parish will assess at a certain percentage of what property is actually worth, another another percentage, another another, and so on, ranging from twenty per cent to eighty or a hundred per cent, without any authority in anybody to equalize the assessments of one parish as compared with another, or of one group of parishes as compared with other groups.

"There will be the grossest inequalities in the distribution of the burdens of taxation among the parishes. There is danger the state's aggregate assessment will decline; that schools will suffer; that the state's institutions will suffer; that the veterans drawing pensions and those entitled to them will suffer; that the state's credit will suffer; that Louisiana will cease to move forward. These are some of the things to be feared, and that you should take action to insure against."

The legislature, at that session, in accordance with the Governor's message, paved the way for the election of assessors and provided a State Board of Equalization, which also was made an elective body. The Act creating the state board followed the Illinois statute and was a disappointment to many, because of the lack of authority given the board to initiate assessments, to summon and to compel the attendance of witnesses, etc. The Act confined the board strictly to the duty of classifying property and of equalizing assessments among parishes.

**Failure of the State Board of Equalization**

The inadequacy of the State Board Act of 1896 was so evident that Governor Blanchard, in his final message to the legislature of 1908, had this to say:

"The law creating this board was passed in 1906. It was part of the system then put up to the General Assembly and recommended, viz.: (1) the election of assessors by the people of the parishes respectively, (2) the giving of authority to the police juries to sit as boards of review to equalize assessments as between individual property holders or taxpayers in their respective jurisdictions, (3) a State Board of Equalization, standing for the state, to secure and enforce equalization of
assessments as between the parishes—that is to say, property of the same class or kind in one parish assessed equally with like property in another parish.

"I urged that these be adopted together—no one or two of them without the other, since each was the complement of the other and all necessary to constitute an effective whole.

"This was done, but I want to say here that while I recommended and urged the creation of a State Board of Equalization and believe it indispensable under our present revenue system, I am not to be held responsible for the particular statute that was adopted giving effect to the recommendation. I preferred a better and more liberal bill that was introduced, but the one that was adopted was reported as a substitute.

"The present law is good as recognizing and writing into our system the principle embodied in the statute, but far from satisfactory in some of its administrative features and badly needing amendment, as will be pointed out in the report of the president of the board.

"All must admit the necessity of equalizing assessments and some method of doing this must be put in operation. The subject has had the attention of the legislative bodies of most of the states of the Union, with the result that some twenty-seven or eight states have adopted State Boards of Equalization as the method offering the best guaranty of equalizing assessments so long as the system of raising state revenues by a general property tax is adhered to.

"It is not necessary to remind you that in order to distribute the burden of taxation so that no man will bear any more or any less than his just share, assessments must be closely looked after, and while the Police Jury of a parish, sitting on the assessment rolls of such parish as a Board of Review, may equalize the assessments as between one taxpayer and another in the parish, its action is limited to the territorial jurisdiction of the parish, and that to extend this equalization throughout the state—to classify property throughout the state and to say what property falling into the different classes should be valued at—is the province of an authority having state-wide jurisdiction.

"It is not practicable for the legislature, itself, to do this; so it commits the matter to the hands of others, and these others we organize into what is called the State Board of Equalization.

"Without such a board the assessor of one parish, with the Police Jury behind him, may assess on the basis of 25 per cent of the cash valuation, another at 40 per cent, another at 50 per cent, another at 75 per cent, and so on. And bear in mind that these valuations are primarily for the purposes of state taxation. So says Article 225 of the Constitution.

"So long as the assessors were appointive by the Governor they were distinctly state officials, with direct responsibility to the state government. In this way the hand of the state was
kept upon the helm of the assessments, as should ever be the case, under a system of revenue which depends on a general property tax to support the expenses of the state government.

"But when the assessors were made elective by the people—one for each parish—they lost, for all practical purposes, the character of state officials and became parish officials. An assessor now is elected by the people of a parish to assess the property situated in the parish. He holds his commission from the people; he is not beholden to the state government; he is not responsible to the Governor or anyone connected with the state government; he is not subject to removal by the Governor.

"His responsibility to the people who elected him is too remote to make any remedy against him immediately effective, should he fail in his duty.

"He is not responsible to the Police Jury of his parish. That body has no power of removal over him. All it can do is to revise his assessments.

"But suppose the Police Jury agrees with the assessor that property in the parish should be assessed at an excessively low percentage or an excessively high percentage of its true value—out of all proportion to values fixed by assessors in other parishes—what is going to be done about it?

"Where is the power to reach and correct this, unless you lodge it in a State Board of Equalization?

"Police jurors are equally as much parish officials as are assessors under the elective system, and more so, for while the assessor is elected from the parish at large, the police jurors are ward officials—elected from political subdivisions of the parish called 'wards'.

"Is it wise to place the public fisc absolutely at the mercy of parish officials who have no responsibility to the state government?

"Suppose a case that might be considered extreme, but which is yet possible—suppose a number of assessors and police juries in the state should reduce largely assessments in their respective parishes and these reductions in the aggregate were to amount to a hundred or two million dollars, who could stop them from doing it unless you had a State Board of Equalization? And if it were done, what would become of the state treasury? The state's appropriations would be outstanding; warrants on the treasury would be coming in; where would the money to meet them come from?

"When the appropriations were made they were predicated on the assessments of the preceding year; but the parish assessors and police jurors have (say) cut the aggregate of the assessment so greatly that returns from the tax collectors' offices are meagre compared with the preceding year—the year when the appropriations are made—and the money to meet the warrants drawn on the appropriations is not in the treasury.

"The result is the treasury defaults; the warrants are hawked about the streets; the credit of the state greatly suffers.
"We have sixty-five tax assessors in the state. Each is independent in his territorial jurisdiction. Equality of valuation is practically impossible under the administration of so many different assessors, if each is left to act according to his judgment, with no uniformity of method and with no proper supervision. The necessity of some equalizing board is, therefore, indispensable to an honest administration of the tax laws.

"Our board of equalization has just been created; it has hardly yet gotten fairly started; it has had only one year's experience in the work, which is new in this state. Give it time. Perfect the law by amendment, but don't destroy the board."

In the same message, he outlined his views dealing with the separation of state and local revenue and the creation of a State Tax Commission, with powers similar to those of the present commission.

**Administration of Governor Jared Y. Sanders**

In 1908 Governor Blanchard's term of office expired. He was succeeded by Governor Jared Y. Sanders, whose administration strengthened the state board of equalization act of 1906, in accordance with the idea expressed by his predecessor, Governor N. C. Blanchard, and the necessary complement of laws correcting the defects in said Act were enacted. Governor Sanders was sympathetic with the necessity of perfecting our tax system, and, in accordance with his campaign and platform promises, and with vision far in advance of his time, he devoted his efforts and ability to having enacted laws dealing with good roads and the conservation of the natural resources of this state. As a result of his efforts, the constitution was amended and afterwards the necessary legislative acts were adopted providing legal ways and means dealing with the questions of the conservation of the state's natural resources and providing for the expansion of the good roads system in Louisiana, all in consonance with a progressive and intelligent regard for financing these great and vital enterprises, and it is the consensus of opinion that Governor Sanders' administration is responsible for the initiation of laws on which have been built the conservation of our natural resources and the good roads system of Louisiana that fitted into the general plan of tax reform.

**Administration of Governor Luther E. Hall**

Following the Sanders administration came that of Governor Luther E. Hall, who adopted the views and concurred in the opinion of Governor Blanchard as to segregating state and local revenue. Under Governor Hall's administration a constitutional amendment, proposing the segregation of revenues and the creation of a State Tax Commission of three members, was submitted to the voters at the congressional election in 1912, but failed of ratification.
Administration of Governor R. G. Pleasant

Governor R. G. Pleasant's administration succeeded that of Governor Hall and, profiting by the inability of the latter's efforts to institute a more progressive system of assessment and taxation, in a message to the legislature of 1916, among other subjects, said:

"I believe that we should create a Board of Budget and Assessment, which would absorb the functions of the Board of Equalization and the State Board of Appraisers. This Board should be given plenary power in dealing with the assessment of property for state purposes.

"The link which binds local assessments with state assessments should be broken, so that valuations for purposes of state assessments may be different from valuations for purposes of local assessments. This new board should be given power and authority to assess properties and equalize valuations throughout the state for state purposes, leaving to the local authorities the right to assess all properties for local purposes, at valuations to be safeguarded by proper provisions of law. This board should also prepare a budget of revenue and appropriations, to be submitted to the general assembly at each regular session.

"As long as local valuations must be the same as state valuations for assessment purposes, heavy local drainage, road, school and other tax rates will prevent anything like a true assessed valuation of property for the state. Instead of local assessments being controlled by assessments for state purposes, which is the theory of Article 225 of the constitution, the reverse is true. The taxpayer knows that the sum total of his local tax rates, being sometimes thirty or forty mills or more, will greatly increase the amount of his taxes on an increased local assessment, whereas it would amount to an inappreciable difference, or perhaps no difference at all, when applied to state assessments. It is easy to see that the assessments are kept ridiculously low, on account of the large sum total of the local rates.

"Such a change in our system of assessment, with a central board having direct powers of assessment and equalization, I firmly believe, would result very soon in a material lessening of the rate of taxation for state purposes."

The legislature, responsive to the message of Governor Pleasant, adopted a joint resolution proposing an amendment to the constitution, which was ratified and which provided for the creation of a Board of State Affairs, charged with the duty to assess, for state purposes, all property subject to taxation. The legislature, at the same session, passed the necessary enabling Act, No. 140 of 1916, which defined the powers, duties and compensation of said board, provided penalties for attempted evasion by taxpayers and for misfeasance by tax officers and abolished the State Board of Appraisers and State Board of Equalization. Under this Act, the
board consisted of three members, appointed by the Governor, who entered upon their duties January 1, 1917. While these constitutional and statutory provisions continued the general property tax, the change from the old system was so little understood, not only by the assessors, but also by the taxpayers, that the board's first year of service was most difficult and vexatious, requiring hard work, patience, tact and tolerance.

In 1916, the total assessment of all property subject to taxation, as fixed by the assessors and State Board of Equalization, and supposed to be actual value, was, in round figures, $595,000,000. The Board of State Affairs, in its first year of operation, 1917, fixed the actual value of all property subject to assessment and taxation at $1,412,000,000, or an increase over the year 1916 of $817,000,000. State taxes were not collected on actual value, but on 50% of actual value, or an assessment of $700,000,000.

In addition to dealing with assessment and taxation, the act of the legislature made the board the budget-making body of the state, subject to the approval of the legislature. This feature, alone, marked the greatest advancement in the fiscal system of this state and resulted in Louisiana's operating its government upon a cash basis and meeting every obligation imposed by the legislature from that time to the present.

When the legislature of 1918 convened, Governor Pleasant delivered a message on the subject of assessment and taxation as follows:

"The separation of state assessments from local assessments and the creation of the Board of State Affairs have been justified by results, although the change has been in effect only one year. Assessments are being made more uniform; property that has escaped taxation is being discovered and placed upon the rolls; favoritism is being detected and abolished; actual cash values of assessable properties are being ascertained, and a percentage of such valuation is being fixed annually by the taxing authorities for assessment purposes, and such percentages are publicly announced.

"But we should take another step in our tax revision policy in order that we might win a still more prominent place among the advanced states of the Union in this very important branch of government business.

"I, therefore, recommend that a constitutional amendment be submitted to the people, having as its object the reduction of the maximum rate of state taxation, as provided by article 232 of the constitution, from six (6) mills to three (3) mills, and that the assessment of all property for state purposes be made at a full cash valuation.

"Louisiana then would be advertised as a rich state with a low rate of state taxation instead of a poor state with a high rate of state taxation."
"The public schools of the state need more financial support. I, therefore, recommend that a constitutional amendment be submitted providing for a one and one-half (1½) mill rate on a cash valuation assessment in support of the public schools."

In accordance with the Governor's message, the electorate of Louisiana ratified the legislature's proposed amendments to the constitution, reducing the state tax rate from 6 to 4½ mills, to be levied against the actual cash value of assessable property. In anticipation of favorable action by the people upon the amendments proposed, the legislature adopted a state tax rate of 4 mills, including 1½ mills for public schools, so that, for the year 1919, the total assessment for state purposes was $1,506,000,000, with a state tax rate of 4 mills.

Governor Pleasant's final message to the legislature of 1920, among other things, contained this statement:

"It is my firm opinion that the greatest forward step that has been taken in the fiscal system of this state since her admission into the Union has been the recent cutting of rates of taxation half in two, making assessments on approximately a cash valuation, and the creation of the Board of State Affairs. It is true that, because of misunderstanding on the part of many good citizens, some complaint has been lodged against the new system, and, particularly, against the Board of State Affairs. Some persons are of the opinion that this board can raise or lower taxes, state or local, as it pleases. This is not true.

"It can only assess for state purposes; and it can insist on the parish assessors making fair and uniform cash valuations of property for the basis of local assessments. It fixes no rates of taxation whatever. It arrives at the cash values as best it can through the necessarily limited personal investigations of the three members of the board and its few inspectors, and by using the reports of values in abstracts sent to it by the parish assessors. There are about three hundred thousand taxpayers in the state. As the legislature fixes the rate of state taxation and makes all state appropriations two years in advance, the Board of State Affairs has simply the automatic duty to perform of merely placing the assessment of the state at a figure which, when the rate is applied to it, will produce the amount of the appropriation; provided, of course, the assessment shall be equal and uniform, and no assessment shall exceed the cash value of the property assessed.

"The police jury declares what shall be the percentage of the actual cash values of the properties of the parish that shall constitute the assessing valuation for local purposes. For instance, if the actual value of all the properties of a parish is found by the Board of State Affairs to amount to forty million dollars, the police jury can fix the assessing value as low as 25% of that amount, if it wishes to. In other words, it can fix
the assessing value at ten million dollars. And, as the police jury has control of the fixing of the parish rate of taxation, except the three mills fixed by the constitution in aid of the public schools, it has the power to reduce parish taxation to the vanishing point.

"The control of the rates of taxation is also given by the law to levee boards and municipal councils for their purposes, so that, it matters not what may be the actual or assessing values of properties, the levee boards and municipalities could also reduce their taxes even to nothing by applying a small rate or no rate at all if they so desired, and the Board of State Affairs could not intermeddle in the matter.

"Of course, the drainage, road, and school districts vote their own bond issues, with rates of taxation which are either fixed or on a sliding scale, and the rates are applied to the parish assessment fixed by the police jury. Hence, the Board of State Affairs has nothing to do with these matters.

"The governmental body which controls the tax rate is the authority which controls the size of the tax receipt; and especially is this true of police juries which control both the parish assessing values and the parish rate of taxation.

"In many sections of the state there have been considerable increases in the local taxes. Now, the Board of Affairs has no control over such a condition. This is the business of the people of the individual parish. It is local self-government. Local representatives on the police juries, levee boards, municipal councils, and other similar bodies control the amount of taxes to be raised because they control the rates, and the Board of State Affairs cannot interfere with their actions.

"It is true that the assessed value of the properties of the state was doubled last year from about $750,000,000 to $1,500,000,000, but it is equally true that the tax rates have been cut practically half in two, so that the state is now advertised as a rich state with a low rate of taxation, whereas it was formerly advertised as a poor state with a high rate of taxation.

"The Board of State Affairs has served a very useful purpose. It has equalized hundreds of millions of dollars of assessments, and is insisting day after day that proper and uniform assessments be made everywhere. It took the place of the old Board of Appraisers and the Board of Equalization, at very little additional cost, but has been of far more value to the state.

"The doubling of assessments, and the cutting of rates half in two, the creation of the Board of State Affairs, with the power to assess for state purposes, and to supervise the work of the local assessors, the placing of our public schools on a much better financial basis, all are distinct advances that have been made in this state, and I confidently believe that all of our people will soon recognize that this is a fact of which they might well be proud.
"I wish to recapitulate by saying that all advances in taxes in this state have been the result of the actions of the local police juries, and municipal councils, levee boards, or the vote of the local citizens in aid of schools, roads, public buildings, and drainage, plus a majority vote of the people of the whole state for constitutional amendments in aid of public schools. There has been no appreciable advance in strictly state taxes, over which the legislature and the governor had control, although, as I have intimated before, the cost of supplies and labor for running our great public institutions has more than doubled since May, 1916.

"This administration has been fair and open with the people, and has submitted to them all state tax questions, including the creation of the Board of State Affairs, and the people themselves have adopted them.

"The total state tax rate for all purposes for the past year was 4 mills on the dollar, but only about 1 mill of this amount was used in the actual running of the state government as such. The other 3 mills were voted by the people in the form of special taxes in aid of the confederate veterans, public schools, public roads, and for the payment of the principal and interest of the public debt."

Administration of Governor John M. Parker

Following the administration of Governor Pleasant came that of Governor John M. Parker. During the primary campaign, preceding his election, he promised the people, if elected, to build a greater agricultural college and to provide needed buildings and improvements for the various state institutions, without the imposition of additional direct taxes. Immediately after his inauguration, the legislature, at his suggestion, repealed the severance license tax of 1918 and adopted an act levying a 2% tax on the market value of all natural resources severed from the soil or water. During his administration, out of the funds created from this tax, the greater agricultural college was built, at a cost approximating $4,000,000 and, in addition thereto, there was spent on state institutions, for new buildings and improvements approximately $2,000,000. The foundation and opportunity for raising this money without any direct tax on the people were the result of the wise conservation laws adopted in 1910, making Louisiana's conservation laws models for other states to follow. During Governor Parker's administration, amendments to the constitution were submitted to the people proposing an increase in the state tax rate for public schools of 1 mill and the Confederate veteran's tax of 3/4 mill; the school tax amendment to become effective in 1920 and the Confederate veteran's tax to take effect in 1921. These amendments were ratified by the people, so that the tax rate for 1920 was 5 mills, an increase of 1 mill over the 4-mill rate of 1919. The tax rate for 1921 was
5¼ mills, or an increase of 1¾ mills over the tax rate of 1919. These additional tax rates were self-imposed by the people of Louisiana.

The Constitutional Convention of 1921

In 1920, there was created, by Act 222 of the legislature, a commission consisting of nine members, appointed by the Governor, Lieutenant Governor and Speaker of the House, known as the Assessment and Taxation Commission of the State of Louisiana. This commission followed the provisions of said Act, which were as follows:

"Whereas, it is recognized that the present system of assessing property in the State of Louisiana, known as the general property tax system, is cumbersome and hard to apply, inadequate and inefficient, unequal and unjust in its operation, and whereas, the time has come when this state should take a forward step in the matter of handling the important question of assessment and taxation, therefore

"Be it resolved, by the Senate of the State of Louisiana, the House of Representatives concurring, that a commission be organized and appointed to thoroughly investigate, study and digest the many details, facts and conditions connected with these vital subjects, to be known as the Assessment and Taxation Commission of the State of Louisiana.

"The duties of this commission shall be to thoroughly investigate the whole subject of assessment and taxation, securing information and data from all possible sources, giving particular attention to the actual operation of different systems in the several states of the Union, also in cities and towns in other states; also to investigate theories of assessment and taxation, as taught in leading colleges and universities of the country or as explained by those recognized as experts on the subject."

In its report to the Constitutional Convention, held in March, 1921, the special commission made the following recommendations, without a dissenting vote:

1. A classified property tax.
2. An income tax.
3. A business tax.
4. An inheritance tax.
5. A tax on the gross earnings of public service corporations.
6. A severance tax on natural resources.
7. A centralized tax administration.

The commission, however, was hopelessly divided on the question of levying a progressive or proportional tax on incomes.

The Constitutional Convention convened in the City of Baton
Rouge on March 1, 1921 and finally adopted Article X, covering revenue and taxation, Sections 1, 2 and 3 providing:

"Section 1. The power of taxation shall be vested in the legislature; shall never be surrendered, suspended or contracted away; and all taxes shall be uniform upon the same class of subjects throughout the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only. No property shall be assessed for more than its actual cash value, and all taxpayers shall have the right of testing the correctness of their assessments before the courts at the domicile of the assessing authority. The valuation and classification fixed for state purposes shall be the valuation and classification for local purposes; but the taxing authorities of the local subdivisions may adopt a different percentage of such valuation for purposes of local taxation.

"After May 1, 1924, equal and uniform taxes, not to exceed three per cent (3%), and for state purposes only, may be levied upon net incomes. Such taxes, when levied and paid, shall be credited pro tanto, or entirely offset by all taxes, state and local, paid by the taxpayer for the year in which such income tax is due. Such income tax may be in lieu of occupational licenses and other taxes as the legislature may provide. Public officials shall not be exempted. Reasonable exemptions may be allowed.

"Section 2. The Board of State Affairs hereafter shall be called the Louisiana Tax Commission, shall consist of three members, and, subject to the control of the legislature, shall exercise such authority in respect to assessment, taxation, the state budget, and other matters as now is, or hereafter may be, prescribed by law.

"Section 3. The rate of state taxation on property for all purposes shall not exceed, in any one year, five and one-quarter mills on the dollar of its assessed value; provided, the legislature may, by a vote of two-thirds of the members elected to each house, increase such rate to not more than five and three-quarter mills on the dollar."

It will be noted that the legislature was given the right immediately to classify property, and, after May 1, 1924, to levy a tax not in excess of 3% on net incomes.

While the legislature has exercised its prorogatives in certain instances, in classifying property, it has not as yet put into effect the income tax. On February 29th, 1924, the Louisiana Tax Commission submitted to the legislature its seventh annual report, which contained this criticism, dealing with the general property tax, and suggested to the legislature the advisability and the necessity of adopting an income tax and a classified property tax:

"Governments must exist, and taxation is the only means by which they can continue, and they must seek revenue where
revenue is to be found. Therefore the state, demanding money, must obtain it from producing sources and not continue in its literally fruitless searching 'for pears on an elm tree.'

"The Department of Commerce of the United States announced on February 1st, 1924, that the principal forms of wealth of Louisiana, as of December 31st, 1922, amounted to $3,416,860,000 as compared with $1,957,074,000 as of December 31st, 1912. The total valuation carried on the tax rolls of Louisiana for 1922 was $1,561,580,784, or 45.7 per cent of the figures given by the Department of Commerce. It must be borne in mind that the federal department quoted presents only the principal forms of wealth and does not by any means include much of the 'intangibles' which properly belong in any figures exhibiting total wealth. The statement of the Louisiana Tax Commission, as contained in its report of 1922, to the effect that more than one-half of the property of the state escapes taxation, is thus confirmed. This may be ascribed to several causes, chief among which are:

1. Exemptions allowed by the state constitution.
2. Failure of authorities to discover and list property.
3. Disregard by taxpayers and assessing authorities of the legal mandate to return and list property at actual value.

"The first is by long odds the prime factor in our low valuation, and the legislature that will start a movement leading to the correction of the evil will win applause from all who favor just and equitable laws.

"The tendency, the certainty rather, of the people to assume tax burdens voluntarily and then at tax-paying time enter complaint and denounce everyone but the real perpetrator leads to this comment—that tax burdens so lightly assumed and so hardly borne must be restricted in some manner. This can be done by:

1. Limiting the exempted property to public property, property of religious and charitable institutions when used exclusively as such, and places of burial not managed for profit or income.
2. Abolish in reality, and not merely in form, the general property tax.
3. Provide forms and methods—maps and other paraphernalia—that will bring about equalization of taxes.
4. Enact a real income tax.
5. Make assessors responsible through some appointing power.
6. Restrict the assumption of local tax burdens by making legislative consent necessary to vote taxes beyond a certain limit or rate.
7. Continue and improve such just forms as the inheritance, severance, and other taxes and add a business tax to supplant the archaic and unfair occupation tax;
also provide for a tax on gross earnings of public service corporations.

"In the annual reports heretofore submitted by this commission we have dwelt upon the evils of the general property tax and hope is expressed that the legislature may devise means for an entire escape from that unjust form of taxation, now so universally condemned and reprobated by all economists. The Constitution of 1921 contains the words 'all taxes shall be uniform upon the same class of subjects.' To our mind, this permits a classification of property and provides for a departure from a principle that assumes that all property is alike in its capacity to produce revenue. Tax-paying ability is not indissolubly bound to property ownership. In fact the earnings of many persons are not derived from property directly. Salaried and professional men earning, let us say, $6,000 a year, which represents a return at 6 per cent on $100,000 worth of property contribute nothing directly to the revenue of the state; but the owner of property in that amount, under the general property tax, is forced to pay to the state and its subdivisions a sum often as much as $4,000. While the income tax would reach this class, there must be, as an adjunct to the income tax, a classification of property, or, more properly, an income tax as an adjunct to the classified property tax.

"The home owner is now compelled to pay on his non-revenue producing home as much as the owner of property of the same value having revenue productive ability. Such condition not only should bear condemnation because of the injustice involved, but also because it discourages home owning, and a land of tenants is a land hastening to decay.

"A classification of property under sanction of law would more readily permit the curtailment of the list of exempted property which is now so extensive, as has been pointed out. It would not be good policy, nor would it be fair, to attempt to list bonds bearing five per cent interest at actual value and compel the owner to pay into the public treasury practically the entire income in the form of taxes. The general property tax, in its failure to invoke equity or to reach a class that partakes most largely of all the benefits of organized society, through its schools, sanitation, highways, police protection, courts, etc., and yet contributes nothing, makes an income tax and a classified property tax a compelling necessity.

"The income tax is the most defensible of all forms of taxation, because it compels no one to pay who has not the means to pay. It is the least transferable of all tax burdens. It is not easily shifted as many other tax devices are. With proper safeguards, such as reasonable exemptions, that no one's actual living expenses may be taken from him, the calculation of a three to five year period in which losses may be set against gains, the inclusion of the incomes of officials, except those specifically sacred by federal law — (and none should be too
sacred)—the income tax for Louisiana should not long be resisted.

"More power for good or evil lies under the hat of the assessor than under any other single head piece in the parish. He not only exercises a powerful influence upon the financial contracts of his parish and state but the moral factor and example is too far-reaching to calculate. He must, therefore, possess almost inexhaustible patience, he must have tact, discriminating judgment and he must adhere steadily, with unyielding purpose, to an obligation to deal equitably with all taxpayers without giving ear to claims prompted by self interest no matter by whom or what power presented.

"Too often assessors believe that the security of their political fortunes lies in well-devised plans to undervalue the property of their parish and thus deprive the state of its much needed modicum, and they occasionally make campaigns on the issue, raised by them, that if elected they will reduce valuations, and instead of pledging themselves to strict performance of duty under the law, they create the impression that certain ones or certain interests will be favored. In some parishes the appeal is made to the farmer; in others to the timber owners or the merchants, or in whichever direction political power seems to lie. Such an assessor may be successful for a very brief period, but his tenure is short and his eventual downfall certain. The assessors who are held in greatest esteem by their fellow citizens are those who cannot by threat, direct or implied, by power of faction or wealth, be turned aside from the strict construction of law as they understand it."

I quite realize that in the foregoing paper I have taken full advantage of the invitation to discuss matters of taxation peculiar to Louisiana. It is not to be expected that this paper will be interesting to all of those here, but I trust that I have pointed out, at least to some extent, how the evils of the general property tax may be lessened, if the administration of such system is entrusted to an appointive body having vested in it such broad authority and ample power as is reposed in the Louisiana Tax Commission.

Chairman Long: I think we have all enjoyed the paper which has been so ably presented by Mr. Riordan. I thought that I rather expressed the wish of the conference by breaking the rules which Mr. Holcomb read to us last night, and which were adopted, that no one should occupy more than twenty minutes. I did that for two reasons; first, because I thought Mr. Riordan's paper deserved such recognition, and secondly, because I, being from Massachusetts, thought I would extend that courtesy to Louisiana.

Now, I take it that we all may have some questions which we wish to ask Mr. Riordan, but it is my remembrance that the practice of this conference is to wait until after the formal papers of the morning have been given before any questions are asked.
We all recognize from Mr. Riordan's paper that his problems here in Louisiana are much the same as those in the states which we represent, at least as far as evidences on the part of the people for governmental activity.

Before we proceed to the enjoyment of the next paper, I think our secretary has an announcement to make—Mr. Holcomb.

SECRETARY HOLCOMB: I am asked by the South Carolina delegates to read this request:

At the request of the South Carolina delegates, Hon. Philip Zoerecher will explain the Indiana plan of control of issuing local bonds. The delegations from other states who are interested in the plan are cordially invited to meet with the South Carolina delegates in the northwest corner of this room immediately after the close of this morning's conference. I thank you.

CHAIRMAN LONG: As soon as possible it would be well for the various state delegations to submit to Mr. Holcomb, the chairman of their delegation, so that the resolutions committee may be complete. Their duties will begin very soon, and they should be organized before that time comes.

We have heard of tax progress in Louisiana, and we are now to hear what is a corollary of it, under the title of "A Balanced Tax Program," from the chairman of the Mississippi Tax Commission, Mr. C. E. Inman.

C. E. INMAN (Mississippi):

A BALANCED TAX PROGRAM

CECIL E. INMAN
Chairman of the Mississippi State Tax Commission

In attempting the discussion of a subject so comprehensive as a balanced tax program, it is exceedingly difficult, in a few minutes' address, to outline a coherent plan or do more than touch upon some of the salient features of some of the tax systems now in force in this country and to recommend for your consideration what, to my mind, promises some measure of relief in the solution of the financial difficulties in which we find most of the taxing units in the United States at this time.

Realizing that practically every delegate in attendance at this conference is as familiar with the theory of taxation and the results obtained by the various taxing units with the systems in force in this country, as I am, I shall not burden you with elaborate and detailed tables for comparative purposes, but shall confine my remarks to a more or less academic discussion of the tax situation from the viewpoint of a tax-gatherer and to what I consider would be helpful in the continuance of progressive taxation in this country.
In promulgating a balanced tax program, three fundamentals must be kept constantly in mind, namely: (1) workable and equitable revenue laws, (2) a reasonable constitutional limitation of rates, and (3) a wise and judicious expenditure of public funds. To give all the reasons supporting each proposition advocated would unduly prolong this paper, and for this reason I shall briefly discuss each phase of the problem in what I consider the order of their importance.

My experience as a taxing official has firmly convinced me that every state should authorize four sources of revenue, namely: (1) a classified property tax, (2) an income tax, (3) a death, inheritance or estate tax in some form, and (4) a limited privilege or excise tax.

At the outset, I want to disclaim any merit of originality in advocating these forms of taxes, and of course in the short time before me I cannot develop these general forms of taxation to a logical conclusion. I realize that it can be truthfully said that these general subdivisions can be further developed to embrace every known form of taxation, however, in the development of what I consider a model system of state and internal taxation, I shall perhaps appear radical in some instances.

Property Taxes. Because of the unequal distribution of the national wealth, a tax upon property in some form will of necessity continue to bear the greater part of the cost of government for many years, hence this form of taxation should receive the greatest attention, when we come to enact revenue laws. There has been much progress made in many states in the enactment of ad valorem tax laws, while in others, among which is my own state, no progress has been made since they were admitted to the Union. That provision in the constitutions of several states that all property be taxed "equal and uniform" has been so universally discredited that it would be useless for me to discuss it further. I believe it to be universally recognized by all students of political economy and by taxing officials generally, that property should be classified for taxation and that ability to pay should be considered in the enactment of ad valorem tax laws. I am in hearty accord with this idea and go one step further and unhesitatingly say I believe that there should be a segregation of taxes and separation of sources of state and local revenues. It would be much better in this connection if we could separate the sources of state and local revenues, leaving the property tax in all of its phases to the counties and taxing districts and have the state government derive its support from independent sources of revenue. However, this is not practical in most states, for the reason there is not a sufficient volume of commerce and trade which could be taxed at reasonable rates to produce an adequate amount of state revenue. Therefore, the next best plan
to my mind is the segregation of taxable property, assigning certain classes to the state and separating sources of state and local revenues as much as possible. This would be a compromise proposition and would be much more equitable than the systems now in force in some states where property is taxed for the support of the state government, the county, municipalities and separate taxing districts, each tax being superimposed upon the other. After considerable study of governmental finance, I am forced to the conclusion that, since complete separation of state and local revenues is impracticable, in most states, the state government should levy an ad valorem tax against public service corporations, for the benefit of its general fund and that counties should not be permitted to tax this class of property for general county purposes. Public service corporations are selected because they are supported by all the people of the state, regardless of location and because the taxes paid by this class of corporations are considered by rate-making bodies in promulgating tariffs and rates and their taxes are absorbed by the public generally. Therefore, the tax they pay should be used for the benefit of all the people. Of course, these corporations should pay for local improvements in separate bonded districts just as all other property in such districts is taxed. If this class of property were so taxed, supplemented by the additional sources of revenue I shall point out to you later, the taxation of all other property could be left to the counties and taxing districts, and it should be left to them, because it is the only tax they can fairly administer or economically collect.

Some of the principal reasons urged for the segregation of property and separation of state and local revenues are: (1) It would tend to dispel the feeling of sectionalism and that state equalizing bodies use a different base for values in different localities; (2) It would eliminate the evil habit of undervaluing, in order to escape state taxes; (3) It would provide a more equitable distribution of the taxes derived from public service corporations, and (4) It would eliminate the necessity for state supervision over local assessments and help to refute the popular idea that our government is becoming so centralized that popular government is threatened with extermination. I believe this plan has been partially tried in several states and that, in such states, possibly more progress has been made in the solution of the tax problem than has been made in those states where it has not been tried. If all the states could amend their constitutions so that we could substitute the classified property tax for the general property tax and even partially segregate property and separate sources of state and local revenues, I believe that all classes of property would then contribute an equal measure of revenue towards the support of the government and that the burden upon tangible property would be perceptibly reduced and
that we would have gone a long way towards the solution of the problem of property taxation.

*State Income Tax.* This brings us to consideration of the second revenue measure recommended, or the state income tax. I believe the principle of progressive income taxation is universally recognized as an equitable and just form of taxation, however, many of our people and some students of political economy seem to regard this field of taxation as having been preempted by the Federal Government and therefore that it should not be invaded by the sovereign states of the Union. I am unable to subscribe to this position, because the taxation of incomes, in its broadest sense, is but an indirect way to tax property, and for the further reason that income taxes, in their general application, were in force in at least two states before the Federal Government applied this tax generally, namely: Wisconsin in 1911 and Mississippi in 1912. Personally, I believe if it is necessary for either the Federal Government or the states to abandon the income tax, the Federal Government should do so. I say this because the states are without power to levy a tariff for revenue purposes and it is impracticable for many states to levy an excise tax upon the manufacture or sale of luxuries. Largely because of the breakdown of the general property tax, most states have found it necessary to resort to a more evenly distributed and equally applied form of taxation.

Several states have recently enacted progressive income tax laws, among which I am glad to say is my own state. Perhaps a brief history of the Mississippi income tax laws would be of some interest. The first act was passed on March 16, 1912; it was a very simple affair, covering all told not quite three pages. It attempted to levy a tax on all personal income at the rate of ½ of 1% in excess of the exemption to every taxpayer of $2500. Compliance with the law was voluntary in that no penalties were provided for failure to make return of income, or pay the tax. It is needless for me to tell you that this act did not produce as much as $100,000 in any one year of its existence. At the 1924 session of the state legislature, partly because of the ever-increasing breach between receipts and disbursements and partly because the general property tax had been developed almost to the point of confiscation, the legislature found it imperative to discover additional sources of revenue and a progressive income tax law was decided upon as the most equitable source of new revenue available. Accordingly an act was passed, modeled closely after the laws of several states and the federal act of 1921. This law is working satisfactorily as an important aid to the antiquated general property tax used as the major source of revenue in Mississippi. The passage of this act provoked a bitter storm of opposition and brought forth extended litigation which was ultimately decided in favor of the validity of
the law, and I am glad to say the greater part of the opposition has at this time disappeared.

Our law is universally recognized as being fair in principle, sound in theory and just in its general application. Administrative difficulties have been largely overcome and the law is working satisfactorily at this time. The tax will produce approximately 15% of the state's total revenue for 1925 and it is expected to produce approximately 30% of the total revenues for succeeding years.

But for an obsolete provision of our constitution, brought forward from the constitution of 1817, Mississippi could now segregate her property for taxation and separate state and local revenues. The fact that nearly every important civilized country uses an income tax in some form, in preference to sales or other indirect taxes, would tend to indicate that a tax upon income is the fairest tax which can be charged against a living people. I sincerely hope the time is near at hand when every state will adopt an income tax law similar in character, rates and other important provisions, and that the National Government will abandon this field of taxation at the earliest possible moment.

*Death Taxes.* This brings us to a consideration of death taxes. I belong to that school of thought which believes death taxes should be used for two purposes: social effect and revenue. I place first in importance the social effect in reducing and redistributing extremely large fortunes. I do not believe in the communistic doctrine that inheritances should be precluded altogether. I do strongly believe, however, that swollen fortunes and unearned wealth are the greatest national menace confronting this country. The death tax is that strong defender of the people's rights which will slay this economic dragon. Secondly, this form of taxation should be used because of the revenue it produces, it being the only form of taxation available which can in its practical effect reach tax-exempt securities or other form of intangibles which have always escaped the payment of any kind of property tax.

If the wealth of the country were so evenly distributed that every state could get its fair share of revenue from death taxes, I feel that it would be infinitely better for the Federal Government to abandon this tax and leave it as a source of state revenue and a matter for state regulation; however, there are a good many states which do not have large cities and practically no wealthy people. In those states the amount of death taxes collected is so negligible that it could be dispensed with altogether, without any appreciable loss of revenue. Because of these facts, it is my opinion that if the Government should wholly abandon this form of taxation, several states would immediately repeal their laws and it could develop that all the states, in self defense, would have to withdraw from this field of taxation. There is a growing sentiment in my state
that we should repeal our estate tax law and follow the example of Florida, in that, by repealing our law, we would invite wealthy non-residents to make Mississippi their home. Personally, I do not believe any state can permanently prosper whose only inducement to wealthy non-residents is an invitation that the state will join them in avoiding taxation. I am firmly convinced that it would be infinitely better for the National Government to retain estate taxes and decrease the burden by increasing the credit allowed estates because of having paid a like tax to state governments. It is my opinion that the minute the Federal Government withdraws from this field of taxation the beginning of the end will have begun for it in this country. State death taxes should be used wholly for the benefit of the general fund of the state government.

Privilege license and excise taxes. In the consideration of privilege, and license taxes, I believe it is well to bear in mind that this form of taxation was first used in connection with the police power of the taxing unit. I believe privilege and license taxes are more highly developed in Mississippi than in any other state of the Union. It has been almost truthfully said that we tax from the cradle to the grave. A striking illustration of the injustice which can be produced by an unwise license tax is found in the fact that, in my state, we charge a young attorney, just out of college, the same amount that we charge the established attorney making a large income. In theory, this practice cannot be defended; in actuality, it is vicious and repugnant to our American sense of fair play and sovereign justice. I am firmly convinced that it is high time we turn about face in the imposition of this form of taxation and go back to the underlying principle that privilege and license taxes should only be imposed in connection with the police power of the taxing unit, to pay for the supervision of the business or profession of the licensee, or to pay for some special privilege enjoyed by the licensee and paid for by the taxing unit. I believe this same general principle should be applied to sales taxes.

Privilege and license taxes should only be collected by the taxing unit exercising supervision over the business or profession of the licensee or providing the improvement enjoyed.

This brings me to consideration of the second fundamental in a balanced tax program, or a reasonable limitation of rates by constitutional enactment. Since this feature of the problem of taxation is to be discussed by Mr. Milling, I will pass it by saying that in Mississippi we have no constitutional limitation upon any form of taxation and our ad valorem tax levies range from 27 mills in our lowest to 141 mills in the highest district. We have many districts where the rate is more than 80 mills, therefore the reason for a constitutional limitation, in so far as Mississippi is concerned, is apparent.
This brings us to the last proposition which I consider a fundamental in any balanced tax program—a wise and judicious expenditure of public funds. In the beginning, we all know that we cannot have a judicious expenditure of public funds unless we have a carefully prepared budget, prepared in advance of the tax levy, and we cannot have wise expenditures of public funds unless we have able men charged with the duty of making appropriations. We can have a carefully prepared budget by enacting a statute requiring it. We cannot have able men to make appropriations unless the people will elect them. This, in my opinion, is the one insurmountable difficulty which we, who desire reform in taxation, have to encounter. The problem of taxation cannot be solved by the imposition of new kinds of taxes. Neither can it be solved by dealing with one phase of the subject because it is not the amount of any particular tax that is burdensome, or the department of government to which it is paid, that is important, but it is the aggregate amount of all taxes which makes the burden almost unbearable, and which must be considered in attempting to arrive at an equitable solution of this great economic ill.

I am convinced that this conference can materially aid progressive thought and go a long way towards finding a solution of this ever-increasing problem if we will begin now to devote more time and thought to the problem of obtaining a wise and judicious expenditure of public funds.

In conclusion, I desire to emphasize the fact that any balanced tax program must be certain in its application and elastic enough in its conformation to permit necessary adjustments which have to be made because of the progress in the economic life of the country. Therefore if a classified property tax can be substituted for the general property tax, if we segregate property and separate sources of state and local revenues, supplement the state's revenue by a well-defined income tax law, and add to this a small amount of revenue from death taxes, and have enough privilege and license tax to pay for the supervision of the business or profession of the licensee, or the special privilege enjoyed, limit the amount of taxes property or people should be called upon to pay by constitutional enactment, and devote more time to the preparation of budgets and the expenditure of public funds, we will have gone as far as it is humanly possible for us to go at this time in the preparation of a balanced tax program and the solution of the taxing problem.

Finally, I believe that the National Tax Association has sponsored more constructive thought dealing with the tax problem than any other agency in the United States. In fact, it is my opinion that progress in modern American taxation can almost be dated back to the organization of this association. However, I believe we have progressed faster in tax levying than we have in tax
limitation, and it is my opinion that this association can do a constructive and worthwhile work, if it would begin now to lend its efforts towards tax limitation.

One of the healthiest signs on the national horizon is that growing tendency on the part of the National Government and state legislatures to hold further increases in all forms of taxation to a minimum, and I believe that if we will begin working towards a limitation of tax levies and a wise expenditure of public funds and demand a dollar's worth of material and service for every tax dollar expended, the tax problem of the United States can be satisfactorily solved.

Chairman Long: We have all enjoyed the paper given us by Mr. Inman. I take it that if we should undertake now to ask questions on his paper, the cartoon in this morning's Picayune Times would be pretty apt; I hope you all saw that. Mr. Inman perhaps will be willing to answer at some later period the questions which he has started in motion.

We seem to have a particularly good program this morning, and while the two who have preceded the third one are particularly interesting to us, I am sure that we are going to enjoy very much hearing of tax limitations from the counsel of the Standard Oil Company of Louisiana, who was formerly chairman of the Louisiana Board of State Affairs. I take it that some of us have the pleasure of being acquainted with officers of the Standard Oil Company. Mr. Milling will now speak to us on tax limitations.

Thomas M. Milling: Mr. Chairman and Ladies and Gentlemen: Being a native Louisianian and having at one time presided over the destinies of the tax-gathering commission of this state, I feel that I am justified in adding to the welcome that was extended to this conference last night, the welcome of the people of the northern part of the state, from which I come, and in saying that I am truly glad that the National Tax Association is meeting in Louisiana.

Louisiana is a state that needs to think about the question of taxation, and I feel sure that this meeting here and the reports that will necessarily be made of the meeting in the papers will stir up some thought on the question of taxation.

The first time that I had the pleasure of addressing the National Tax Association I was a member of the Louisiana Board of State Affairs. My occupation has changed since that time, and I now represent a corporation that is regarded as legitimate quarry by the big-game hunters of the tax jungle. If there is any person who heard my address in 1917 at Atlanta and you note any change in my views, I trust you will attribute it to my change of occupation.

The subject assigned to me, or which I acquired in some way, is
TAX LIMITATIONS

THOMAS M. MILLING
Counsel, Standard Oil Company of Louisiana
Formerly Chairman Louisiana Board of State Affairs

Perhaps the first evidence given by the people of the United States of a growing distrust in the legislatures, was the placing of constitutional limitations on the inherent power of the state to levy taxes. Theoretically, the right of the people to tax themselves by legislative act should not be abridged, and in the early constitutions of the various states of the Union we find that the taxing power of the legislature was in nowise limited.

It became evident to the people, however, that the legislatures could not be trusted in matters of taxation, and as a result constitutional conventions began writing into the fundamental law provisions fixing a maximum beyond which the taxing power could not go.

I do not deem it necessary in this discussion to go into any detailed analysis of the tax limitations of the various states. The delegates to this convention know the constitutional limitations of their own states, and the details of such limitations are interesting only to those particularly concerned. We know that it is a growing fashion in the making of constitutions to rigidly restrict the taxing power. We know that such restrictions are growing more and more necessary. Each state must deal with its own problems, and the only fact of interest to the public at large is that tax limitations are growing more and more popular.

Many authorities on taxation and many economists have argued against tax limitations, but the grim realities of the situation have compelled most of them to change their minds. At the 1922 conference of the National Tax Association Mr. Armson, of Minnesota, openly acknowledged that while it was theoretically right, under a democratic form of government, to leave the power of taxation unlimited in the legislature, practically it could not be done.

There were no constitutional limitations in the Louisiana Constitutions of 1812, 1845, 1852, 1861, 1864 or 1868. In 1874 the Constitution of 1868 was amended so as to limit the state debt and state taxes.

We had tax limitation of various kinds in the constitutions of 1879, 1898 and 1913. As we adopted a new constitution in 1921,
and as the tax limitations are now contained in that document, the provisions of past constitutions are interesting only from a historical standpoint.

Although our constitution of 1921 is apparently full of tax limitations, yet the power of the people to tax themselves is practically unlimited.

In this state, under the constitution, the following governmental subdivisions have the right to levy taxes: the state, the parish, the municipality, school districts, road districts, drainage districts, and levee districts. Under Section 3 of Article 10, the state may levy five and one-quarter mills and this may be increased to five and three-quarter mills, by a vote of two-thirds of the members of the legislature. Under Section 10 of Article 10, special taxes for public improvements may be voted to the extent of twenty-five mills. Under Article 14, Section 11, parish taxes are limited to four mills. Each parish is required to levy, under Section 12, Article 16, three mills for public school purposes. Under Section 14 of Article 14, parishes are permitted to incur bonded indebtedness for at least seven purposes; municipal corporations may issue bonds for at least twelve purposes; school districts may issue bonds for at least four purposes; road districts and sub-road districts, drainage districts and sub-drainage districts may also issue bonds for at least one purpose; and levee boards are allowed to levy a five-mill tax.

Therefore, if a citizen is unfortunate enough to live at a place subject to all of the taxes, his tax bill would amount to confiscation. Under the law, as I see it, he could be compelled to pay a five-and-one-fourth-mill state tax, a four-mill parish tax, a three-mill state school tax, a five-mill district levee tax, twenty-five mills for public parish improvements and twenty-five mills for public municipal improvements, and also be compelled to pay taxes on bonds aggregating more than the total assessed valuation of the property in the parish and municipality, as well as special school, road and drainage taxes. On straight taxes alone, allowed under the constitution, a taxpayer could be compelled to pay, if all of the taxes were voted, about sixty-five mills, and if the parish and municipality in which he lived voted all of the public-improvement taxes allowed under the constitution, he could probably be compelled to pay twenty or thirty per cent of the total value of his property.

It is hardly probable that such a condition would occur, because, under the constitution, it is necessary that most of these taxes be voted at special elections, and it is not probable that the people will vote all of these taxes.

Generally, it may be said that constitutional limitations on the taxing power are relatively unimportant. They are merely gates locked in the face of the legislatures, but the key is always in the
hands of the people. I have already explained how taxes for public improvements may be levied by a vote of the people, in any one taxing district, to an almost unlimited extent. In a great many states of the Union amending the constitution is regarded as a small matter, and whenever the political powers deem it necessary, it is comparatively easy to pass amendments providing for more taxes.

The constitution of the State of Louisiana has been repeatedly amended so as to provide additional taxes for schools, roads, levees and Confederate veterans. It has also been repeatedly amended so as to permit an increase in local taxes for public-improvement purposes. If the imposition of additional taxes, beyond the constitutional limitation, is as easy in other states as it is in Louisiana, then I am correct in my statement that constitutional limitations on the power of the legislature and the local subdivisions to tax are relatively unimportant.

There are other limitations, however, on the taxing power, far more important and far more worthy of consideration by the taxing authorities than the ordinary constitutional limitations. These limitations result from the working of natural economic laws and from the nature of the average citizen. These limitations on the taxing powers may be roughly divided into economic-law limitations and human-nature limitations. Both work far more effectively to limit the taxing power than do constitutional limitations, and yet they receive little or no consideration from the taxing authorities.

These limitations are not subject to repeal or change. Economic laws continue in force, and the mind of the average citizen usually works along the same line. It is impossible for the taxing power to levy a tax that is effective, in the face of a natural economic law or against the united opposition of the people.

All forms of taxation that destroy the source from which the tax is derived and all taxes that may be shifted come under the head of those that are limited by the working of natural economic laws. If a tax will ultimately destroy the source from which the revenue is sought to be derived, or if it may be shifted to other shoulders, it is limited far more certainly than by legal limitations. The power to tax is the power to destroy, and the taxing power has been used for that purpose. In the pre-Volstead days the power to tax was used to destroy the saloon. The imposition of high licenses limited the number of saloons in various taxing districts, and in other taxing districts the tax on the business prohibited any person from engaging in it. In many taxing districts a golden mean between the two extremes was sought. The taxing authorities made an effort to limit the saloons to the smallest possible number, and, at the same time, to place the tax at a figure
that would not cause the loss of revenue. When the tax on saloons
was used for the purpose of deriving revenue, then the imposition
of extremely high taxes prevented any one from engaging in the
business, and was a perfect illustration of the economic-law limita-
tion on the power to tax.

Another illustration of the economic-law limitation is the taxation
of large corporations. In the past ten years the people of the
United States seem to have gone wild on the subject of taxing the
large corporations. All of the great industrials have been regarded
as legitimate prey, and the taxing powers have levied taxes of
every kind and description on these corporations. The oil industry
has been a favorite object of this great indoor taxing sport, and all
of the other great industrials have suffered the same way.

This kind of taxation has been the result of the activity of cer-
tain demagogues who have endeavored to persuade the people that
by taxing the great industrials they would escape taxation them-
selves. The result has been that taxes of every conceivable kind
have been levied on the corporations of the country.

Possibly, from the standpoint of the state, with reference to its
tax needs, this has been a good thing. It must be perfectly obvious
to the dullest mind that taxes are a part of the cost of production,
manufacture and distribution. Necessarily this cost is contained in
the price to the ultimate consumer, and in the final analysis it is
the ultimate consumer who pays.

The corporations have been compelled to hand out large sums
for taxes, and the citizens have been lulled into the false idea that
they were escaping taxation. As stated before, this has probably
been a good thing for the taxing powers. Taxation, at best, is un-
pleasant, unpopular and perhaps unscientific. There is much to be
said for indirectness in taxation. Pulling teeth without an anæsthetic
is a very unpleasant business, and if it is necessary to admin-
ister gas to the taxpayer, probably the method of taking his hard-
earned money through the corporations is not without merit.

The oil-producing states levy severance taxes on crude petroleum.
Louisiana has a tax of three per cent, the highest in any state, and
perhaps the highest gross income tax in the world. These seve-
rance taxes on crude oil may be the difference between profit and
loss to the operator, and when they mean loss, the oil producer
abandons the well and the taxing power is again limited by eco-

nomic law.

It has become the fashion in all of the states to levy taxes on
every gallon of gasoline sold. Some of these taxes are as much
as four cents, and when gasoline is selling at sixteen cents, includ-
ing tax, we have a sales tax amounting to thirty-three and a third
per cent. The seller of gasoline adds the tax to his price, and the
consumer pays. I venture the assertion that we are about to reach
the point where the economic-law limitation will stop the taxing of gasoline. The ownership of automobiles is becoming more and more widespread, and it will not be long before the legislatures will hesitate to place further tax burdens on such a large percentage of the voting population. Constant increases in gasoline taxes will prohibit its purchase by the man of average means, and we must soon reach the point where the tax will cease to be effective.

The economic-law limitation on the power of taxation, with reference to the public-service corporations, works equally as well. A public body created by the state fixes the rates to be charged for the service rendered by these corporations, but the law stipulates that all of them shall be permitted to earn a fair rate on the value of their property. Thus we see that when the taxing authorities burden these great public-service corporations with taxes, the courts allow them to increase their rates. The amount of money paid out in taxes becomes a cost of operation. The burden is placed on the corporations by one department of the government and shifted by another department. As long as the law permits the public-service corporation to earn a fair rate on the value of its property, it is impossible for the taxing authorities to tax that corporation beyond the economic-law limitation. The public-service corporation shifts the burden to the public, and the ultimate consumer pays.

Perhaps the best example the world has ever had of a tax limitation by the working of economic laws was brought about by the federal income tax, passed for the purpose of paying the war debt. The surtaxes imposed by the act were very onerous. Capital is constantly seeking the highest possible return on its investment, and whenever the taxing power decreases the return on a capital investment to the extent that it becomes unprofitable, then that capital will invariably seek other investments and thus escape the tax.

After the passage of the income tax act, carrying the high surtax rates, it soon became apparent to the wealthy people of the country that the Government was going to take a large portion of the profits. Naturally the wealth of the country began eagerly to seek some avenue of escape. Fortunately for the wealth—and perhaps unfortunately for the Government—this avenue of escape had already been provided by the issuance of billions of dollars of tax-exempt securities. The bonds of the various states and their local taxing subdivisions were exempt from federal taxation, and federal bonds were exempt from local taxation and largely exempt from federal taxation.

Large returns on investment naturally come from business enterprises that are more or less hazardous. The tax-exempt bonds did not give large returns, but their safety was unquestioned, and the
investors of the country soon found out that they could make as much out of their money by buying tax-exempt bonds as they could by engaging in hazardous business enterprises and sharing the profits with the Government.

It is admitted by all authorities on finance that the high tax rates of the federal income tax law drove capital out of business into tax-exempt securities. Whether it is admitted or not, the actual facts seem to be proved by the statistics of the Income Tax Department.

In 1916, when thirteen per cent was the maximum tax rate, the Government collected eighty-one million dollars from persons having taxable incomes of more than three hundred thousand dollars; while in 1921, with the tax rate on such incomes reaching as high as sixty-five per cent, the Government only received eighty-four million dollars. In 1916 twelve hundred and ninety-six persons returned incomes of over three hundred thousand dollars. In 1921 only two hundred forty-six persons returned incomes of over three hundred thousand dollars. In 1916 the total amount of incomes over three hundred thousand dollars amounted to nine hundred ninety-two million dollars. In 1921 the total amount of such incomes of over three hundred thousand dollars amounted to only one hundred fifty-three million dollars. Certainly there must have been just as many people making three-hundred-thousand-dollar incomes in 1921 as there were in 1916, and the reason for the decrease must have been that incomes were derived from tax-exempt securities.

In 1922 Professor Thomas S. Adams, in an address before this association, frankly admitted that the capital of the country was being invested in tax-exempt securities. He said:

"The testimony of bankers and of experts, and of people who advise the wealthier members of American society, is universal as to the extent that they are investing their new wealth in increasing amounts in tax-free securities, and as to their growing habit of transferring their old wealth to tax-free securities."

When Secretary Mellon presented his tax-reduction scheme to the House Ways and Means Committee, he cited many authorities and gave statistics to prove that the high tax rates were driving the capital of the country into tax-free securities. There was some attempt, at that time, to dispute Secretary Mellon's conclusions, but every real student of taxation and every taxing official knows that the Secretary was correct in his conclusions.

Recently, when the Dodge Brothers' automobile business, owned entirely by the widows of the two Dodge brothers, was sold, according to Wall Street reports, the enormous sum of money paid was immediately invested in these tax-exempt securities.
It did not take the Congress of the United States long to find out that the working of natural economic laws had limited to a very large extent the power of Congress to tax the large incomes of the country. They also found out that the attempt to take a large part of the large incomes of the country had the effect of driving capital out of business, and thus decreasing other sources of taxable wealth, and a hasty effort was made to readjust rates. The income tax law was amended, and the surtaxes materially reduced, but they have not yet been reduced to the extent necessary to the financial stability of the country.

Under-Secretary of the Treasury, Mr. Winston, in a recent article, stated:

"The most important principle of taxation is, then, a tax system that will preserve and not destroy the sources upon which it feeds. With estate taxes that confiscate forty per cent of the capital, we are over-cropping our land; with income taxes that reach forty-six per cent, we are not letting our crops come to maturity."

Mr. Winston was but restating a fact discovered by Adam Smith when he said, in condemning taxes that obstruct industry, "Such a tax, while it obligates the people to pay, may thus diminish or perhaps destroy some of the funds which might enable them more easily to do so."

There are other dangers in taxation of this kind when limited by the working of these natural laws. One of these was well stated by Professor Adams when he said:

"Municipal and state and public securities of this country are gilt-edged; they offer the best security, the nearest approach to absolute safety that we have. They ought to be investments of those persons who have small amounts to invest, in which safety is paramount. Now, what happens is that under the existing situation the very rich become the principal owners of these bonds; the men who ought to be taking the grave industrial chances—who ought to be investing in the hazardous things—who ought to be supplying the money for those dangerous investments which are legitimate and necessary, but which ought to be invested in and be supported by the people who can afford to lose. The oil schemes, the dangerous mining ventures, are getting in increasing degree the investments of the poor, and the rich, who ought to carry those grave risks, are turning from them to invest in tax-free securities. Thus the normal habits of investment have been perverted."

In his address before this association in 1922, Professor Adams took the position that the large increase in tax-exempt securities issued by the states and their local subdivisions was not the result
of the ease with which such securities were sold. He said he did not believe that the states and cities and counties were borrowing money because it was easy to borrow, but believed that they were catching up with the work that they had failed to do during the war. I do not altogether agree with Professor Adams; nor do I agree entirely with those who hold that the enormous increase in tax-exempt securities is due to the income tax and the effort of wealth to escape the tax. It is true that much work of public improvement was deferred until after the war, but it is equally true that when the war ended, the various taxing subdivisions found a ready market for their bonds, and certainly it is human nature to borrow money when it is easy to borrow.

Some time ago Professor Seligman, in an article in the North American Review, asserted that the tax-exempt bonds in the United States amounted to over fifteen billion dollars, and were increasing at the rate of a billion dollars a year. If this is true, then in fifteen years we will have as many tax-exempt bonds on the market as we had accumulated in all the years gone by.

When Secretary Mellon presented his tax-reduction plan to the House Ways and Means Committee, he made this statement with reference to the purchase of tax-exempt securities:

"The purchase of tax-exempt securities, which has resulted directly from the high rates of surtaxes, is, at the same time, encouraging extravagance and reckless expenditure on the part of local authorities. These state and local securities will ultimately have to be paid, principal and interest, out of taxes, thus contributing directly to the heavy local taxation which bears so hard on the farmers and small property owners. There is no remedy within the power of Congress except the readjustment of the surtaxes on a basis that will permit capital to seek productive employment and keep it from going into tax-exempt securities."

Personally, I feel that this statement of Secretary Mellon is well worth the consideration of every citizen. In the State of Louisiana we are rapidly piling up taxes for public improvements of every character, and this situation has largely been brought about by the ease with which we dispose of public securities. We have obtained large amounts of money on long-time bonds for public improvements that will be worn out long before the bonds are paid. Already we have built many miles of gravel roads and worn them out before the bond issue was retired.

It is quite true that the issuance of these bonds has furnished employment for many thousands of workmen on the public buildings, public roads and other public improvements, and has thus seemingly added to the prosperity of the country, but it is well to remember that we have tied up in these public improvements a vast
amount of capital that will provide no work after it is once expended, and that will yield only a very low rate of interest.

I believe in public improvements, public roads and public buildings, schools and parks, but I also believe that each generation should pay its way and that posterity should not be saddled with debts contracted by this generation for improvements that are worn out and destroyed in a short time.

Working capital is absolutely necessary to the prosperity of the country, and when any tax system forces such working capital out of profitable employment, the ordinary citizen, the small taxpayer, will be the first one to suffer.

Our statesmen and financiers have found out that there is an economic law of limitation on the power to tax incomes. If the tax rate becomes too high, the taxable property will seek an avenue of escape. They have also found out that when the wealth of the country goes into tax-exempt securities or becomes idle, in order to avoid taxation, every other source of tax revenue is affected. Ordinary property values do not enhance on the customary percentage basis. The great public-service corporations cannot secure proper additional working capital. Business does not expand, and the result is that the law defeats its very object, and revenue is lost rather than gained.

The other limitation on the taxing power I have denominated the human-nature limitation, and is most effective in a democracy where all forms of taxation are under control of the ballot.

This limitation finds expression in many ways. It is at the root of all tariff disputes, if we consider the tariff a tax. It is human nature to buy in the cheapest market and sell in the highest. Therefore the producer desires a tariff that his goods may bring a higher price, and the consumer desires free trade that he may purchase in the cheapest market. As long as the producers and allied interests work together and are in the majority we will have high tariff rates. When the consumers are in the majority we have low rates.

This was well illustrated in 1916 in the case of sugar. Under the Wilson administration the tariff on sugar was materially decreased, over the bitter protest of the Louisiana sugar producers. Unfortunately for the industry there are in the United States about 100,000,000 people consuming sugar, and only a few hundred thousand people producing it. The human-nature determination to buy sugar as cheaply as possible by the 100,000,000 compelled the taxing power to reduce the tariff, thinking to lower the price.

If the war had not come, and prices had not increased on that account, the sugar people declare that the industry in the United States would have been destroyed.

The human-nature limitation on the taxing power becomes most
effective under the general property tax system. Every taxpayer knows or feels that the distribution of the tax burden under the general property tax is unfair. Instead of seeking to reform the system, he seeks to evade it. If the tax-paying public devoted as much time to improving tax systems as it does to dodging them, we would be the most advanced country in the world in matters of taxation. The average taxpayer feels that his personal property—such as household goods, jewelry and property of a similar nature—should not bear the same burden of taxation that income-making property bears, and he, therefore, hides it from the assessor. The assessing and tax-collecting authorities, being human, generally subscribe to the theory of the taxpayer, and it thus becomes a practical impossibility to collect taxes on certain kinds of property. It is a well-known fact to all tax officials and students of taxation that approximately eighty per cent of personal property escapes taxation under the general property tax.

The taxpayer will not return certain kinds of property for taxation; it is impossible for the taxing authorities to list it; and therefore the power of the state to tax such property is practically nullified.

This human-nature limitation on the taxing power has changed the map of the world many times. It has toppled many a royal ruler from his throne, and swept the face of many nations with the red riot of revolution.

In conclusion, permit me to express the hope to this association of tax-makers, tax-gatherers, tax experts, and perhaps taxpayers, that in the future making of the tax laws the economic-law limitation and the human-nature limitation will receive more consideration than they have in the past.

Chairman Long: We have all enjoyed very much Mr. Milling's address, and Mr. Page now wishes to make an announcement.

Thomas W. Page: The delegates who are accredited to these conferences have been listed, and the list is at the registration desk downstairs. The gentleman in charge of the registration would be glad if all the delegates would check the list there to make sure that it is correct.

Chairman Long: This meeting is open to any discussion now which you care to have. You are free to ask any questions of Mr. Riordan or Mr. Inman or Mr. Milling, who have entertained us this morning and given us a great many things to think about. I suspect, however, Mr. Milling's middle name is Marshall.

Mr. Milling: No; it is Morgan.

Chairman Long: Morgan—perhaps that is better still.
Are there any questions you wish to ask of any of these gentle-
men who have given their time this morning, delivering these papers?

I might say at this time, in case there are any of you who wish to leave, that this conference now recesses until Wednesday morning at 9:30 sharp.

This afternoon there is to be an inheritance tax conference, which I take it is apart from this conference. I have not had any instructions, but in the absence of them I will say that will be called at two o'clock this afternoon.

Now, are there any discussions which we want to have at this meeting? These conferences amount to a good deal in two ways: one, the pleasure and the instructive information we get by contact with each other in the corridors, but only those that meet in those groups get the benefit of them. If we will bring our discussion to this larger group, many of us who are too modest to talk in the lobbies will get the benefit of any discussion here, and I think after hearing these papers many questions have arisen, and the Chair will be glad to entertain any discussion that any one wishes to start.

H. F. Walradt (Ohio): I am rising more to start the discussion than anything else, on the advisability of putting into the constitution any definite tax-rate limitation.

We in Ohio have been experimenting with this tax-limitation proposition in the way of putting it into our statutes. Since 1910 we have had what is known as the Smith one-per-cent law, which started out to limit taxes to 15 mills. Now, how that has actually worked out, perhaps can easiest be shown by simply stating the fact that at the present time the average in the state for cities and villages is over 21 mills, and that the highest in the state is around 38 mills, and that, in spite of the fact that we started out with a 15 mills limitation.

Now, it seems to me that our experience has shown that we are not going to get anywhere by trying to artificially stop the increasing expenditures, by control of the tax rate, if the people who wish to spend are going to continue to spend in the same way. The way this worked out in some of our districts and cities in Ohio, was that those in authority have been forced to cut down in certain instances.

One of the best instances of this in the case of cities is where they cut down on the fire force. They cut down to such an extent that the insurance companies came into that city and got after the manufacturers and told them that they had to increase their rates. The manufacturers of that community got together and figured the thing out, to see how much their premiums would be increased, and voluntarily went to the city council and offered them a sum of money to enable them to continue the fire service which they had.
In other words, it was cheaper for them to make this gift to the city than it was to have the increased fire rates.

In other cities we find the merchants getting together and contributing for the support of the police department; that is, the police were taken out of the central districts at night and some of them distributed in the residential sections, the city authorities knowing very well that the business men of that community would have to have protection and would see that they did have protection even if they had to contribute it themselves.

In the same way we find an increase of assessments; special assessments for lighting, for street sprinkling, cleaning the streets; even garbage collection is on the increase. Special assessments, occupational taxes and other forms of taxes are coming in.

I am simply stating this to show that if the people are going to spend the money, ways and means have to be found, and usually these other ways are more unjust and more inequitable. They have to do it through an unjust system of taxation.

I think then that our efforts should be centered on trying to get an equitable system of taxation, trying more and more to eliminate the unfair system that prevails in most of the states under the general property tax, and trying to find ways by which we can get more out of the tax dollars that a person contributes, rather than trying to absolutely set a fixed limit.

Chairman Long: Does any one else have anything to offer on tax limitations, or on the questions of equalized or balanced tax program?

G. A. Dyer (Ohio): I do not believe that Professor Walradt has presented the Ohio situation fairly. You need a little history of our tax-limit law. It was probably the most vicious taxation law ever passed in the United States.

The first limitation was 10 mills, in place of 15. The law was written deliberately, after a thorough investigation of tax rates. The 10-mill limitation was too small to finance cities and school districts, and the law was designed to force them to borrow money. From this standpoint it has been an unqualified success, for the taxing districts of Ohio are in debt over eight hundred million dollars. The trouble with the tax-limitation law of Ohio was that there was no debt-limitation law enacted at the same time. If the present debt law of the state had been placed in effect with our tax-limitation law, Ohio would have made a success of it and would not have been in debt as she is today.

Professor Walradt never agrees with me over in Ohio. If he wants to be fair he will agree with me once down here in Louisiana.

Professor Walradt: We ought to have a debt-limitation law.
Mr. Dyer: That is the first time you ever agreed with me.

Chairman Long: It may not always be for the benefit of these conferences that people who wish to take two sides will finally come to an agreement, so I hope somebody will start something that is not entirely unanimous.

There is one thing of which Mr. Milling spoke, in which I agree most heartily, for the reason that Massachusetts does not have a gasoline tax. But, I wonder if he did not say something in his remarks about the gasoline tax which might not be the subject of some little argument here. I am merely suggesting that, because these conferences present the only opportunity for an exchange of ideas.

I should be glad to recognize any one who will speak on any of these subjects brought up this morning.

Harley Lutz (California): I have enjoyed all of these papers very much, but I am a little disturbed by one note, possibly intended only as a minor note in the harmony. I refer particularly to the emphasis which the gentleman from Mississippi placed upon the segregation of the sources of revenue, and particularly also some of the by-products of that part of his program.

I had already made note of his failure to emphasize—as I recall his paper—effective centralized administration, as one of the important features of a sound state and local tax program. That, of course, was entirely consistent with his emphasis upon separation of the sources of revenue. Apparently he did that deliberately.

If you will recall the opening section of Mr. Milling’s paper, you will see at once one of the serious consequences that inevitably flow from the strict application of a thorough-going program of a separation of sources. He pointed out the manner in which the local districts, being entirely free from any centralized control over borrowing powers or taxing powers, might pile up a debt amounting virtually to the appropriation of the property of the citizens.

Now, that, of course, is only one of the many things, the many evils, which flow from a thorough-going program of segregated sources of revenue. I contend, and I have always contended, that it is absolutely impossible—more than that, it is highly immoral—for the state to withdraw absolutely from the field of supervision of the local processes of assessment and equalization—tax levying, as well as expenditure; that the state absolutely cannot with any regard to morality and the discharge of state obligations, evade responsibilities of that sort.

Now, it was mentioned as one of the advantages of the segregation program that the state could take its hands absolutely off of the local districts and let them go their own way.

The result here in Louisiana is that they have more or less of a
local chaos in tax levying and bond issues, and so on, and with the result that we have in California of an absolute chaos in local assessments, due to this lack of centralized supervision.

I regret very much, ladies and gentlemen, to hear this note, even though it may have been meant only as a minor note in this morning's harmony. I regret to hear this emphasis upon the segregation of sources of state and local revenue, if it is to lead to that withdrawal of state responsibility, state control, state supervision, exercised through a non-partisan, highly efficient, highly competent and thoroughly honest and intelligent state tax commission or equivalent body. If that is to be the price, or if that is to be a part of the program of separation of state and local sources of revenue, I think it would be a very questionable feature for Mississippi or any other state to adopt. I thank you.

Chairman Long: I think we all enjoyed what Professor Lutz has said, and I should like personally now to take advantage for the moment of my position to thank publicly Professor Lutz for his talk. It is more or less vital to me. I am glad to have him here.

There is one point which I thought he was going to bring home to you, in relation to his remarks in regard to segregating the sources of revenue. The one big objection I have to that, and I think it will appeal to most of you, is that you never can successfully collect for the purpose of the taxpayer's knowledge the total cost of government; and if there is anything we have to do, as taxing officials, it is to get back to the taxpayer the total expense of government to him.

Now, if he is going to have it so it disappears into a labyrinth of evidence, we shall never get home to him, until the crash comes, what the government expenses are.

Mr. Query (South Carolina): What progress has Mississippi made in classifying property for taxation?

Mr. Inman (Mississippi): Answering that question I will say that Mississippi has not classified at any extent. We have twice submitted constitutional amendments for that purpose, both of which have been defeated by votes of eight or ten to one.

Chairman Long: Before the discussion proceeds, Professor Page would like to make a statement.

Thomas W. Page: I merely want to say that last evening the association adopted a rule requiring the appointment of a committee on nominations to fill the vacancies in the administration of the affairs of the National Tax Association.

I want to name that committee now, and I shall ask Governor Bliss of Rhode Island to serve as chairman of the committee, and
Hon. William Bailey, former president of the association, Mr. Matthews of New Hampshire, Mr. Douglas Sutherland of Illinois, and Mr. Hughes of Arizona, to constitute the committee.

MR. WILKINSON (Louisiana): If Mr. Milling is present I should like to correct a statement he made in his speech with reference to the sugar tariff, in which he, as well as myself, are interested.

He said that there were about 500,000 people benefited by the tariff, at the expense of 109,500,000 of the population of the United States.

Evidently in his calculation of people benefited, he omitted the population of the large beet-growing states, which would bring this amount up to several million population instead of 500,000. He has omitted the fact that the sugar tariff, which he says these 109,000,000 are paying, is one of the largest revenues that the government has received. How the government can abolish revenues and abolish income taxes, as he suggests, I cannot see. They must have revenue, and that is one of the largest revenue-producing articles. The per-capita cost to the population of the United States is less than 40 cents—the cost of the sugar tariff; and there are several million people interested in its growth, and not 500,000 as he suggests; and, had it not been for the domestic sugar industry in the United States during the late war, there would have been a sugar famine in this country. I wish to correct that very erroneous statement he made, Sir.

MR. MILLING: I think Mr. Wilkinson entirely misunderstood my statement. I don't suppose there is anybody in the audience more favorable to the sugar industry than I am. In fact, I spent a large part of my life in the sugar game; my people are interested in sugar. I am not personally interested in it, but I have a number of relatives who are heavily financially interested in it, and I do not believe there is anybody in the country more favorable to the cause of sugar than I am.

When I said there were about one-half million people engaged in the industry, I meant directly engaged, and I really think, Mr. Wilkinson, that those figures will cover. In other words, in the State of Louisiana I do not suppose, outside of the third congressional district, that there is anybody who raises sugar for anything except perhaps to make a little molasses out of during the wintertime.

It is not regarded as a sugar crop now. I do not know the extent of the people who are engaged in the beet sugar industry in the west, but I really believe that one-half million people directly engaged in the industry would cover the number of people who are directly engaged.

Now, the ramifications of the industry are such that it is practi-
cally impossible to say how many are benefited by the industry, how many are indirectly affected by the industry. You might say that the entire State of Louisiana is affected by the sugar industry, and it is. Of course there are more than 500,000 people in the State of Louisiana. What I meant was, directly engaged in the business of producing sugar.

Now, on the question, I don't think I expressed any idea that the government should reduce the tariff on sugar. Personally I should like to see the tariff on sugar doubled, because I think it would be a great thing for the country. I think it would be a great thing for the revenue of the United States, because it is one of the few tariff revenue-producing articles.

As to whether or not it should or will be is a different proposition. I firmly believe in the human nature equation. I will sweep the figures aside; I will admit that there are ten million people engaged in the sugar business. If you get ten million people selling something, and one hundred million people buying it, if, by legislation, by voting, they can reduce the price of that article, they will do it.

Chairman Long: Are there any others who wish to contribute to the interesting side of this morning's conference?

Mr. Riley (California): Ladies and gentlemen: just a word in amplification of Professor Lutz's remarks on the segregation of taxation.

Perhaps no state in the United States has a keener knowledge of the result of segregation of taxation than California.

In the first place, if you absolutely separate the property—and I understand there is a very considerable sentiment in other states along that line—you must take into account the fact that the great mass of people are on one side, and a few people on the side of the corporations, and there is a constant tendency to shift burdens to the state.

Therefore, when there is a constant raise in the corporation rates, until they get high enough so that you cannot put it over any more, then it begins to drift back on the people, in the shape of taxes. In California the precise result has been 50 per cent of the cost of state government going back on the ordinary taxpayer, in spite of the fact that we have segregated our burden there.

Another thing I want to corroborate is your statement to the effect that you have no accurate cost of government. My office is the only state agency that attempts to collect the cost of government, and by reason of this segregation of taxation in our state it is a practical impossibility to get uniform accounting in the state, and the figures that I collect are practically worthless, for that reason. Therefore, any attempt on the part of any state to segre-
gate the burden of taxation should bear in mind the fact that you must always pass back to the people in some form, a part of the cost of state government, otherwise you are going to have a continual shifting of the burden to the state; and many times things are undertaken that, were we going to pay it directly, would never be undertaken. That has been our experience in California.

Chairman Long: May we now have the pleasure of hearing from some one else in the conference? There are quite a number of states that have not yet taken part in this discussion.

R. A. Vandergrift (California): I am very much interested in what I consider two conflicting statements; one, a balanced tax program, and the other a tax which means social legislation. I refer directly to the inheritance tax.

Learned members of this body have previously pointed out that any inheritance tax which would give social legislation would defeat its own purpose as a tax measure. How could you have social legislation and a balanced tax program?

Also, I should like to ask Mr. Inman, since he has used the state which has the highest inheritance tax rate in the Union as his model, if they have there secured under that plan balanced taxation, or, if, in addition to that, he has looked into the moving of capital from that state to other places where it is more favorably treated; if he has based his diction on practical application or upon theory? I hope that I shall have some time, perhaps in the other sessions, to go into this a little more fully; for, it seems to me, that the two things are a contradiction, a balanced tax program and social legislation.

In Italy, the home of the suggestion for social legislation, they have abandoned that, particularly in the first group. We found by actual application, in California—and we are the third highest inheritance tax state in the Union—that 67 per cent comes out of the first degree of relationship or the family group.

Mr. Inman: Answering the questions of the gentleman from California, with reference to Mississippi's experience with inheritance taxation, I desire to say that Mississippi belongs to that group of states, I mentioned this morning, having no large cities and no large fortunes, therefore Mississippi's inheritance tax is solely a revenue measure.

The social effect is not a problem in my state. I might go a step further in this connection and say that Mississippi lies parallel to the State of Alabama. Mississippi is also in a zone of influence from the State of Florida, and, as I tried to emphasize in my paper this morning, there is a growing sentiment in my state that inheritance taxes should be abandoned altogether as a source of state revenue. Personally I do not belong to that school. I believe we
should retain our inheritance taxes, as I stated, for the dual purpose of social effect and revenue. In Mississippi we use it wholly as a revenue measure. Mississippi has not progressed in modern taxation, as some of the other states of the Union have progressed. As I stated to the gentleman of South Carolina, Mississippi has twice defeated a constitutional amendment for classified property taxes.

In other words, we use in Mississippi a general property tax for the major sources of revenue for support, not only of the state government but the municipalities and other local taxing districts. Those rates run from 27 to 141 mills.

Now, I undertook in my paper to embrace limitations of tax levies and not confine it merely to state government, but I intended to be comprehensive enough to embrace all forms of taxation, state, county and municipal.

I also propose to keep the average citizen aware of the fact that he is a citizen of the state government as well, by having him pay an appreciable amount of income taxes, just as he supports his local government, his county and his municipal government, his separate bonded districts, by a direct tax, paid upon his property, but classified, so as to embrace all classes of property.

If he makes a material contribution to the state government, through a well-defined income tax law, my opinion is he will be conscious of the fact that he is contributing to the state in which he lives.

Chairman Long: I am wondering if those who have not yet informed the secretary, Mr. Holcomb, of the ones that they have selected as chairmen of the delegation, and who, because of that election, go on the committee on resolutions, can now announce from the floor who they wish to have serve.

The secretary calls my attention to the fact that he has comparatively few of the states reported to him. Are there any who want to announce from their states who the chairman is? If not, I should like to ask the secretary to call off what he does have.

(Secretary Holcomb called list of states for members of resolutions committee.)

Chairman Long: Will those who are here from Alabama please select a man and notify Mr. Holcomb, and that applies also to Delaware, Florida, Idaho, Maine, Michigan, Nebraska, Nevada, North Carolina, South Dakota, Rhode Island, Washington, West Virginia and Wyoming. Those states will please give Mr. Holcomb the name of their chairman and we will be very much pleased.

A. S. Cooey (Mississippi): I want to say one word in answer
to the question of the gentleman from California in asking the
effect of income and inheritance tax laws on the movement of
capital from Mississippi.

I want to say, in the first place, that I think the importance of
these laws, or, rather, the effect of these laws in determining the
movements of capital is largely exaggerated.

Capital goes where it makes money, to the location of raw
material and the source of power. The price of labor, and the
cost of transportation have a greater determining effect upon the
location of capital and industry than do taxes.

Answering the question, I want to say that in 1912 we had an
income tax, as Chairman Inman stated this morning, of one-half
of one per cent. This was largely a voluntary law, and very little
income or revenue was derived from the law.

In 1918 we had an inheritance tax law, almost a copy of the
splendid law of Rhode Island.

In 1924 we adopted a modern income tax law and an inheritance
tax law, modeled after the estate tax law of the Federal Govern-
ment, with maximum rates of ten per cent, and minimum rates of
one per cent, with an exemption of $10,000. Our income tax law
has a maximum rate of five per cent.

These laws, as I said, were adopted by the legislature which met
in the early part of 1924. Since that time more capital has come
into Mississippi than in any five years of previous history.

I am not saying that these laws have brought capital to Missis-
sippi, but I just want the record to show that inheritance tax and
income tax laws have not kept it out.

DOUGLAS SUTHERLAND (Illinois): I should like to ask a question
of the last speaker regarding their state income tax. Do they
allow exemption of property such as intangibles or other classes
of property?

MR. COODY: All taxes paid except the federal taxes are deducted
from the gross income. A property tax is not deducted from the
income tax.

MR. SUTHERLAND: But do you attempt to tax intangibles at the
full general property rate as before your income tax?

MR. COODY: The ad valorem tax? Practically all of our intan-
gible property is exempt from all ad valorem taxation.

MR. SUTHERLAND: By law or by practice?

MR. COODY: By law. We have this situation in Mississippi: Our
law provides that all bonds and evidences of debt bearing a rate
of interest not greater than six per cent shall be exempted from
taxation.
CHAIRMAN LONG: I take it that in Mississippi you have done away with the intangible tax on the property base, anyway.

MR. SUTHERLAND: In order to get your income tax in operation you abandoned the property tax on intangibles?

MR. COODY: No; we abandoned the *ad valorem* tax.

S. E. HUNT (Tennessee): I should like to ask the gentleman who has just taken his seat why intangibles should not be taxed.

MR. COODY: I cannot answer that question without a long discussion of economics. I don't know what reasons influenced our legislature in exempting these intangibles, except possibly this fact, that *ad valorem* rates averaged from 40 to 50 mills. Now, that means an *ad valorem* tax of 4 to 5 per cent.

All you practical tax men know that tangible property, for example, land or live stock, machinery and stocks of merchandise, are not assessed 100 per cent, except in rare cases. If you tax a bond or note, it carries on its face its value, and it will be unfair to tax a note bearing six per cent interest, and land, not put in at its full value, and put the same rate on each one. So the *ad valorem* tax would destroy all the income derived from intangibles, and since the value of intangibles is largely based on their income, it would mean that the value of these intangibles would be destroyed.

So, just as a matter of expediency, I should say, the legislature provided that this class of property should not be required to bear this very large *ad valorem* rate.

MR. HUNT: I knew what the answer would be; that is why I sprung the question. I know it is a live question in the United States. It is so in my state. It has been talked, but the concrete question I asked was: to reduce it to that, why any class of property should be exempt from taxation. In other words, a note for $1000 drawing six per cent interest is intangible property. If it is exempted from taxation because the tax may in some way get to six per cent, I cannot take that as a reason when, on the other hand, the widow who owns a $1000 home over here on the street, that home producing no revenue, must pay the *ad valorem* tax.

Now, I sprung the question because it is a live question. I think the culmination of that question, the real rightful culmination, is one that is fraught with a great deal of study and thought and justice or injustice, as it may happen.

I think it is not of passing moment but requires a great deal of thinking, and a great deal of thinking should be given to it.

We have up the question of classification of property in my state. We have no law now for it, but it is being sought; but what is the justice of it? I should like to hear discussion—I don't know
whether at this time—but some time during this session I should like that to be the main issue of discussion, to arrive at the right thing to do in the way of taxing those things.

Now, I know that the governor of one state recently proposed this, that a tax of one-quarter of one per cent of the income of that note hould be taxed. Now, I just stated that as a proposition. No doubt some similar things have happened in all these states. Some of us are taxing them, some are not. What is right in the question, that is what I want to know.

Chairman Long: I think the conference all sympathetic with Mr. Hunt's point of view. Most of us, however, have come to the conclusion that we cannot change human nature, and that somehow or other, even as just as it may be, a herd of bonds don't subject themselves to tax quite as willingly as a herd of cows. I wonder if anything else is to be said at this session?

It is to be remembered that this tax conference adjourns now until tomorrow morning at 9:30, but this afternoon the inheritance tax conference starts at 2 o'clock.

If there is nothing further for this conference to attend to and there are no more announcements to be made, do I hear a motion to adjourn?

(Adjournment)
THIRD SESSION

Wednesday Forenoon, November 11, 1925

George Vaughan, presiding.

Chairman Vaughan: Gentlemen, be seated. Members of the conference, we are going to have a comparatively short session this morning. It is important that we get through by 11:30 sharp, and in order to do that and get the full benefit of the discussions I hope that you will all cooperate; that those who come in will get seats as near to the front as you can. The different speakers, when called upon, will come to the front and face the audience and give their names so we can hear it all.

The session this morning will be devoted to the very important problem of local assessments. We have a formal paper, and that is to be followed by a general discussion, which we hope will be free and untrammeled. You will get the full benefit of these meetings by participating, if you have a message to give, or by asking questions, so that those who are informed on the subject may answer directly. Make the session short and snappy.

Delegate: Like last night.

Chairman Vaughan: Like it was last night, yes, but bearing in mind that no speaker should monopolize the time or take too much time, but still do not be deterred from making your expression, of some sort, if you feel inclined.

The main program will be opened by a paper on the local assessor and his functions, by Mr. A. S. Coody of Mississippi.

Secretary Holcomb: May I suggest that Mr. Sneed has two or three little formal notices.

Chairman Vaughan: Mr. Sneed, chairman of the entertainment committee, has an announcement to make first.

Mr. Sneed: I want to ask the states of Alabama, Delaware, Florida, Iowa, North Carolina and New Jersey, who have not selected their member on the resolutions committee, that they act on the subject and leave the name with me or at the desk downstairs. As Mr. Vaughan told you, this session this morning will terminate at half-past eleven.

(60)
Now, the boat on which we will take our trip leaves the head of Canal street, a matter of about seven or eight blocks from here, at half-past two, but you can go aboard from two o'clock on; and I would suggest that the members get there by half-past two.

I want to say that the ladies' luncheon is set for tomorrow at one, at the Patio Royal. I trust that the resolutions committee matter will be acted upon by the states named without any delay.

Chairman Vaughan: You have heard the announcement of Mr. Sneed, the chairman of the resolutions committee, and also connected with the committee on hospitality.

The boat leaves at 2:30 and returns at 5 o'clock. Any further announcement with respect to adjournment?

Mr. Sneed: As I said, we shall have to adjourn at 11:30 to give this room up to the weekly dinner of the Rotarians. It may be that some of you are Rotarians and will want to attend that dinner, at 12:05.

Chairman Vaughan: If there are no other announcements, it may be well to proceed with the morning program, and we will ask for the paper on "The Local Assessor and His Functions," by A. S. Coody, Secretary of the Mississippi Tax Commission—Mr. Coody.

A. S. Coody (Mississippi): Mr. Chairman and Ladies and Gentlemen: I am reading this morning this paper, dealing with that part of the general property tax or the classified property tax, which concerns the initial assessment of property. I think this is the only tax as to which there will be no resolution offered that it be abolished. It is a tax that I think every state in the Union finds its most important tax, in the sense that the largest part of its tax collections come from this source.

Even states like Pennsylvania and North Carolina which do not claim an ad valorem tax for state purposes, find that when you put all the taxes collected from its citizens for state, county, municipal and district purposes together, the ad valorem tax will constitute more than 50 per cent.

I may say in passing, that in the State of Mississippi at the present time about 60 per cent of the state's revenue comes from this tax. All of the revenue for districts and counties is considerably more than 50 per cent of the tax collected by municipalities.
THE LOCAL ASSESSOR AND HIS FUNCTIONS

A. S. COODY
Secretary, Mississippi State Tax Commission

It is only fair to state in the beginning that the writer has no personal experience as a local assessor, and the opinions expressed and held are the result of seven years' experience and observation as secretary of the Mississippi State Tax Commission. During this time, I have made at least the usual study of the assessors, and the laws governing their duties, having had the opportunity of conferences with men actually engaged in the work, and the benefit of the views of a large number of assessors who have earnestly endeavored to perform their duty.

The subject is one that every tax official will concede to be important. The local assessor is the most important official in the administration and application of the ad valorem tax; and his functions, or duties, exceed in importance those of any other official or group of officials. This is true because the work of the assessor is primary, and the work of others is either doing that which the assessor has failed to do, or perfecting that which he has initiated. If the local assessor should perform his work perfectly, there would be nothing left for either county, district or state boards of equalization to do.

In the application of the ad valorem tax, there are in most American states three groups of officials who must deal with the property:

1. The local assessor, who finds, classifies, lists and places a value upon the property assessed.
2. The county or district board of equalizers, who are charged with the duty of equalizing assessments and values, as between the individual taxpayers and property owners under their jurisdiction.
3. The state tax commission, or state board of equalization, which equalizes the assessment of property among the counties or other political subdivisions of the state.

Different states, of course, have variations of this general system, but, in all, will be found an official or body of officials performing these general functions.

This paper deals only with the first group, or the local assessor, by whatever name called. In Mississippi, the county assessor is a constitutional official, and must be elected by the voters of each county for a term of four years. In some other states, there is a township assessor and, in other states, a local assessing officer having jurisdiction over a part of a county or over a city, or part of a city. All these modifications are matters of detail, arranged to best serve the needs of particular communities, but everywhere
there is some officer in whom rests the duty and responsibility of finding, classifying, listing and valuing the property of citizens for purposes of taxation.

Statements stressing the importance of the local assessor can be found in the official reports of practically every state in the Union. Rather than attempt originality where it cannot improve upon orthodox statements, I take the liberty of quoting from three widely separated state tax commissions.

"The assessor is one of the most important officials connected with our system of state and local taxation. His work forms the very foundation upon which our tax structure is reared, and, unless the foundation be well laid, the superstructure is sure to suffer."

"The office of assessor requires the exercise of good judgment and the strictest impartiality."

"The fundamental requisites of a good assessment are, first a complete listing of all taxable property, and, second, an equitable valuation of the same. The one is just as important as the other. If any considerable amount of property is omitted from the rolls and thereby escapes taxation, or, if the valuation of the same class of property lacks relative equality, the assessment will be neither complete nor equitable."

"The justice and equality of an assessment depend almost entirely on the work of the assessor. Unless his duties be discharged in a thorough and conscientious manner, the assessment will be an imperfect one, for no subsequent step by boards of review or of equalization can overcome the defects of a careless or inequitable initial assessment. It is therefore important that neither friendship nor vindictiveness should influence an assessor in his work, nor should favoritism or prejudice be shown either rich or poor. If the property of every taxpayer is assessed exactly alike as to value, there can and will be no just cause of complaint, as far as the work of the assessor is concerned."


"The office of assessor is one of the most responsible, if not the most responsible, office connected with our entire system of state and local taxation. From the standpoint of the individual taxpayer, the assessor is the most important officer having anything to do with taxation. His work lies at the very foundation of the system. Without his correct work the burdens of taxation cannot be distributed among the property owners. * * * * *"


"This being true, we desire earnestly to urge upon you to consider changes in the present law as to the initial assessment of all property. This matter is of prime and, as we conceive
it to be, of fundamental and continuing importance. * * * *
The general property tax is, from necessity, based upon the initial assessment, and if that work is not done intelligently and accurately, equality and justice in taxation cannot be approximated. * * * *

"As long as we retain our present revenue system, the assessor will continue to be a vital part of tax administration, for the initial assessment is the cornerstone of the general property tax. If the initial assessment be imperfectly made, no subsequent step by boards of review or equalization can overcome all its defects."


In spite of the general recognition of the importance of the local assessor, state legislatures have been tardy in providing adequate compensation for the assessor, and in clothing him with the authority necessary to permit him to function effectively. I desire to quote here the following from the South Carolina report:

"The local assessor, as already stated, is the most important official in the whole scheme of ad valorem tax administration, yet it is just here that the general property tax system breaks down."

From reading reports from other state tax commissions, I have reached the conclusion that the defects in and criticism of the general property tax as applied in American states are chiefly due to failure in the work of the assessor in making the initial assessment.

Practically every American state has a tax commission, or similar body. All, or nearly all, have county or district boards of equalization, under some name. Much thought has been given to creating state tax commissions and in perfecting the tax laws to be administered. This should have been done, but the office of assessor should not have been overlooked. Perfect county boards of equalization, and tax commissions, composed of Moses, Solomon and Daniel cannot secure equal and uniform assessments of property, where the initial assessment is made by an incompetent assessor, or by one having the title of the office, with none of its powers.

Having provided a system of equalization among individuals, and a state system of equalization among counties, the remaining duty is to provide competent assessors, vested with authority to exercise the important functions of the office, and secure the listing of all property subject to taxation, and to place it on the rolls at its true value. When this is done, there will be much less complaint against the general property tax or the classified property tax; and a largely increased public revenue.

In the early years of the Republic, the assessment of property for taxation was a comparatively simple matter. Nearly all prop-
erty was tangible, consisting of lands, dwelling houses, live stock, and simple tools and mechanical appliances. No extraordinary talent was required of the assessor. Tax rates were low, and there was no great temptation to avoid or evade taxation.

But this condition has disappeared everywhere, except in the more remote districts of our country. Population has increased, property has vastly increased in quantity and value, and has assumed multitudinous forms. Tax rates have gone upward, with the rapidly increasing services the government is rendering to the people, especially in better educational facilities, good roads and eleemosynary institutions.

Today the fiscal reward is worth while for the unscrupulous taxpayer to avoid or evade taxation, either by turning in low values, or by omitting much of his property from the rolls.

The conditions call for an assessor who is qualified to deal with all kinds of property, and not only to find it, list and value it, but to correctly classify it. The assessor must also be able to match wits with the shrewdest minds in his jurisdiction, so that all persons and all property are dealt with justly and uniformly.

The Qualifications of the Assessor

The qualifications of the ideal assessor would call for the definition of the perfect man. He should of course be honest and fair, with neither friends to reward nor enemies to punish. He must be intelligent, and understand how to deal with men—and in this age, women—courteously, firmly and tactfully.

The assessor must necessarily be familiar with tax law, and especially that relating to the assessment and valuation of property for the purpose of ad valorem taxation. Knowledge of the law is often lacking in the qualifications of the assessor, and yet without this knowledge, he cannot properly assess the man who does not know the law himself; and he is at the mercy of the large property owner, who does know the law.

Experience is also invaluable. A theoretical knowledge of the assessment of property is valuable, but to this must be added experience, before we can hope to have an assessor qualified to perform the duties of his office. Since experience must be gained by practice, it follows that it will be difficult to keep experienced men in the office of assessor. The only practical solution of this problem is to discourage changes as much as possible, and to provide the assessor with an efficient corps of deputies, so that the office will always have the benefit of experienced men, familiar with the task to be performed, and thus secure a uniform system from year to year, with as few innovations as possible.

When the assessor is given the authority (which he should have)
not only to list property, but to compel returns, examine records, and place a value on the property returned, he will require an unusual amount of courage—courage to make examinations, courage to place a proper value on property, and courage to let the value stay when he has once placed it.

And then the assessor must be independent. I mean by that, he must not be an adjunct to some board, political party, or person; nor, if elective, so controlled by influential property owners that he is not free to act as his judgment directs. The assessor must be so free that he will not be constrained to omit or undervalue any property, because of its possible political effect, either upon his own political fortunes, or upon some affiliated person or body.

**The Selection of the Assessor**

To secure that independence which is essential to the proper performance of the duties of assessor, the office, it seems to me, must be divorced from popular election. My observation has been that the capable, efficient and courageous assessor always has a fight when he stands for re-election. Even if successful, the fight is so costly in money and in effort, that few men can be found willing to make the sacrifice.

It is inevitable that the capable assessor places on the rolls the property of those who have large holdings. He thus antagonizes the most powerful influences in his county or district. On the other hand, as a whole, the taxpayers who have been helped by his courage in assessing those who seek to evade taxes take little personal interest in the contest, and are too often indifferent to the result, or are so much interested in other questions that the assessor is left to fight his own battles.

Personally, I am strongly in favor of the popular election of as many public officials as possible, but it seems to me that the assessor is one officer who should not be elected by popular vote. This is not equivalent to saying that the people are not capable of electing a good man; they are. My objection to the elective system is that the acts of the assessor in one county or district affect the people in the other counties or districts, and one incompetent or dishonest assessor will destroy all the equality and uniformity that ninety-nine good men can build up in a year.

Granted that the electors will nearly always elect a good man for assessor; we cannot afford to use a system that permits one bad one to hold office. The work of the assessor deals directly with the pocket-books of individuals, and he largely determines how much each shall contribute to the public revenues. When a large taxpayer is permitted to avoid his share, it means that a larger amount must be taken from the pockets of other taxpayers. No man should be placed in an official position where he can reward
powerful political friends merely by omitting to be diligent in his official capacity.

There is an essential difference between the election of members of the legislative bodies, and the election of clerical officials like a tax assessor. In a legislative body, the majority decides, and a few fools and knaves mixed in with the general body are powerless to do harm, because their actions are not the acts of the body. With the assessor, each act for his county or district, and every citizen must bear the result of his folly or duplicity. This is true, not alone of the people who actually elected him, but of those in other jurisdictions, who have no voice in his selection.

In adopting a plan for the selection of the local assessor, one thing should be required in every instance. Whether he is elected by popular vote, appointed by another official or board, or elected by some official body, every candidate or applicant should be required to pass a thorough examination before he is permitted to become a candidate or applicant for the office. In other words, qualify the applicants, as well as the official. This safeguard will result in securing competent men, leaving the still larger question of securing men with the necessary moral qualifications.

I have no method to propose for the selection of the local assessor, beyond the suggestion that he should be appointed by the central taxing authority, subject possibly to nomination by the county or district board of equalization. Or it might be better for the local board to make the appointment from an accredited list, the appointment to be approved by the central board.

Of equal or greater importance with the selection of the assessor is the power to remove. If the power to remove rests with a local authority or board, or even if the initial steps in the removal must be taken by a local body, the distaste to dealing injury to an associate is sufficient to prevent action being taken, except in the most flagrant cases of incompetency; or where political pressure is brought for the removal of too active an official.

The power to initiate proceedings for removal, if not the power to remove, should be vested in some official body removed from the sphere of improper local influences and competent to render a decision just to all concerned.

Considering the importance of the office and the far-reaching effects of incompetency or dishonesty on the part of the assessor, summary removal should be provided for, giving ample ground for a rehearing, and re-instatement in office if circumstances warrant. An assessment roll must be made up on time; it must be filed at a certain time, and there must be no delay; otherwise the whole scheme of equalization is rendered ineffective. Hence, it is necessary that an incompetent assessor be summarily removed, and another given an opportunity to do the work.
The Duties of the Assessor

The importance of the office of assessor grows out of the important duties which he must perform. The first duty of the assessor is to find all the taxable property in his jurisdiction and list it on the rolls, at its true value, or at the percent of actual value at which the different classes of property are to be assessed.

At first blush, we might be inclined to think that the mere listing and valuing of property was a relatively simple process. Yet, as we study the problem, the more difficult it appears; and the perfect assessment has yet to be made. Even courts hold that equal and uniform assessments are never attained, but can only be approximated.

Our pioneers had a saying, "You must catch an otter (oughter) before you can skin him." Before the assessor can assess property he must find it, determine whether or not it is exempt, classify it, and then list it on the roll, at the correct value. The finding of property is in itself an enormous task, and requires diligent, intelligent effort and unremitting toil.

It should be realized that a county assessor is required to find and tabulate all the property in his county, often running into the hundreds of millions of dollars. It amounts not only to taking a census of persons, but of ALL things, real, personal, tangible and intangible, the earth and her waters and "the things that in 'em is." Now, we are in a fair way to be called upon to assess, if not the sky, the things that are in it.

Modern property, tangible and intangible, has so many varying forms that tax lists cannot be devised to permit an enumeration of even all the classes. At best, we can only designate certain broad groups, and into this must be listed all property. This calls for training and knowledge, not only upon the part of the assessor but of his deputies as well. And then every assessor in a given state should use the same system of classification that is used by the other assessors. Unless this is done, there cannot be a proper equalization.

In recent years there have been, in many states, additional duties for the assessor, by reason of the creation of school districts, road districts, drainage districts, and other special taxing districts. In nearly all cases, the assessor must show on his roll the property of every taxpayer in the respective districts. This demands a great deal of work, because there are involved questions of domicile, and the actual location of the property involved. Taxpayers do not always know themselves in what taxing districts their property is located, and the assessor must provide himself with the necessary maps and other data in order correctly to assess the property in the proper districts.
Then the assessor is called upon to determine what property is exempt from taxation. In some states, the list of exemptions is long, and is applied in different ways. For instance, property may be exempted because of the use to which it is put, or because of the kind of property, or again because of a certain ownership. If the assessor omits property that is not exempt, it usually escapes taxation. If he assesses exempt property, the owner is compelled to appear before the proper board for relief, or pay a tax he does not legally owe.

For the purpose of ascertaining to what extent the assessor failed to function, I have examined the records in a number of counties in Mississippi. In a typical county, I found that the sheriff had made additional assessments as follows: Added personalty $428,725; added realty $130,695; added polls 1,529; and added road taxes 436. This is a county with a total assessed value of approximately $25,000,000. These additional assessments were made by the sheriff or tax collector, at the request of the taxpayers themselves. There is no way of telling to what extent property escaped that has never been discovered.

This is said not in criticism of the assessor, but merely to show that, with the ordinary method of making the initial assessment of property for ad valorem taxes, the system is a failure; and needed legislation must be enacted if we are to have a system of ad valorem taxation that is really equal and uniform.

To secure a complete list of all taxable property, the assessor must have (in addition to his own qualifications and a force of competent assistants) the authority to make the necessary examination of the books, records and documents of the taxpayer. In most states, the boards of equalization have power to demand the necessary records of the taxpayer to determine the value of the property assessed. But the assessor is the one who should have access to the records, in order that the property may not escape taxation altogether.

The question of valuation is a large one in itself, and I shall not here discuss the details. Certain rules are necessary, but there is no rule for the valuation of property that will hold good for all kinds of property, or even for the same kind of property under all conditions.

For purposes of assessment, what may be called the comparative rule is probably the best general rule. By this, I mean that property is valued by comparing it with similar property, trying to get as near true money value as possible. The defect in this rule is that certain classes of property have a definite money value, easily ascertained, while it is almost impossible to value other property in terms of dollars, because it has no market or fixed sale value.

The classification and value of property for assessment should
be established by general rules promulgated and enforced by some central authority. There should be a yearly conference of all assessors, where they could be instructed and drilled in the general principles of the system, and thus enabled to apply the same methods and the same standard of values throughout the state. Since the cardinal rule in _ad valorem_ taxation is “equality and uniformity” a central supervisory authority is necessary to prevent the use of a different system by every assessor, and thereby render it impossible to obtain fairness and justice in the assessments.

**The Office Equipment of the Assessor**

The office of assessor has existed from the time whereof the memory of man runneth not to the contrary, but the office of the assessor has not yet come into existence. In the larger cities, we usually find splendidly equipped offices for the assessor. But this is the exception rather than the rule.

In the assessment of lands and improvements thereon, there has been much recent progress. The use of maps for assessment is coming into use, and is indispensable to a good realty assessment. In many states, we still have laws requiring the assessor to call upon the taxpayers, and obtain a list of his lands. This is worse than time wasted; it is courting disaster, for the very simple reason that few owners of large amounts of realty can give a correct description of their holdings, with location as to taxing districts, and other information necessary to a proper assessment. Many owners of realty, if not a majority, cannot give a correct description of their property, and an erroneous description often finds its way to the assessment roll, causing confusion, and subjecting the taxing authorities to unmerited criticism.

Lands should be assessed from maps and data kept in the office of the assessor. In fact, the office should be so equipped that taxpayers need never concern themselves with the assessment of lands owned by them. Transfers should be reported to the assessor, and he should retain this as a part of his files, thereby not only giving him the necessary description, but furnishing dependable information as to the value.

The valuation of improvements is a more difficult matter, and calls for the keeping of accurate records. Construction costs are usually available, and with a system of records showing fully the nature of the improvements, depreciation and appreciation can be pretty accurately determined. and the assessable value accurately arrived at.

Certain it is that the value of lands and buildings and improvements cannot be determined from an inspection and appraisal alone. Where a system of visit and appraisal is used, it should only be
supplementary to the office system, and should never be used as a part of the listing or assessing.

There should also be an index and filing system used in connection with the assessment of persons and of personal property. This system should be set up, and continued from year to year, so that the assessor will have in his office a fairly correct list of every person to be assessed, with appropriate knowledge of what personal property is owned by the person or firm.

The Federal Government has always failed to make a correct census of the population, as evidenced by complaints made by different cities, and the wide variance in two different counts. How then is it possible for tax assessors to go out and in a few months find all the persons subject to assessment, or owning taxable property, and then obtain from each a correct list of the property he owns? It simply cannot be done, except by the use of a very thorough office index or file, along the general lines used by federal income tax offices, and state income tax offices.

Not only should the assessor have a well-equipped office, but he should devote his entire time to its duties. During the period when he is not engaged in the actual work of preparing the rolls, he can be gathering information, making such inspections and appraisals as are needed, and giving the proper attention to the assessment of property that has escaped taxation.

Having enumerated so many of the duties of the assessor, I cannot in justice to him, everywhere, omit to say that he should be adequately compensated for his work. As a rule, this is not given equal consideration with more popular offices, and certainly his compensation is usually far less than the magnitude of his task demands.

In considering the duties of the assessor, it should also be emphasized that the taxpayer has a duty as well. Every taxpayer should be required to file with the assessor a list of his taxable property, with its value, and a penalty provided for failure to file the list, or for filing a fraudulent return. The taxpayer should be required to file this list by a designated date, without waiting for a request from the assessor.

As I have already stated, there is needed generally legislation to place the office of assessor upon the same plane with boards of equalization and review. It is not wise to provide for boards to equalize among individuals, and boards to equalize among counties, and leave neglected the office that must prepare and submit the basis upon which the other work is predicated.

When the assessor is made a real assessor, and not a mere listing officer, when his functions are well defined, his powers properly enlarged, and the occupants of the office confined to thoroughly capable men, the work of equalizing bodies and tax commissions
can be made much more effective, and the citizens will enjoy a satisfactory degree of equality and uniformity in taxation, and our administrative tax problems will be on the way to solution.

I want to say that the purpose of this paper is to do no more than provide a basis for discussion, and the real benefit of this session will be derived from the discussion which we hope to have from the delegates who are present. I thank you.

Chairman Vaughan: Ladies and Gentlemen, before going into the discussion of this very excellent and comprehensive paper, it is proper to read some resolutions that have been offered. Those of you who are familiar with the procedure know that the resolutions are the consensus of opinion of this body when they are adopted, but the mode of adoption is that resolutions may first be read to the body at large and then referred to the resolutions committee, where they are threshed out and discussed, and at a later session of the general meeting the committee make their report on the resolutions, and then the body is ready to vote upon the adoption, but in order that you may know what is in the grist, I will read these resolutions. One has already been passed in, and I will read the second, third and fourth resolutions.

Mr. Warren (Louisiana): I desire to send up a resolution.

Chairman Vaughan: To save time we will go ahead with the reading of these.

No. 2. They are numbered merely for easy identification.

Resolved, That the Executive Committee of the National Tax Association be requested to appoint a committee of seven to represent said association and to confer with similar committees of such other organizations as may be interested, for the purpose of investigating the present dividend and income alternatives of section 5219 of the United States revised statutes, in the taxation of national banking associations, to the end that suitable amendments may be made to said alternative provisions, so as to carry out the purposes of said section and to obtain the consideration of the result of such investigations by the Congress of the United States.

The third resolution is the establishment of a central research agency:

Whereas, Taxation and public expenditures are two of the most vital problems of the federal and state governments, and

Whereas, There is an evident need of the establishment of a central agency for the collection of literature, and for the purpose of research, and to serve as a clearing house for state governments and others on the questions of taxation and finance, and
WHEREAS, Because of its well-known non-partisan character the National Tax Association would appear to be the proper body to establish and to supervise such a work;

NOW, THEREFORE, BE IT RESOLVED, That the Executive Committee of the National Tax Association be and it is hereby requested to appoint a committee to consider the necessity and practicability of the establishment of a permanent research agency or staff, whose purpose shall be the giving of a service to and serving as a clearing house for the officials administering the tax laws of the various states, for the members of the National Tax Association, and for other like purposes.

A fourth resolution:

WHEREAS, This conference is convinced that a substantial share of the dissatisfaction with and criticism of existing taxes on business concerns arises from the variation in the laws as among the various states in which a single business unit may be transacting business and owning property, or to varying interpretations of such laws.

THEREFORE, BE IT RESOLVED, That the National Tax Association be requested to investigate this subject, through a committee or otherwise, to the end that appropriate remedies for interstate or intercounty complications in the taxation of business organizations, whether corporate or individual, may be devised and suggested to the various states at a future conference.

A fifth resolution:

RESOLVED, That this conference considers the taxation of inheritances or estates an appropriate and legitimate means of raising revenue for the government, and does recommend it as a method of taxing certain values and forms of wealth which cannot well be made to contribute to the public treasury by any other means.

Those resolutions without motion will be referred to the resolutions committee, and duly considered at their sessions.

Now, gentlemen, I hope that there will be a genuine and thorough and interesting discussion of the general topic that we have on hand this morning, which has been so ably presented by the paper of Mr. Coody.

In my opinion the fundamental base of all taxation is assessment, and the courts have held, and practical experience has shown, that the matter of assessment itself is a practical rather than a legal problem. Therefore, the opinion and facts and experience of the common laity, the business man and the common taxpayer are equally as valuable as those of the experts—the legal experts—so for that reason this discussion ought to be the most popular discussion of any.
As I said before, we have to adjourn at 11:30, and we have an hour and five minutes in which we can discuss the various problems.

To my certain knowledge there are states which have achieved wonderful experience and excellence in the quality of the assessment. I know that representatives from those states are here. There are a few outstanding commissioners of long experience who will be glad to give us valuable information, and I particularly solicit expressions from those.

J. W. Walker (Montana): It seems rather presumptuous for a representative of a western state which has had a tax commission for only two years, to offer any suggestions to this body. However, I believe that the Tax Commission of Montana is probably in closer communion with the assessors than probably any other state.

The tax commission has direct control and supervision over the local assessors. They are elected by the vote of the county, but they make their reports to the State Board of Equalization, or the Tax Commission as it is usually called; and the commission has direct supervision over the assessors. I think that is a very good idea.

The assessors primarily make the assessment, and no one can dictate to them what the valuation shall be. But, after the assessment is made, it is reviewed by the county board of equalization and finally by the state board of equalization.

In our state we call in each year the fifty-six county assessors of Montana and have about a week’s session with them, directing them and conferring with them. As I said previously, we cannot tell the assessor what he is to assess land at, or live stock, or a building, but we do have a great deal to say; so at these conventions of the county assessors, for instance, we appoint a committee of say six or seven from the stock counties, have these assessors get together and submit to the county board what they think sheep and cattle and horses should be assessed at. The assessor does not have to follow this suggestion, but when they make their reports to us on the first of July, if we see that one county has assessed sheep at five dollars and another at fifteen dollars we know that one of those counties is wrong, and probably both of them, and we have the power to raise or lower the assessment of any county or of any individual.

So, we have very complete supervision over the county assessors; and these meetings that we have are very beneficial.

I just want to speak incidentally about one law that we have that I think is of very pronounced assistance to the county assessors, and that is our land classification law. That would not interest
you in the big cities, but it does people who live in the rural western states.

Every county in Montana has its land classified. In our state we have three primary classifications, grazing land, non-irrigated farming land, and irrigated farming land. These classifications were made by a board of classifiers and cost the state considerable money, some think too much for the benefit derived. It cost the counties from fifty to one hundred and twenty-five thousand dollars per county. This was done by two, and in some places three, surveyors, usually people who had some knowledge of soil conditions. All of the counties are not classified as completely as that, but the general system is that the classifiers show for each 40 acres how much first-class dry land there is in that quarter, how many acres there are of first or second-class grazing land, how many acres there are of first, second or third-class irrigated land. They do not fix the value. The assessor fixes the value. He fixes a value, we will say, on some kinds of first-class agricultural land, within five miles of a shipping point, of $40 an acre; on the second class, $30—I am not sure about these figures—but he places a different value upon the first, second and third-class agricultural dry land, on the first, second and third-class irrigated land, and the first, second and third-class grazing land.

The agricultural land, as it recedes from a shipping point, has a less value, and that is particularly true in the irrigated land, where sugar beets, things of that sort, are raised, where a few miles from the shipping point means a big difference in the value of land.

Now, when a person comes in and objects to his assessment, the assessor can easily show him that his land has been classified as second-class dry land, and he is twenty miles from town, and that all the land in his county of that particular character is assessed at $18 per acre, and he is satisfied, just so long as he knows that he is not assessed any more than anybody else.

I think you find that true anywhere, that we are all willing to pay our taxes if we know that the other fellow is. When he sees that the land in that particular place, that distance from market, is assessed at the same price, 99 times out of 100 the property owner goes away satisfied, and it certainly does tend toward good assessment of all property in the county.

I believe our land classification in Montana is a very great help to the assessor. I believe it is fair to the taxpayer; and it most certainly is a great help to the state board of equalization, who have the equalization of this property later. I thank you very kindly.

Edward Lyle (Georgia): I have enjoyed Mr. Coody's paper very much, and it does afford a basis of discussion.
Now, the State of Louisiana, as I understand it, has a land classification. I should like to hear from them on that along the line the gentleman just suggested. One of the southern states at least requires an examination of their assessment. I certainly should like to hear somebody discuss the results of that law.

**Chairman Vaughan:** I will call on Mr. Jeter of Louisiana to tell us about classification and their methods in this state.

**J. W. A. Jeter:** What was the question?

**Chairman Vaughan:** I want to say that Mr. Jeter is probably one of the most experienced assessors in this assemblage. I think he has been about sixteen years on the job, and I want him to tell his experience in this state.

**Mr. Jeter:** I am afraid that I cannot answer the gentleman to his satisfaction, with reference to classification of land. It is like all other matters of assessment. It has not been reduced to a scientific basis, and the practical application of it, in my experience, has been that it is left almost entirely with the land owner. If he goes to the trouble and expense of having his land surveyed and classified, he gets an exact classification, but if he does not care to go to that expense, it is left to the assessor, and the assessor with his multifarious duties, not only as to the classification of land but the location of property does not get it done. The gentleman from Mississippi has pointed out as one of the paramount and most important duties of the assessor, in addition to all those other duties, where they have a large parish, or county, as you call them, it is manifestly impossible for the assessor to classify every acre of land. Although he may honestly strive to do so, yet the results are not always satisfactory, and they are arbitrary to a large extent.

I have tried to educate the large land owners in my parish to have their lands surveyed and classified by competent engineers, and in many instances I have told them, and I have told them always, that if they would do that they would probably finally secure a reduction in their assessment. With the large land owners, particularly along the Red River Valley, one of the richest agricultural sections of the United States, that has always resulted; reclassification of land has generally meant for these large land owners a reduction in their assessment value.

The Louisiana tax commission at the beginning of the year names what they call tentative average minimum values for the different classes of land, and the assessor in each parish is required to meet those values. In some cases his abstract, when it is turned in, exceeds those values, and I presume in other cases it is lower than those values. Then is where the commission exercises its authority and power and causes an equalization of values, with reference to different classes of land in the parish.
Unfortunately I was not present at the beginning of the very interesting address of the gentleman from Mississippi. I would like to have heard it all, but what appeals to me as the most important thing from a practical standpoint, that the assessors can do, is to secure, if possible, a uniform system or method of assessment, and to have their offices provided with the necessary instruments to enable them to locate and assess property. That will make the dose more palatable to the people.

You heard in Judge Willing’s address yesterday a reference to that situation, and in the discussion on inheritance taxation yesterday afternoon and night, you also were told that the people were becoming dissatisfied and nervous with reference to taxation. It is piled up by the government and states and different municipalities and the taxing subdivisions, until the people are becoming nervous and apprehensive. It is something like bees in a hive that are ready to swarm, they are moving about; they know that they are going, but they do not know where they are going and do not know when. They are waiting for the queen to lead them out of the hive. It is so with people with reference to taxation. They are all stirred up and they are nervous; they want to do something but do not know how, and they are waiting for some one to show the way, and if a remedy is not secured along the line somewhere, as a gentleman stated last night, people are going to make some direct move with reference to the situation. That is why I say we should make the dose more palatable.

In our early days, when they gave us castor oil, they gave it to us straight, but now they give it to you so you cannot taste it.

I believe if we will pay more attention to the mechanism of taxation we can make the dose more palatable. I mean by that, if the assessors were placed in possession of information that would enable them to locate all the property, and if they had rules or a system that would enable them to classify property correctly, and place equitable values on it, and if the people were educated locally, not only by the national government and state officials, but locally, so they understood what taxation is, I believe the result would be better. It is amazing, the ignorance that exists among the people with reference to taxation. The only time they become interested is when they get their tax bill at the end of the year. The time they should be interested is at the beginning of the year, when assessments are made, but they pay no attention whatever.

I have something like 30,000 assessments in my parish, comprising anywhere from one to over a thousand items on each assessment. Of those 30,000 assessments, less than 3000 people this year rendered their property for assessment, and out of those 3000 people less than 500 come to my office after the assessments were made to see what they were assessed for. That is an indication
of how much people interest themselves in this important part of their lives.

It is something that affects us all, either directly or indirectly, and I believe if we could get people to pay some attention to this proposition, that it would be easier for all of us.

I notice both this morning and at other times that those in charge of the direction of assessors or rather the enforcement of the assessment laws of the state, are stressing the point that the assessor should be more carefully supervised, even to the extent of taking away from him the privilege of being elected by the people. I don't know why that is, unless they want to make the assessor meet their views more than he is doing at the present time.

The assessor occupies a very difficult position. He has the tax commission on one side, which is continually pressing for higher values, or, I may say, more equalized values, and he has the property owner and the taxpayer on the other side, who want lower values. The tax assessor is in between trying to please those two parties, and you know what happens to the man that is in between. That is what is happening to the assessors.

As has been referred to by the gentleman from Mississippi, it is a very difficult proposition for a conscientious and honest assessor to succeed himself in office, and very few of them are able to continue in office to discharge their duties; and unless you do keep a man of that kind in office, you are not ever going to have your tax system just what it should be, because if a man knows he is only going to be there for two years or four years, he is not going to spend any time or money in trying to reform his system, in trying to bring it up to date. There should be some change along that line so that a man should know he is going to be in office for a number of years, to make it worth his while to give some study to the situation.

That is one of the most important departments of our government, and requires more attention than has been given to it. This office, as you have just heard, and as you know yourselves, is one of the most important of state offices, and yet it is one of the most neglected, and the one that is least regarded. Even from way back in Bible times the tax-gatherer has not been highly regarded, and it is simply because of one reason; there has not been given to this very important office the right kind of attention.

Now, in my section of the country I have spent some time and money in trying to let the people know what assessment and taxation was, and I have had very good results, and I believe if all assessors would do that, if they would take the people into their confidence and tell them the exact truth, and if they were to hew strictly to the line and let the chips fall where they may, they would do their very best to carry out the laws of the state.
I believe that the people would recognize their honesty and diligence, and reward them by further terms of office. The assessor in some communities may only receive the satisfaction of honestly enforcing the law; he may not receive so many votes at tax-paying time, but he will certainly have the satisfaction of knowing that he has done his dead-level best.

Of course, not only as an assessor, but one who has given much thought to the matter, I object strenuously to the removing of the assessor from popular selection by the people. He is just as much a servant of the people, looking out for their interests, as he is a servant of the state, looking out for the state's interest.

As I have already said, the assessor has two duties to perform—to the state and to the people; and I think they are equally important and equally necessary. I do not think there should be taken from the people all of their rights and interests in so important a matter, and if you are going to make the selection by some central body or by the governor or somebody else, you are going to remove the assessor's contact with the people, and the people eventually are going to suffer, just as they are suffering now from taxation.

There is one other proposition, to get back to the mechanics of taxation, that I would like to see this tax association adopt, and if it is possible I would like to see them appoint a committee that would look into it: There should be some uniform method of conducting an assessor's office. As the gentleman from Mississippi has told you, there are very few offices fitted up to properly discharge the duty; and if this body had a committee that would pay attention to the practical aspects of taxation, where it gets closer to the people, with the assessor, and formulate some modern up-to-date method or system of equipping and conducting an assessor's office, I believe that the results would be far-reaching and would be appreciated not only by the assessors but would be reflected in the feeling that the people would have towards assessment and taxation.

Chairman Vaughan: I want to inquire if Mr. McKinney from Arkansas is in the body. I want to make an announcement that the members from Arkansas meet in the corner over there immediately after adjournment at 11:30.

Now we have a few minutes longer, and I want to hear from the gentleman from Indiana—Mr. Zoercher.

Philip Zoercher (Indiana): Mr. Chairman, I think the most important part of the paper that was read here by the gentleman from Mississippi was that part of it that referred to how the assessor shall be elected or appointed. He says that he is in favor of electing officers but he believes this was one officer should be appointed.

Now, we had in our state in 1916 a special commission, appointed
by the governor, under special act of the legislature, that made a very careful survey of the condition in our state; and that commission, after a very careful and exhaustive investigation, made report, and in that report it recommended that the assessor be appointed.

The state board of tax commissioners in 1912 made the same recommendation. In 1914 they made the same recommendation, and yet in drafting the revision of our law in 1919 we did not dare put that provision in the law, although we felt it was right. Any one that has had anything to do with the matter of assessment knows that you never get the right kind of assessment as long as you have these assessors elected by the people.

They must be free, just like a man in a business position. I will tell you right now, we do not have enough business principles in the management of our governmental affairs. The idea of making a man, who does his duty as an assessor, stand up and make a race for office every two or four years, is not right.

There is no question about the assessor being the important office in the gift of the people, because on the result of his work the revenue is produced. Of course, these men are human. Sometimes you go into a community and find that these fellows are active in politics, who really can put their finger on every place in their township or their county, where there is a real live wire, and if you go there and compare the assessment of that man's property with his neighbor's property, you find that there has been favoritism shown there. In other words, where they assess personally instead of property, when you get at the bottom of it, you will find he was just a little afraid of the influence of that fellow, and showed special favors.

Now, that is one thing that we ought to get away from; and, as has been said, if the initial work is right the other work is easy. In the State of Indiana we have the right of removal, with the assessor having the right to appeal to the circuit court if he is not satisfied with the action of the board; but we have hesitated to exercise that right. We did exercise it a few years ago, when the law said that he could take an appeal to the court. The judge decided that that man had a right to trial by jury, and you know what chance we had to put that fellow out, when it came to a jury. All he did was to lambast the state board, and the jury found for the local assessor, of course. One result of that lawsuit was, we went to the legislature and the legislature amended it; so now the appeal is to the judge of the circuit court. In fact, it was the judge of that court himself who suggested to us that we have the law amended, and he indicated that if the matter had been left to him, he would have sustained the finding of the state board; but the state board hesitates to oust a man who is elected by the people.
There are some fellows in our state now that ought not to serve. We ought to have them cited and brought before us to show cause why they should not be removed, but we have hesitated.

Judge Hough knows there are a few fellows of that kind that ought not to serve there, but we have hesitated, because they were elected by the people, but if they were appointed and did not do their duty, there would not be any hesitancy on the part of the central body that had a right to cite them to appear for removal from office.

They have a right under our statute to appeal to the court, so that if there should be a wrongful removal, they would have a day in court and test out the question of whether or not there were real reasons for their removal.

I think the most important part is, how are we going to create sentiment in favor of that? That is the thing that confuses me sometimes—how are we going to create sentiment in our communities so that the people will see that the right thing to do is to have these men appointed. I don't care who appoints them, whether it is a local board or the state board. The governor ought not to appoint. Of course, if anybody is going to appoint, the state board of tax commissioners ought to have some voice in it, but if they don't want to give them a voice in it, let some local board of review or somebody do it, and not compel those men to make the race for office every two or four years. And, if he is the right kind of official, fearless, and does his work on the theory of let the chips fall where they may, the local board would not dare remove him; they would continue him in office as long as he would give the right kind of service.

Chairman Vaughan: You no doubt reflect that today is the anniversary of one of the greatest events of all history, perhaps the greatest event so far as we personally are concerned; and, while it is not on the program, I think it is very fitting at this moment, drawing near to the sacred hour when a great transaction occurred, that we may pause from our regular program for a little address from one who will give us a message very appropriate to the occasion, for about fifteen minutes. That will give us about fifteen minutes for additional discussion of this question; so I am going to ask Mr. Evans of California to come forward and introduce a speaker for the occasion.

Vance H. Evans (California): Mr. Chairman and Gentlemen of this conference: Last night in the deliberations of our sessions the word "patriotism" was injected several times in the remarks. The idea at that time presented itself to a number of us, who had done a considerable amount of service during the World War, that while we were all meeting here to determine in some manner or
means a certain protection for the taxpayer, that perhaps other things had happened that also were tending to promote the best interests of the taxpayers of the United States. We have as a delegate to this convention a gentleman who has on many occasions delivered some splendid addresses on the significance of this particular day, and moment; and it is my pleasure, having known this man for some time, to present to you this morning Mr. H. E. J. Ross, who is a member of the Disabled Veterans of the World War, past commander of the American Legion of Laurel, Mississippi; who will speak to you and review the principles of Americanism as they are thought of by the boys who served in the World War.

I should like to present at this time Mr. H. E. J. Ross of Laurel, Mississippi.

(Mr. H. E. J. Ross of Laurel, Mississippi, thereupon delivered a fifteen minutes' address appropriate to Armistice Day, the time being 11 o'clock A. M.)

Mr. Cole (New York): The topic on this morning's program is of the greatest interest to those of us who are connected with and interested in the administration of the general property tax. I have been greatly impressed by what has been said with respect to the question of the election as against the appointment of local assessors. I don't think there can be any real question but that better results are obtainable where the assessor is an appointed official, because he is then removed from a great many of the temptations which beset the elected official; and, after all, gentlemen, assessors are human beings, just the same as those of us who engage in other walks in the field of taxation.

Progress in matters of taxation, and the same is true of progress anywhere else, comes slowly. You cannot attain the millennium at one jump. It would not be a wise thing to upset at one time the entire system of local assessment in a state or throughout the country. New policies must be tried out and proven. Growth must be gradual.

I want to tell you how we approached this problem in the State of New York. New York state is firmly committed and always has been to the doctrine of home rule. Local assessors are selected by the towns and the cities of the state. In the past most of the assessors have been elected officials, but the legislature, realizing the greater benefits and the better assessment work which will result from the appointment of assessors, has adopted or passed optional laws, whereby each city or town is permitted to determine for itself whether it wants to elect its assessment officials or whether it prefers to appoint them. The result has been that a number of the cities and towns have gotten away from the election of these
officials and have substituted appointive officials in their place. Experience has shown unmistakably the wisdom of appointing the assessor, because in those towns and cities where the selection is by appointment, there has been a very marked increase in efficiency; there has been more equality in assessment, and the people of the communities are better satisfied with the work which is being done.

QUESTION: What is the time of office, and who appoints them?

Mr. Cole: The time of office in the towns is during the pleasure of the town board, which is vested with the power of appointment. In the cities it depends to some extent upon the charter provisions, and therefore varies in different cities. But, as I say, the matter of local assessment is a matter on which the people must be educated.

Now, it is all right for us to get together and talk about our theories—and they are good theories, and it is all right for us to say what should be done and what steps should be taken to improve conditions—but results will only come as we are able to show to the property owners, the people whose property is subject to the property tax, that our theories are right, that the things which we advocate will be for their benefit, that through improved methods of assessment there will be better equality in the valuations of the various properties and that the taxpayer will thereby benefit.

William A. Hough (Indiana): I should like to know how the option is exercised and who exercises it.

Mr. Cole: In towns the law provides that the town board, that is, the governing board of the town, by unanimous action may abolish the elected assessors, of which there are now three, and may appoint in place thereof one assessor to serve during such time as the town board may see fit; during the pleasure of the town board.

Now, that is one way in which it may be done. Another way is that a proposition may be submitted to the electors of the town, providing that the three assessors be abolished and that one assessor, to be appointed by the town board, shall be substituted, and if that proposition is passed upon favorably by the electors at the town election, the change is brought about in that way.

C. P. Link (Colorado): I am just going to touch upon this subject for a moment. The older members have realized for years that the appointment of local assessors must be brought about to get efficiency. We must get away from the political spoils system. It is one of the most important things to do. In our delegation from Colorado we always try to bring some county assessors, and we have several of our best assessors with us at this time. Among
them is a man who in point of service is our oldest and one of our best county assessors in Colorado, and for a great many years has been chairman of our standing committee.

So, in order to get the angle of the local elective officer, I want to insist on Mr. Perkins saying a word or two — Mr. Perkins of Colorado Springs.

**F. A. Perkins (Colorado):** Mr. Chairman, Ladies and Gentlemen: I am not as enthused over the subject of taxation now as I was before that beautiful talk by the Legion boy. However, these talks and papers have been most interesting, and brought out my ideas to a certain extent.

I was placed in the assessor’s office in 1910 by my friends. I had no idea of running for the office, and during the three months from the time I was elected to the time I took office, I came very near resigning, after I was told the things that I should do by one party and the other party, and the ward heeler, and where I was to bring in politics, and virtually that I must show a certain partiality. I was ready to quit, because I could not see where politics and such things should be brought into the assessor’s office.

Right now I want to say that I am pleased at being recognized here, because it is so seldom that a common county assessor is recognized by any kind of an organization.

In starting out, before I got to work, really, and got my office squared, I realized the fact that I had a big mercantile business. It was not an assessor’s office. There were 15,000 taxpayers or stockholders in this big business, so my first work—and it has been my work for sixteen years—was to try to educate my taxpayers on the subject of taxation; and it has been a hard proposition. I have just gotten a good start.

After two, three or four years I thought I was a pretty good assessor, but after sixteen years I think I have a lot to learn. I am just now feeling that I have got a good start when I will probably quit.

As to this idea of an assessor having to run for office, and be elected by the people every two years, he cannot do it. He cannot get onto the workings of his office and be an efficient assessor and do the work for the taxpayers. It is an expense to educate state, county and government officials, just as it applies to school teachers.

I am not tossing bouquets at myself now. The people have given me the opportunity of learning the business. There were 15,000 stockholders in that business when I went in in 1910, and now there are 30,000 taxpayers in my county, or stockholders as I call them.

There were nine people in that office. We are getting along nicely, and last year I had 30,000 schedules, with eight people in
my office, and we were not overworked, by any means. It gives one a chance to learn the business and work out a system, and you can see the money we have saved the taxpayers. There is no bigger business in my county than the assessor’s office. I have 75 million dollars capital, and when you can impress upon the taxpayers that they are a part of that business, that there has to be cooperation and harmony, it makes the business successful and you can get by pretty well.

I have my merchandise books and plat books. I have fourteen towns, sixty miles square, and every shoe man and every drygoods man in El Paso County has got to go over the valuations of his competitors, and my deputies will stay there all day; and if a man has criticisms to make, why he may make them.

I insist on going over these. My deputy goes to this man and he says, “Here is Smith next to you; here is his land classified; how does it look to you, is it all right? Here are the values per acre; here is his personal, right under it.” He goes to the next fellow and does the same thing, and they will be equalized. They have to help the assessor or you cannot make a success of it. You cannot do it.

In that way, if I do say it, the taxpayers have given credit to my deputies. They have allowed me to stay in that office and enabled me to learn the business. I hope the time will come when the office of assessor will be taken from the county supervisors. I want to work in conjunction with the tax commission. I want to get away from being under the jurisdiction of any other officers outside of tax people, who know something about it. I would not stay in office if we did not have a tax commission. Thank you.

Question: May I ask the last speaker what percentage of the real value he seeks to reach?

Mr. Perkins: About 80 per cent. I ran 76 per cent last year.

Mr. Hall (Illinois): I notice that this meeting is composed of and largely influenced by the state tax commissions. Therefore, of the gentlemen representing the state tax commissions I wish to ask this question: Coming from the personal experience of myself, one of the youngest officials in this organization, elected by the workers of our city, because the tax-dodgers were completely dodging their duty of paying taxes.

What would you do when, as I did—the first elected official to hold full-time office as tax assessor in the state of Illinois, in one of the largest cities; I except, of course, Cook County, because it has its own tax commission—you wrote to your state tax commission, before taking your office and asked what they had to suggest that would be a benefit to the first full-time office originated by the people of our own community through special optional legislation
passed in our state in 1923. You asked the state tax commission what you could do to make that office of value to the people, and you receive this reply in substance from the president of the state tax commission, an appointive official, not an elected official, an official appointed by the governor of the state—that what we have had for the last seventy-five years is good enough for us and we have no program to suggest for you.

I wish the members of the state tax commissions would take that situation home. There may be other assessors elected for the first time by the people, not by the tax-dodgers, who will write to you for information, and when they ask you for bread will you throw them a stone?

I was elected by the people and not by the tax-dodgers, and when I went into the City of Chicago, as I had previously been in business there for fifteen years before going into the country, I went to a friend of mine in the assessor's office of that city—and I see there were some Chicago names among the list in attendance here; if you are here I wish you would carry this home as a motto for your Cook County assessor's office, as given me by one of the actual workers—I entered that office for information, not through the front door but through a friend who introduced me, and one of the deputies said—the one who has charge of personal property—the way to secure the best assessment is to pluck the least feathers from the geese that do the most squawking. That is the assistance we received in our state.

We wrote to the secretary of state of every state in the Union asking for the names of assessors in every city in the United States wherein a proper system had been put in, and it was from a local assessor of South Dakota that I first received information concerning the matter, and it was from the local assessors throughout every state in the Union that we received copies of the forms that enabled us to attempt to do something, which it seems our own state tax commission could have done.

Let us have the assessors elected. You have said that it is a matter of education. The greatest educational forum in the United States is the stump on election day and prior to that.

Chairman Vaughan: Now, gentlemen, the remarks of this gentleman from Illinois only indicate that we are just opening up on this subject. To my mind it is far the most important subject that could come before this organization at any of its sessions, and I regret exceedingly that we shall have to call a halt to it at present; but I promise you we will open it up again, and I want you gentlemen, who have a message in your heart that you want to tell, to be ready when we open it up again. I think we will be able to resume the discussion of this very important subject this eve-
ning, while it is fresh on your minds. Following the two set papers which we have this evening, I thing it will be appropriate to take this up, and I do not think from the performances of this organization that you can object to being here until midnight; so we will open up the subject again this evening. If we do not have time, if the other discussion takes too much time, then we will bring it in certainly on Thursday.

Are there any announcements to be made before adjourning?

SECRETARY HOLCOMB: Gentlemen, I am asked to repeat the name of the place for the ladies' luncheon tomorrow afternoon at 1:00 o'clock. It is the Patio Royal, four blocks from Canal on Royal street, opposite the court building.

This afternoon's steamer sail starts at 2:30, but you can go on board the boat any time after 2, at the foot of Canal street, down past the L. & N. station.

MR. SNEED: The name of the boat is the Steamer "Capitol".

I want to ask the resolutions committee to assemble in this room at half-past seven tonight, for organization. If any of the states are not represented on that committee, I wish they would take action and have one of the delegates here tonight at half-past seven.

CHAIRMAN VAUGHAN: We will stand adjourned until 8 o'clock tonight.

(ADJOURNMENT)
FOURTH SESSION

WEDNESDAY EVENING, NOVEMBER 11, 1925

Chairman Page: The conference will please come to order. If you will kindly find seats, gentlemen, we will begin our proceedings.

I have been requested to announce that the committee on resolutions proposes to have its meeting tomorrow morning to discuss the resolutions that are offered. The committee desires, therefore, that those who contemplate offering resolutions will do so this evening, so that the resolutions may be referred to that committee for consideration.

Henry F. Long (Massachusetts): Mr. Chairman, we in New England have a tax officials' association, and I was directed by our conference, which met in Springfield, Massachusetts, in October, to present a resolution to this conference dealing with the question of amending section 5219 of the United States revised statutes, so that those of us who live in the states that are not particularly pleased with the present wording of 5219 may possibly start something in motion which will give us a satisfactory law, fair to the banks and produce revenue which will be fair to that class of property. I offer this resolution.

Chairman Page: This will be referred to the committee on resolutions.

Ladies and Gentlemen, we are fortunate this evening in having won the consent of Mr. Armson of Minnesota to preside over our conference. If Mr. Armson will take the chair we shall be glad to welcome him.

(J. G. Armson of Minnesota, presiding)

Chairman Armson: Ladies and Gentlemen, I feel very much honored in being asked to preside over the session this evening. Just a few moments ago Dr. Page said, "I am going to call on you to preside," and while perhaps I could have wished that I might have known a little bit in advance, because then I might have occupied a little of your time with a brief talk, I think Dr. Page was wise in that he did not let me know in advance, because he realized that if I did not know in advance I would not occupy your time with any set talk.

(88)
I hope that after the regular program of the evening has been completed, we may be able to go back to the program of this morning's session, over which Mr. Vaughan presided, because I believe there are many aspects of the question of the local assessor that have not been brought out that could be brought out for the information and perhaps for the instruction of many of us who are present this evening.

The regular program of the evening will of course first occupy our attention, and if time permits then I am going to ask, with Dr. Page's consent, that Mr. Vaughan again take charge of the meeting and continue that very interesting discussion we had this morning on the local assessment and the local assessor.

It is my pleasure to introduce as the first speaker of the evening a gentleman who I know has given deep study and thought to the subject that he is to present, because I know that he has written several letters to the Minnesota commission asking pertinent questions dealing with the subject that he will discuss, and I presume he has done it with other states.

It is my pleasure to introduce Professor Williamson of Wesleyan University, Middletown, Connecticut—Professor Williamson.

K. M. Williamson (Connecticut): Mr. President and Ladies and Gentlemen of the Conference: The subject of my paper is The Present Status of Low Rate Taxation of Intangible Property; but obviously the paper is too long to be read, and I shall not bore you with it. I will refer you to the proceedings, at which time you can bore yourselves if you want to.

Just let me say in this connection that my remarks on this subject will necessarily be very choppy and brief and sometimes dogmatic, but I ask your indulgence until you have read the more extended treatment of the subject.

I think that my statements will be substantiated in the document which I have here on the table; so that if you think these statements are dogmatic, I hope you will consider them in that light.

I mean by low-rate taxation of intangible property comprehensive taxes on whole groups of items and not single taxes, such as those imposed by certain states on bank shares, bank deposits and on mortgages at time of registration. It is not necessary to explain to this body what is meant by low-rate taxation of intangible property.

I might exclude from consideration in my paper many very enticing questions; for instance, are intangible taxes justified at all? Should they be repealed and income taxes substituted in their place? What is the proper relation of taxes on intangible property to income taxes in those states in which they have both? What will be
the effect of the Richmond decision on the taxation of intangible property?

Many questions such as those must necessarily be excluded from this paper, for it would run to great length. Furthermore, the subject I have is specific: The present status of the taxation of intangible property.

THE PRESENT STATUS OF LOW-RATE TAXATION OF INTANGIBLE PROPERTY

K. M. WILLIAMSON
Professor of Economics, Wesleyan University, Middletown, Connecticut

The subject of low-rate taxation of intangible property has recently assumed a new importance. Increased interest is given to the subject by two facts—the refusal of some states to adopt income taxes, and the enactment in the last few years by several states of low-rate taxes on intangibles. Such low-rate taxes may be, for some time to come, the only methods of reaching this property available to many states. Therefore, it ought to be profitable to consider the experience of the various states with this form of taxation, to determine if possible wherein they have succeeded and failed. Limitations of space do not permit an intensive study of the situation in each state, but a general survey of these taxes will prove instructive.

I. History of Taxation of Intangibles by Low-Rate Taxes

In order that the extent of the movement towards low-rate taxes on intangibles may be understood, it is necessary to summarize the history of these levies. Pennsylvania was a pioneer in this field of taxation, adopting, in 1855, a separate charge for intangibles, lower than the rate on other property. Connecticut followed in 1889, and in 1896, Maryland also entered the field. No other state joined these until 1911. In that year both Minnesota and Iowa adopted low-rate levies. Since that time, according to the infor-

1 The low-rate taxes on intangibles discussed in this paper are comprehensive taxes on whole groups of items and not taxes on single items, such as registry taxes on mortgages, or limited taxes on bank shares.

2 No consideration is given in this paper to the larger question of whether such taxes can be justified from the point of view of theory. The paper is limited to a study of their operation, so far as the data are available. The limitations of this paper do not permit a study of the effect of the Richmond decision upon classified taxes on intangibles. That is a separate subject in itself.
There is agitation at present for such taxes in both Ohio and Illinois, but as yet no definite action has been taken. Florida, in 1924, adopted a constitutional amendment permitting classification of intangible property and its taxation at a rate not exceeding five mills on the dollar, but her legislature has not so far enacted a law.⁴ The experience of each state having such a tax will be considered in chronological order.

II. The Experience of the Various States

(1) Pennsylvania

The items of intangible property classified for a special tax rate by Pennsylvania in the first Act of 1885 included bonds, except those of Pennsylvania or of the Federal Government, articles of agreement, accounts bearing interest, mortgages, money at interest, shares of corporations not subject to the capital stock tax existing at that time, and other choses-in-action.⁵ The rate was fixed at 3 mills on the dollar, as the sole tax on such property. At this time, it was provided that the entire proceeds should go to the state. In 1889, a bill was passed giving one-third of the receipts to the counties.⁶ Two years later the rate was increased to four mills and three-fourths of the revenue was surrendered to the counties. This method of sharing the revenue continued until 1913, when the tax was divided in a different way. Certain intangibles were assigned to the state, for exclusive taxation at the same rate.⁷ Two taxes

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³ Michigan is not listed here because, according to my information, it has never had anything approaching a low-rate tax, except a registry tax on mortgages and on bonds issued by governments and political subdivisions outside the state. The writer has no information as to more recent legislation.

⁴ Letter of Mr. M. L. Dawson, State Equalizer of Taxes, August 14, 1925.

⁵ Laws of Pennsylvania, 1885, pp. 193-4. In addition to the low-rate tax on such intangibles, bank shares were subjected to a rate of 3 mills on the dollar of actual value or six-tenths of one per cent on par value.

⁶ Ibid., 1889, pp. 420-438.

on intangibles were thus set up: a county tax and a state tax. These two taxes still exist.

The county tax is levied on money at interest, mortgages, agreements and accounts bearing interest, solvent credits of all sorts, public bonds not taxed by the state and not exempt, and shares of corporations not otherwise taxed by the state. Since most domestic corporations are taxed in other ways, few shares of such corporations are taxed. Nor does the county tax apply to bank shares, because they are otherwise taxed. The state tax rests upon bonds and other loans issued by private corporations or by public authorities such as counties, boroughs, cities and school districts, and is called the “loans tax.” The interesting feature of this tax is the method of its collection. Though theoretically levied against the owners of bonds, it is actually collected for the state by the treasurer of the corporation which issues the securities. The corporation is allowed to deduct the amount of taxes paid from interest due on bonds. The tax on such intangibles is thus collected at the source of income from the property.

The assessments of intangibles, expressed in millions of dollars, are given below for certain years before the change in 1913.

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1885</td>
<td>26.6</td>
</tr>
<tr>
<td>1890</td>
<td>512.0</td>
</tr>
<tr>
<td>1895</td>
<td>620.0</td>
</tr>
<tr>
<td>1900</td>
<td>724.5</td>
</tr>
<tr>
<td>1905</td>
<td>886.0</td>
</tr>
<tr>
<td>1910</td>
<td>1129.0</td>
</tr>
<tr>
<td>1912</td>
<td>1263.5</td>
</tr>
</tbody>
</table>

It is clear that the decrease in the rate brought a marked increase in the quantity of intangibles taxed. The revenue derived by the various local governments for this period is not available, which makes it impossible to determine whether the low-rate yielded more revenue than the total state taxes on intangibles before 1885. But it seems reasonable to suppose that the increase in assessments was large enough to make up for the reduction in the rate. Before 1913, then, the Pennsylvania intangibles tax was apparently fairly successful.

The revenue derived by the state from the “loans tax” since 1913 has been as follows: 10

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8 For a description of these taxes, see “Taxation for State Purposes in Pennsylvania,” by Leonard P. Fox, pp. 36-40.
9 Figures furnished through letter, by the Department of Internal Affairs of Pennsylvania.
10 Figures for 1913-1918 taken from annual reports of Pennsylvania State Auditor and for three biennial periods from the Budget of the Commonwealth, 1925.
TAXATION OF INTANGIBLE PROPERTY

1913 11 ................................ $2,823,107
1914 ................................ 3,528,120
1915 ................................ 3,938,414
1916 ................................ 3,981,275
1917 ................................ 2,664,176
1918 ................................ 5,645,207
1919-21 12 ................................ 9,264,724 (2 years)
1921-23 ................................ 11,476,144 (2 years)
1923-25 13 ................................ 13,501,990 (2 years)

The consensus of opinion among Pennsylvania tax authorities is that this revenue is as much as may be expected from the levy, and that it is working very satisfactorily.

The experience with the county tax on intangibles since 1913 has been quite the reverse. The assessments 14 of intangibles by the counties since then, expressed in millions, have been as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1913</td>
<td>1,341.7</td>
</tr>
<tr>
<td>1914</td>
<td>1,352.6</td>
</tr>
<tr>
<td>1915</td>
<td>1,412.6</td>
</tr>
<tr>
<td>1916</td>
<td>1,505.5</td>
</tr>
<tr>
<td>1917</td>
<td>1,641.7</td>
</tr>
<tr>
<td>1918</td>
<td>1,759.4</td>
</tr>
<tr>
<td>1919</td>
<td>1,779.5</td>
</tr>
<tr>
<td>1920</td>
<td>1,849.2</td>
</tr>
<tr>
<td>1921</td>
<td>1,959.2</td>
</tr>
<tr>
<td>1922</td>
<td>2,047.7</td>
</tr>
<tr>
<td>1923</td>
<td>2,085.0</td>
</tr>
<tr>
<td>1924</td>
<td>2,210.2</td>
</tr>
</tbody>
</table>

These figures show that substantial amounts of intangibles are assessed for the county tax, and that the annual amounts have steadily grown since these items were given to the counties for taxation. But it is important to remember that there is much intangible wealth in the state. In the absence of information as to the amount of such wealth owned, it is not possible to state what portion of the taxables is reached by the county tax. On the other hand, those who have studied the operation of the tax are unanimous in stating that great quantities of intangibles are escaping it. 15 In 1916, it was estimated that about fifty per cent of the tax was paid by mortgages, about twenty per cent by trust companies, on intangibles held in trust, and the remainder by the conscientious or those whose wealth attracted attention. 16 Under such circum-

11 Years ending November 30.
12 Biennium beginning June 1 and ending May 31 of the next year.
13 Part of this sum is estimated.
14 Figures supplied by letter by the Department of Internal Affairs of Pennsylvania.
16 Report of the Pittsburgh Committee, op. cit., p. 43.
stances, there is little reason to doubt that the county tax is far from successful. So far as the local levy is concerned, Pennsylvania enjoys a reputation for successful taxation of intangibles which she does not deserve. In so far as collection at the source and state authority have been employed, there has been success. Where the tax has been left to local authority and personal declarations, there has been at least partial failure.\textsuperscript{17}

The chief explanation of the lack of success of the county tax is to be found in its administration. The local assessment is inadequately done, because of poor officials, inadequate pay and facilities, and on account of the political influences that play upon the authorities. It would undoubtedly be better to return to the condition before 1913, with the collection of all taxes on intangibles by the state authorities and division of the proceeds between the central and local governments.\textsuperscript{18} But it would be necessary to overcome the opposition of the cities, which do not wish to see intangibles removed from the local assessment rolls, because it would reduce their borrowing power.\textsuperscript{19}

Another obstacle to the success of the tax is the complexity of the law itself. The law needs rewriting and simplifying.\textsuperscript{20} The taxpayer and perhaps even tax officials are bewitched by its language. It is not easy to discover just what is taxable. This uncertainty as to tax obligation undoubtedly explains the absence of some intangibles from the rolls.

Whether a system of centralized administration of the tax is adopted or not, one change can be made which will increase the assessments. This is the amendment of the law so as to require banks to disclose their interest-bearing deposits. With this information, deposits could be checked up and placed on the rolls.\textsuperscript{21} But if the county tax is to remain, none of these changes will avail much unless there is courageous and vigorous enforcement by the local authorities. Perhaps a different method of selecting local assessors would bring this about.\textsuperscript{22}

\textsuperscript{17} This is the conclusion of the Joint Legislative Committee on Taxation of New York, 1916, as to the Pennsylvania experience. See its Report, p. 174.

\textsuperscript{18} See L. P. Fox, \textit{op. cit.}, p. 149. \textit{Cf.} also Report of the Pittsburgh Committee, \textit{op. cit.}, p. 44.


\textsuperscript{20} Letter of Professor M. K. McKay.

\textsuperscript{21} L. P. Fox, \textit{op. cit.}, p. 149.

\textsuperscript{22} Letter of Professor M. K. McKay.
(2) Connecticut

As we have seen, in 1889 Connecticut began a new system of taxing intangibles. In that year, it was provided that an owner of bonds, notes, or other choses in action might register them with the state treasurer, and pay to that official upon them a tax of one per cent of their par value, for a period of five years or of two mills, for a period of one year, and be relieved of any levies on such property for the period for which payment was made. In 1897, the rate was changed to four mills on the dollar per year. The tax has remained at this figure up to the present.

In order that the owners of such registered securities may be relieved of local taxation, the State Treasurer is required to report to the clerk of a town in which a registering owner lives the amount of intangibles on which the individual has paid tax. At first it was often impossible for the Treasurer to furnish the owner's names. He could report only the total amounts on which tax had been paid in each town. This was true because the law did not require that the name of the registering owner be given. As a result, banks were accustomed to turn in blocks of securities for their customers, without names. But that difficulty was removed in 1919 when the law was amended so as to require that the names of owners of intangibles be given at the time of registration. Now the Treasurer can state to the clerk of each town not only the quantity of choses in action registered from his locality but also the names of the owners of such property.

The quantities of intangibles registered for certain years from 1890 to 1924 in millions are as follows: 27

<table>
<thead>
<tr>
<th>Year</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1890</td>
<td>33.7</td>
</tr>
<tr>
<td>1895</td>
<td>16.5</td>
</tr>
<tr>
<td>1900</td>
<td>22.0</td>
</tr>
<tr>
<td>1905</td>
<td>34.1</td>
</tr>
<tr>
<td>1910</td>
<td>41.0</td>
</tr>
<tr>
<td>1914</td>
<td>61.4</td>
</tr>
<tr>
<td>1915</td>
<td>101.0</td>
</tr>
<tr>
<td>1916</td>
<td>126.1</td>
</tr>
<tr>
<td>1920</td>
<td>128.2</td>
</tr>
<tr>
<td>1924</td>
<td>127.6</td>
</tr>
</tbody>
</table>

These figures show that up to 1914 the low-rate alone did not bring out a very large quantity of intangibles. But in recent years the registrations have increased considerably. Within the ten-year period, 1914-1924, they have more than doubled. The largest increases came in the years 1915 and 1916. These were largely due to an amendment of the law in 1915, which provided that if the

24 Ibid., 1897, p. 920.
estate of any decedent was found to contain intangibles on which the four-mill tax should have been paid but had not been, such property should be subject to a tax of two per cent per year for five years preceding the death.\(^{28}\) This penalty, thus, amounts to ten per cent of the investments in intangibles, but it has not succeeded in bringing all intangibles to book. Professor Fairchild in his study of 1917 reached the conclusion that a large amount of this property was escaping taxation.\(^{29}\) In 1919, on the basis of this investigation, he hazarded the guess that not half of the intangibles in Connecticut were taxed.\(^{30}\) The condition has not improved since then.\(^{31}\) It is impossible to get satisfactory statistical proof of this fact, but it is an open secret that there is a great body of intangible wealth going untaxed in the state.

The partial failure of the voluntary four-mill tax can be attributed in part to the fact that the state gets all the proceeds of the tax. The local officials, by their cooperation, could be of great assistance in bringing about the registration of larger quantities of intangibles. They could do much to discover intangibles in probate records and among the lists of securities pledged with banks, which they have a legal right to examine. But they do not make use of these records, for if they place securities on the local rolls, such property will very soon be registered with the state. Thus, enforcement of the town taxes on intangibles by local assessors would only serve to swell the coffers of the state. It is actually of advantage to the towns to have the four-mill tax evaded, since they get a liberal share of the penalty but nothing from the tax. If the towns were given a portion of the proceeds of the registration tax, their officials would be more interested in the enforcement of that levy. A division of the proceeds between the state and the towns has been recommended more than once,\(^{32}\) but the legislature has not so far taken action.

In addition to the failure to share the proceeds, the Connecticut tax suffers from the absence of centralized administration. If the state is to continue the taxation of intangibles as property, the local tax ought to be entirely repealed, and the state tax should be made compulsory. Its administration should then be taken out of the hands of the Treasurer and placed in the office of the Commis-


\(^{29}\) Report of the Joint Committee on Taxation and State Finance to the Connecticut Chamber of Commerce, p. 40.

\(^{30}\) Proceedings of the National Tax Association, 1919, p. 161.

\(^{31}\) Report of the Tax Commissioner for 1923-24, p. 14, in which that official claims that only a small part of the taxable securities is now taxed.

\(^{32}\) Report of the Commissioner for 1917-1918, p. 82; and for 1921-22, p. 58.
sioner, who has the position and the facilities for its enforcement. Voluntary registration of intangibles, even at a low rate, has not succeeded and should be replaced by a system more effective. If revenue from this state-administered tax grew to exceed the states' needs, the major share of it could be given to the cities and towns, to be used to reduce the local burden on real estate.

(3) Maryland

The Maryland tax on intangibles has always been more limited in scope than other low-rate taxes. It applies only to bonds and certificates of indebtedness of domestic and foreign corporations, shares of stock of foreign corporations, and bonds of other states or their political subdivisions. But such securities are exempt if they do not yield interest or dividends, or if they are owned by corporations such as banks, trust companies and public service corporations, which are themselves taxed in other ways. Savings deposits are reached by a separate tax, and bank shares are subject to a local tax of one per cent and to the annual state tax on property. Mortgages are not taxed at all in the state except in one county. But many other items, such as money on hand, book accounts, commercial paper, which, in other states, are included for taxation under a low-rate tax are entirely exempt. The Maryland tax is thus exclusively a charge upon stocks and bonds. Taxpayers are not allowed to deduct their debts from their intangibles in arriving at their tax liability. The rate of the tax is forty-five cents on the hundred dollars, fifteen cents for state purposes and thirty for local. It is administered by local officials under the supervision of the State Tax Commission.

This tax has shown satisfactory results in the City of Baltimore, as the figures reveal. The assessments of intangibles, expressed in millions, recorded there since 1896 when the tax was introduced are as follows:

34 Letters of Mr. Oscar Leser, August 24, and October 10, 1925.
35 The figures for 1896 to 1918 inclusive are taken from the biennial reports of the State Tax Commission; those for 1919 to 1925 are supplied by Mr. Oscar Leser and are taken from the records of the Appeal Tax Court of the City of Baltimore. The assessments for the latter years are for the old city, exclusive of the Annex, a portion of the county added to the city in 1918. The figures of the Appeal Tax Court are not quite the same as those later published in the reports of the State Tax Commission, but the two sets of figures are sufficiently comparable to reveal the trend of assessments.
<table>
<thead>
<tr>
<th>Year</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1896</td>
<td>6.0</td>
</tr>
<tr>
<td>1897</td>
<td>56.7</td>
</tr>
<tr>
<td>1898</td>
<td>60.7</td>
</tr>
<tr>
<td>1899</td>
<td>61.9</td>
</tr>
<tr>
<td>1900</td>
<td>65.8</td>
</tr>
<tr>
<td>1901</td>
<td>68.9</td>
</tr>
<tr>
<td>1902</td>
<td>89.9</td>
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<td>1903</td>
<td>94.3</td>
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<td>1904</td>
<td>86.0</td>
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<tr>
<td>1905</td>
<td>104.2</td>
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<td>1906</td>
<td>120.4</td>
</tr>
<tr>
<td>1907</td>
<td>150.9</td>
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<tr>
<td>1908</td>
<td>146.7</td>
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<td>1909</td>
<td>148.2</td>
</tr>
<tr>
<td>1910</td>
<td>158.7</td>
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<tr>
<td>1911</td>
<td>165.8</td>
</tr>
<tr>
<td>1912</td>
<td>179.4</td>
</tr>
<tr>
<td>1913</td>
<td>177.4</td>
</tr>
<tr>
<td>1914</td>
<td>192.0</td>
</tr>
<tr>
<td>1915</td>
<td>209.9</td>
</tr>
<tr>
<td>1916</td>
<td>213.1</td>
</tr>
<tr>
<td>1917</td>
<td>221.6</td>
</tr>
<tr>
<td>1918</td>
<td>236.9</td>
</tr>
<tr>
<td>1919</td>
<td>227.1</td>
</tr>
<tr>
<td>1920</td>
<td>235.6</td>
</tr>
<tr>
<td>1921</td>
<td>228.1</td>
</tr>
<tr>
<td>1922</td>
<td>235.1</td>
</tr>
<tr>
<td>1923</td>
<td>237.2</td>
</tr>
<tr>
<td>1924</td>
<td>243.6</td>
</tr>
<tr>
<td>1925</td>
<td>268.2</td>
</tr>
</tbody>
</table>

The last assessments under the old tax were for 1896. Thus, we see that the quantity of intangibles listed annually under the low-rate tax has mounted steadily. Undoubtedly the assessments have expanded more rapidly than such wealth has grown in the city. For in thirty years they have increased from six millions to more than 268 millions, a growth of over forty-fold. As a matter of fact, the estimated assessments for 1926 are 289 millions, a sum almost fifty times the quantity listed in 1896. The growth of the actual assessments for 1925, and of the estimated listings of 1926 are attributed to increased attention to the taxation of intangibles by local officials and to the rises in security values. Part of Baltimore's success in listing securities throughout the period is due to her good fortune in having several railroad companies in her midst, which have had considerable investments in stocks of outside railroads, subject to the low-rate tax. It is easier to assess such corporations on these securities than to reach individuals on their holdings.

Outside of Baltimore City, the data are not available for a comparison of results under the new and old system. But the tax in the rest of the state is undoubtedly not working as satisfactorily as in the city, and there seems to be plenty of room for improvement. Ten years ago there were counties in the state in which no securities were listed at all. Results are better now but there is an absence of "adequate permanent assessing machinery," and assessments are not kept up to date in the rural sections. As the work is done now, it amounts practically to an assessment at intervals of

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36 Estimate furnished by Mr. Oscar Leser.
38 Report of the Committee on the Revision of the Taxation System of the State of Maryland and City of Baltimore, 1913, p. 309.
five years. One member of the commission is of the opinion that the tax would be greatly improved in the state if the assessors in the counties were state-appointed, and if more use were made of collection at the source. Thus it follows that the unqualified commendation which the Maryland tax usually receives is not entirely warranted. Though it has probably succeeded in Baltimore, the results in other parts of the state are not up to the Baltimore standard, and difference in results is undoubtedly due to difference in efficiency of administration.

(4) Minnesota

The Minnesota levy known as the "Money and Credits Tax" includes more items of intangible property than does that of Maryland. It rests upon money on hand or on deposit, annuities, every claim of any kind, and shares of stock of corporations whose property is not assessed in the state. It does not include the shares of banks or their money and credits, because there is a separate tax on bank stock, nor does it apply to mortgages which have a separate registry tax. The rate is three mills on the dollar and no offset for debt is allowed. The revenue is chiefly for local purposes. The proceeds are divided, $\frac{1}{6}$ to the state, $\frac{1}{6}$ to the county, $\frac{1}{3}$ to the city, village or town, and $\frac{1}{3}$ to the school district. The tax is assessed by local assessors, with considerable supervision by the state commission.

The results of the tax are shown by the following figures:

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessments (in millions of dollars)</th>
<th>Revenue (in thousands of dollars)</th>
<th>Number Paying Tax (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1910</td>
<td>13.9</td>
<td>379.7</td>
<td>6.2</td>
</tr>
<tr>
<td>1911</td>
<td>115.5</td>
<td>346.4</td>
<td>41.4</td>
</tr>
<tr>
<td>1912</td>
<td>135.4</td>
<td>406.1</td>
<td>50.6</td>
</tr>
<tr>
<td>1913</td>
<td>157.0</td>
<td>470.9</td>
<td>57.1</td>
</tr>
<tr>
<td>1914</td>
<td>195.6</td>
<td>589.6</td>
<td>73.3</td>
</tr>
<tr>
<td>1915</td>
<td>212.1</td>
<td>636.4</td>
<td>73.0</td>
</tr>
<tr>
<td>1916</td>
<td>234.2</td>
<td>702.6</td>
<td>74.2</td>
</tr>
<tr>
<td>1917</td>
<td>285.0</td>
<td>854.9</td>
<td>87.7</td>
</tr>
<tr>
<td>1918</td>
<td>330.3</td>
<td>900.9</td>
<td>98.5</td>
</tr>
<tr>
<td>1919</td>
<td>359.8</td>
<td>1079.4</td>
<td>109.2</td>
</tr>
<tr>
<td>1920</td>
<td>437.6</td>
<td>1312.9</td>
<td>127.5</td>
</tr>
<tr>
<td>1921</td>
<td>424.8</td>
<td>1274.4</td>
<td>118.8</td>
</tr>
<tr>
<td>1922</td>
<td>400.7</td>
<td>1202.1</td>
<td>109.1</td>
</tr>
<tr>
<td>1923</td>
<td>417.0</td>
<td>1251.1</td>
<td>115.5</td>
</tr>
<tr>
<td>1924</td>
<td>405.5</td>
<td>1216.4</td>
<td>110.0</td>
</tr>
</tbody>
</table>

39 Letter of Mr. Leser, October 10, 1925.
The last year of the old tax was 1910. The assessments since then show a marked increase. They have grown from about fourteen millions in 1910 to more than 400 millions in 1925. The quantity of intangibles placed on the rolls in the first year of the new tax was almost nine times as great as under the old rate, and the increases since then have been continuous, except for the decline following 1920, largely resulting from the agricultural depression.\(^{42}\)

One must not be misled by these figures. Even though the assessments are considerable, the intangible wealth of the state is great. In 1922, when 400 million dollars of intangibles were taxed, Mr. Lord of the State Tax Commission estimated that this amount represented only about 45 or 50 per cent of such property in the state subject to the tax.\(^{43}\) Another estimate of the percentage assessed, obtained by the writer from a different source, was even lower than this. Unsatisfactory though such estimates are, they indicate that even Minnesota is falling far short of perfection, in the enforcement of this tax. On the other hand, the low-rate tax has been far superior to the old rate in bringing intangibles out of hiding.

From the point of view of revenue, also, the tax has been superior to the general property rate. Under a combined state and local rate of 28 mills in 1910 only 379,7 thousands of dollars were received in the state. In the first year under the three-mill rate, the entire revenue derived was less than this figure. But in every year since then, the low rate has produced more revenue than did the 28-mill rate. Last year the receipts were almost four times as large as under the old rate.

The tax has achieved success from another point of view as well. Far more persons are paying taxes on intangibles today in Minnesota than under the old rate. The number having intangibles on the tax rolls grew from 6200 in 1910 to 127,471 in 1920, and even in 1924, with unfavorable financial conditions, the number was in excess of 100,000. This means that the intangibles tax is touching more persons, and that the cost of government is more fairly divided among the citizens than formerly. Though the tax has not succeeded in reaching all intangibles, it has certainly increased the honesty of the taxpayers and made for a more equitable distribution of the tax load.

Much of whatever success has been attained in Minnesota is due to the activities of the State Tax Commission. The work of local officials has been under its constant supervision. It has kept in touch with them by letters, personal visits, and by county meetings. It has often ordered the reassessment of property in districts where


\(^{43}\) Proceedings of the National Tax Association, 1922, p. 309.
the work was not done properly, thus adding considerable amounts of money and credits to the rolls. The effectiveness of this administration has probably had as much to do with the success of the tax as the rate.

Two features of the law itself have doubtless served to strengthen its administration. One of these is the division of the proceeds. Since the local governments receive five-sixths of the net receipts of the tax, the local officials are given an incentive to better enforcement. The other advantageous feature is that no offsets for debts are allowed. Taxpayers are denied this avenue of escape, and the administration of the levy is simplified.

It is the opinion of those who have had experience with the tax, that much better results can be obtained if certain changes are made. One of the most needed improvements is the adoption of a system of assessments by county assessors, instead of by officials of the smaller political units. The latter, working only two months in the year, cannot check evasions. The county assessor, paid on a year basis, and working continuously would be able to catch more of this property. Another recommendation is to amend the law so as to require the banks to pay the tax on their deposits for their depositors. Another provision urged as a means of inducing some recalcitrant taxpayers to list their intangibles would be to deny to owners of untaxed credits the right to collect on them in court. Thus it appears that though the Minnesota tax is probably one of the most successful of the state taxes on intangibles, there is much room for its improvement.

(5) Iowa

The Iowa "Moneys and Credits Tax" applies to notes, including mortgages, bonds, and other written evidences of credit, money on hand and in bank, checks, drafts, contracts for labor, judgments, and other choses in action, annuities, and shares of stock of corporations not otherwise taxed. Virtually all shares are thus exempted except those of building and loan associations, and of foreign corporations. The rate of tax is five mills on the dollar. Owners of intangibles are allowed to deduct debts from such property for tax purposes. The enforcement of this tax is practically entirely dependent upon local officials. The proceeds of the tax are divided among the various jurisdictions on the same prorata basis as other taxes collected in each district.

44 Letter of Mr. Samuel Lord, Member of the Minnesota Tax Commission, August 31, 1925.


46 Code of Iowa. 1924, pp. 881-884.
The assessments, in millions of dollars, for 1909 and 1910 under the old tax and for the period 1911-1924, under the low-rate are shown below:

<table>
<thead>
<tr>
<th>Year</th>
<th>1909</th>
<th>1917</th>
</tr>
</thead>
<tbody>
<tr>
<td>1910</td>
<td>194.2</td>
<td>330.0</td>
</tr>
<tr>
<td>1911</td>
<td>170.1</td>
<td>436.1</td>
</tr>
<tr>
<td>1912</td>
<td>188.8</td>
<td>468.3</td>
</tr>
<tr>
<td>1913</td>
<td>210.7</td>
<td>627.6</td>
</tr>
<tr>
<td>1914</td>
<td>251.8</td>
<td>700.1</td>
</tr>
<tr>
<td>1915</td>
<td>275.4</td>
<td>686.8</td>
</tr>
<tr>
<td>1916</td>
<td>397.3</td>
<td>660.5</td>
</tr>
</tbody>
</table>

The figures for the two years before the change and those for the years since then are not quite comparable. This is due to the fact that before 1911, in many sections of the State, bank stock and other moneyed capital in competition with banks were lumped with all other intangibles, and that, since that year assessments of the former have been reported separately. For this reason it is not possible to determine exactly how much of the intangible property now taxed at the low rate was assessed under the general property rate. But even granting this discrepancy, it is clear that since 1912, at least, the assessments of intangibles without bank shares have been greater than those under the old rate inclusive of bank shares. Furthermore, the assessments have grown rather consistently during the period, with the exception of the recent years of agricultural depression. This growth, however, means very little, unless we know what portion of the taxable intangibles is represented by these assessments, for the intangible wealth of the state has also increased since the new tax was introduced. On this point, Professor Brindley, long a student of Iowa taxation, basing his opinion on first-hand investigations, states that at present less than half of the intangibles of the state are placed on the rolls. Thus, it is clear that, though the new law has secured greater assessments, it has failed to bring a large portion of the property on to the tax lists. Of more significance is its failure to measure up to expectations of revenue. Although data are not available to settle the question, it is extremely doubtful whether the present assessments at five mills yield as much revenue as the state and local governments before derived from smaller assessments at higher rates.

The chief causes of the failure of the Iowa tax to meet expectations are the weakness of its administration and the escape of

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47 From the Biennial Reports of the Auditor of Iowa.
49 Letter of Professor J. E. Brindley, September 4, 1925.
taxpayers through deduction of debts.\(^5^0\) Both these obstacles to success should be removed. The privilege of debt offset should be repealed, and the administration of the tax should be improved. To this end a State Tax Commission should be created, with adequate powers and facilities to supervise local assessment work. The present system of electing county assessors should also be repealed, and the commission should be given the power to appoint these officers. If these changes are made,\(^5^1\) much better results ought to be accomplished.

\(6\) Rhode Island

In Rhode Island, intangibles are separated into two groups, one of which is assigned to the state for taxation, and the other to the towns and cities. The rate levied upon such property by the state as well as by the local governments is forty cents on the hundred dollars. The group taxed by the state at this rate includes savings deposits and participation accounts in banks and the corporate excess of manufacturing, mercantile and certain miscellaneous corporations. The tax on savings and participation accounts is collected by the state from the banks themselves, these institutions being given the legal right to recover from their customers the amounts paid.\(^5^2\) The corporate excess tax is likewise levied upon and collected from the corporations and not from the stockholders, this tax being considered in lieu of the tax on the latter.\(^5^3\) The state, in both these instances, collects the taxes at the source of the income from them. The state collects other kinds of taxes upon other corporations, but they are in the nature of business taxes and essentially unlike property taxes upon capital stock, although they serve to relieve the shares of such institutions from taxation.

Included in the group of intangibles taxed at present by the local government are bank shares, money, other than in savings accounts, credits, including mortgages, stocks and bonds of insurance companies, stocks and bonds of corporations which do not carry on business in the state and consequently do not pay the taxes to which other corporations are subject, and government bonds not exempt by the laws of the United States or of Rhode Island.\(^5^4\)

\(^5^0\) Letter of Professor Brindley.

\(^5^1\) These changes are suggested by Professor Brindley.

\(^5^2\) General Laws of Rhode Island, 1923, ch. 37; ibid., ch. 40; Public Laws, 1916, ch. 1359.

\(^5^3\) General Laws of Rhode Island, 1923, ch. 38; Public Laws, 1912, ch. 769, p. 253.

Money and credits of an individual are taxed only on the amount by which the value of such property exceeds his debts. The debt-offset is thus allowed against some of the items most difficult to assess. The inclusion of bank shares among the items taxed locally is comparatively recent. When the forty-cent charge on intangibles was adopted in 1912, bank stock was assigned to the state, for taxation at that rate. Such action was intended to place banks on a par with corporations taxed at a rate of forty cents on their corporate excess. At that time corporations were allowed to deduct from corporate excess all stocks and bonds owned by them and issued by other corporations which had paid taxes in other forms. Banks were not allowed this privilege in order to make state bonds as desirable investments for them as securities of corporations. In 1914, under protest by the banks against this discrimination, they were allowed, in estimating the value of their shares, to deduct from their capital and surplus securities of corporations which had paid other taxes. This amendment enabled banks, by investing sufficiently in such securities, to practically wipe out the taxable value of their shares. The revenue dwindled from $70,878 in 1912 to $2,244 in 1920. As a result, in 1920 the legislature repealed the state tax on bank shares and surrendered them for taxation at the rate of forty cents, by the local governments, where the demand for such deduction could not be made.

The operation of the state taxes on corporate excess and on bank deposits and participation accounts has been satisfactory. These taxes have undoubtedly been well administered. The yield of the corporate excess tax for last year was $1,246,670, and of that on deposits in state and national banks and on participation accounts, $1,097,038.

The assessments of intangibles by the local governments of Rhode Island, in millions of dollars, since the enactment of the new law in 1912 are as follows:

55 Public Laws, 1912, ch. 769.
56 First Report of Rhode Island Board of Tax Commissioners, p. 37.
57 Public Laws, 1914, ch. 1063.
59 Public Laws, 1920, ch. 1899.
61 Annual Reports of Board of Tax Commissioners of Rhode Island.
<table>
<thead>
<tr>
<th>Year</th>
<th>1912</th>
<th>1913</th>
<th>1914</th>
<th>1915</th>
<th>1916</th>
<th>1917</th>
<th>1918</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rate</td>
<td>96.8</td>
<td>115.1</td>
<td>123.8</td>
<td>126.7</td>
<td>135.7</td>
<td>145.9</td>
<td>149.5</td>
</tr>
</tbody>
</table>

No records are available of the amount of intangibles taxed before 1912, since all personal property was during that period lumped together. When it is remembered, too, that a considerable quantity of intangibles was withdrawn from local taxation in 1912 and given to the state, it at once appears that it is impossible to compare statistically the results of local assessment under the new rate with those obtained under the old rate. However, it is admitted by the State Tax Board that even in the early years of the new tax, much intangible property that formerly escaped was brought on the rolls.\(^62\) On the other hand, the local tax is far from satisfactory. Great quantities of intangible wealth is not being taxed. Evidence of the escape of such property can be found in the probate records.\(^63\) As a matter of fact, eighty per cent of the amount of intangibles listed in Rhode Island comes from the cities of Providence, Pawtucket and Newport.\(^64\) This cannot be attributed alone to the concentration of such wealth in these centers and the absence of it in the less populous towns. One reason for the larger assessments in these centers is the effectiveness of the administration there. In Providence, for instance, the assessors are employed for all-year-round service, and can make continuous efforts to discover such property, by examination of probate files, of mortgage records, and by observing the external indicia of the wealth of citizens. Moreover, the assessors are kept in office there for almost a lifetime.\(^65\) The chief reason for poor results in the smaller towns is that the officials are not of the right type, and are not adequately paid and provided with clerical aid and facilities for gathering and keeping records.\(^66\) It would seem that the assessment of intangibles in the state could be greatly improved by either of two moves—by changing the method of selecting and rewarding local assessors, or by placing the work entirely in the hands of the State Tax Board, and leaving to the localitites the net proceeds from such wealth now locally taxed. At any rate, one

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\(^64\) Tenth Report of the Board of Tax Commissioners, 1923-24, p. 16.

\(^65\) Letter of Mr. Burnham, cited above.

\(^66\) Tenth Report of the Board of Tax Commissioners, 1923-24, p. 16.
cannot generalize about the success of Rhode Island taxation of intangibles. The state taxes have succeeded, but in many places the local tax is practically a failure.

(7) Virginia

As we have seen above, Virginia began the low-rate taxation of intangibles in 1914. In that year, money on hand and on deposit was subjected to a state rate of twenty cents per hundred dollars and was exempted from further local taxation. In 1915, intangibles were divided into several classes for tax purposes. On some of these, only state taxes were laid, on others both state and local rates were imposed, with maximum rates for both the state and local charges. Money was taxed at twenty cents per hundred dollars as before, and bonds of political subdivisions of the state were taxed at thirty-five cents. Other classes of intangibles taxed were (1) bonds, notes, and other evidences of debt, (2) capital of businesses not otherwise taxed, (3) intangibles of personal estates in the hands of fiduciaries or courts, and (4) shares of stock of non-Virginia corporations. Each of these four classes was taxed at ninety-five cents per hundred dollars, sixty-five for the state, and thirty for the local governments. Since then several changes in the rates on these four classes have been made. In 1916, the state rate on taxable business capital was increased to seventy cents, bringing the total charge on that item to $1.00. Again, in 1918, an additional special tax of eight cents for state purposes was laid on all forms of intangibles except money and public bonds. The next year, another special surcharge of seven cents was added to the state rate on the same property. In 1922, the rate on bonds, notes, and other evidences of debt was reduced to fifty-five cents, by reducing the local rate to twenty cents, and the state rate to twenty, which, added to the special rate of fifteen, which was not changed, made the state rate thirty-five. A summary of the total state and local rates fixed by each of these acts follows:

70 Ibid., 1918, ch. 384, p. 570.
71 Ibid., 1919, ch. 25, p. 39.
72 Ibid., 1922, ch. 332, p. 556.
Bonds, notes and other evidences of debt $... $0.95 $0.95 $1.04 $1.10 $0.55
Capital of businesses not otherwise taxed ... 0.95 1.00 1.08 1.15 1.15
Intangibles of personal estates... ... 0.95 0.95 1.03 1.10 1.10
Money ... 0.20 0.20 0.20 0.20 0.20 0.20
Shares of non-Virginia corporations ... ... 0.95 0.95 1.03 1.10 1.10
Bonds of political subdivisions ... ... 0.35 0.35 0.35 0.35 0.35

The rates enacted in 1922 stand at present, but there is now an agitation to equalize them. The contention is that either the rates on certain intangibles should be reduced to the level of that on bonds, notes, and other evidences of debt, or that the rate on the latter should be increased. In view of the Richmond decision, it is difficult for an outsider to understand also how the fifty-five cent rate can stand, when bank shares are burdened by a separate tax as high as $1.10 on the hundred dollars.

The administration of these taxes is in the hands of local officials, with a certain amount of supervision by the State Tax Commission. The latter, created in 1924, is an ex-officio board and supersedes the former State Tax Board also ex-officio but differently composed. The powers of the commission are largely supervisory. Intangibles are assessed by local officers, known as commissioners of the revenue. These officials are elected by the people; city commissioners by the city and county commissioners by the county. Each city has one; the number for the counties varies, some having as many as four. It is the duty of the commissioners to obtain the sworn returns of intangibles from the taxpayers. These returns are later given over to officials known as examiners of records. These officers constitute the unique feature of the Virginia system of administration. They are appointed by the Commission, one for each judicial district in the state. It is their duty to check up the returns and to discover omitted intangibles. They have power to summon persons and require information and records. When they have completed their work, it is turned over to the commissioners, who assess the persons concerned. The examiners are paid a percentage of the property

73 Letter of Professor Robert H. Tucker, Lexington, Va., September 26, 1925. For much of his information concerning the administration of the Virginia taxes the writer is indebted to Professor Tucker.
74 Code of Virginia, 1924, p. 483.
75 Ibid., p. 491.
76 Ibid., p. 480.
77 Ibid., p. 484.
78 Ibid., p. 491.
added by them to the rolls. These officials are undoubtedly the most important authorities concerned with the assessment of intangibles in Virginia. They have been responsible for adding to the lists millions of dollars of such property.

The annual assessments of intangibles, exclusive of bank shares, in millions of dollars, from 1913 to 1924 are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1913</td>
<td>142.0</td>
</tr>
<tr>
<td>1914</td>
<td>157.1</td>
</tr>
<tr>
<td>1915</td>
<td>220.6</td>
</tr>
<tr>
<td>1916</td>
<td>236.7</td>
</tr>
<tr>
<td>1917</td>
<td>269.4</td>
</tr>
<tr>
<td>1918</td>
<td>324.2</td>
</tr>
<tr>
<td>1919</td>
<td>346.9</td>
</tr>
<tr>
<td>1920</td>
<td>385.8</td>
</tr>
<tr>
<td>1921</td>
<td>382.7</td>
</tr>
<tr>
<td>1922</td>
<td>404.3</td>
</tr>
<tr>
<td>1923</td>
<td>444.4</td>
</tr>
<tr>
<td>1924</td>
<td>466.0</td>
</tr>
</tbody>
</table>

These figures are not of great value, because they represent the assessments of all classes of this property. It would be possible to draw more definite conclusions if the data were available for each class, so that the effect of the different rates could be tested. Furthermore, it is impossible to tell what proportion even these lumped assessments form of the taxable intangibles in the state. The only conclusion that can be drawn from the data is that assessments of all intangibles since the first rate change was made in 1914 have increased, and probably faster than the normal growth of such wealth. But competent students of Virginia taxation seem agreed that great quantities of this type of property are escaping taxation. One observer guesses that from one-half to two-thirds of such property in the state does not appear on the rolls. Whatever the accuracy of the guess, it indicates that the Virginia system is falling far short of success. Certain of the rates are probably producing much better results than others. The last reduction of the rate on bonds, notes, and other evidences of debt served to increase assessments within one year more than $30,000,000. But the increase has not yet been sufficient to overcome the loss of revenue resulting from the cut in the rate. Although the present system is not a success, some feel that it is superior to the former general property tax on intangibles.

79 Ibid., p. 485.
80 Letter of Professor Tucker.
81 Figures for 1913-23 are taken from the report of the Commission on Simplification and Economy of State and Local Government, Virginia, 1924, p. 162. The figure for 1924 is supplied by Professor Tucker.
83 Letter of Professor Tucker.
84 Ibid.
85 For instance, Professor Tucker.
The shortcomings of the Virginia taxes are undoubtedly largely due to ineffective administration. The chief weakness is the lack of proper central supervision. The State Tax Commission is an ex-officio body, composed of state officials who have their time taken with the duties of their regular offices. Virginia needs a tax commission, of competent persons, especially appointed for their tasks, sufficiently compensated, with adequate powers of supervision and correction, and sufficient office staff and paid force to carry on their work. An effort was made in the last legislature to get such a commission, but it failed.\textsuperscript{86}

However, the fault does not all lie with the central supervision. Assessment could be improved by changing the method of selecting commissioners of revenue from election by the people to nomination by the state commission.\textsuperscript{87} The number should also be reduced to one for each county, who should be well paid, and given assistance. Improvement also in the work of the examiners could doubtless be accomplished by placing them on a salary basis. For the percentage method of reward is thought to induce them to seek only the larger tax-dodgers.

On the other hand, reorganization of administrative machinery will not be sufficient, for part of Virginia's difficulty is found in her rate policy.\textsuperscript{88} Instead of an outright reduction in rates, the legislature has changed them gradually, and not always downwards but sometimes upwards. Under such conditions taxpayers may well be reluctant to declare their property, not knowing what may happen next. Moreover, the rates are unequal and discriminatory. Such discrimination is not likely to enlist the cooperation of the taxpayers. Virginia, therefore, needs three reforms—improvement of administration, fixity of rates, and equity of rates.

\textit{(8) District of Columbia}

The low-rate tax on intangibles in the District of Columbia has been in operation only since 1918, although the acts authorizing the tax were passed in 1916 and 1917.\textsuperscript{89} For some years before, this property had not been taxed at all. The rate was at first three mills on the dollar, but in 1922 was increased to five mills, effective in 1923.\textsuperscript{90} The items taxed are money and credits, including money loaned and invested, savings deposits in excess of $500, bonds, and shares of corporations, other than banks and corporations taxed by

\textsuperscript{86} "Tax Conditions in Virginia," \textit{op. cit.}, p. 6.
\textsuperscript{87} Letter of Professor Tucker.
\textsuperscript{88} Here again I am indebted to Professor Tucker.
\textsuperscript{89} 39 U. S. Stat. at Large, pp. 717 and 1047.
\textsuperscript{90} 42 \textit{Ibid.}, part 1, p. 668.
other methods. It is thus a money and credits tax of the usual form.

The assessments of intangibles and the revenue derived from them from 1918 to 1924 are stated below.\(^9^1\)

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessments (in millions of dollars)</th>
<th>Revenue (in dollars)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1918</td>
<td>296.9</td>
<td>890,779</td>
</tr>
<tr>
<td>1919</td>
<td>293.5</td>
<td>880,519</td>
</tr>
<tr>
<td>1920</td>
<td>323.0</td>
<td>969,093</td>
</tr>
<tr>
<td>1921</td>
<td>323.9</td>
<td>971,849</td>
</tr>
<tr>
<td>1922</td>
<td>335.7</td>
<td>1,007,249</td>
</tr>
<tr>
<td>1923</td>
<td>365.1</td>
<td>1,825,395</td>
</tr>
<tr>
<td>1924</td>
<td>379.8</td>
<td>1,899,006</td>
</tr>
</tbody>
</table>

There is no statistical basis for judging how near these assessments approach in amount the quantity of taxables. We know only that the District authorities are satisfied with the results. The revenue derived from this source has every year formed a substantial portion of the tax revenue of the District.

One reason for the more satisfactory operation of the tax here is undoubtedly the efficiency of the tax office. In charge of assessments are three personal tax assessors, each paid a salary of $3,000. In addition there are twenty clerks, paid from $600 to $1,800 per year. At busy times there are temporary clerks. Some of the permanent clerks serve at times in the field in inspecting and checking up on the returns made by taxpayers. All of these officials have to assess other personal property as well as intangibles. Still more improvement in the assessment could probably be effected by an enlargement of the force of inspectors.\(^9^2\)

\textit{(9) Oklahoma}

Oklahoma, like Connecticut, began low-rate taxation of intangibles with a voluntary registry tax. The Act of 1917 provided that in lieu of other taxes, owners of notes, bonds, and choses-in-action might register such property with the treasurer of the county in which they resided, and pay on it a tax of two per cent of the face value, for a period of five years, or four mills on the dollar annually.\(^9^3\) Mortgages on real estate situated in Oklahoma are not subject to this tax, for they are subject to a registry tax which relieves them of further \textit{ad valorem} property taxation.\(^9^4\) Bank

\(^9^1\) Figures taken from annual reports of the Commissioners of District of Columbia.

\(^9^2\) Information furnished by Mr. W. P. Richards, Assessor of District of Columbia.

\(^9^3\) Session Laws of Oklahoma, 1917, ch. 264.

shares are not included because they are reached by a separate charge. The proceeds of the chose-in-action registry tax go entirely to the county. It is thus county-administered and county-used. As a penalty for failure to pay taxes on such intangibles it is provided that no untaxed credit shall be admitted as valid evidence in a suit.

The writer has been able to obtain practically no data concerning the operation of the chose-in-action tax and has to rely on the statements of those in Oklahoma best informed on the matter. The chose-in-action tax seems to those persons a complete failure.\(^{95}\) In three important counties, for which data have been supplied, the revenue is negligible. The receipts for the past fiscal year in Tulsa County were $6,239, in Oklahoma County, $1,167, and in Muskogee County $352, considerably less in each case than the revenue from the mortgage registry tax.\(^{96}\) In one county, no property has paid the registry tax for the past two years. One informant attributes the breakdown of the tax to the ease with which it is avoided and the lack of any central tax authority to enforce it. Apparently Oklahoma is no exception to the rule that low-rate taxes will not be voluntarily paid. One legal difficulty with the tax is that it applies only to notes or other evidences of debt exceeding eight months in duration. The tax is evaded by making notes which mature in less than eight months.

This year the legislature enacted a tax on money of one mill on the dollar, to take the place of all other taxes on it. It applies to all money on hand and on deposit, but does not include moneyed capital entering into competition with state and national banks, nor does it include shares or deposit certificates of building and loan associations.\(^{97}\) The Act does not lay down any method of disposing of the proceeds, no statement being made as to whether the revenue shall go to the state or the local governments. Apparently, no adequate provision was made for the administration of the tax. The writer has been able to secure practically no information concerning this law, except that it was enacted as a result of an agitation of the building and loan associations of the state.\(^{98}\) At all events, it is too new to yield any results by which it can be judged.

\(^{95}\) Letter of Mr. David Russell, assistant to the Tax Code Revision Commission of Oklahoma, September 14, 1925.

\(^{96}\) Letter of the Oklahoma State Examiner and Inspector, Mr. George J. Mechling, September 22, 1925.

\(^{97}\) Session Laws of Oklahoma, 1925, ch. 120.

\(^{98}\) Letter of Mr. Mechling.
(10) Kentucky

The low-rate tax on intangibles in Kentucky forms a part of a scheme of classification and segregation adopted in 1917. Under this Act, such wealth was subjected to a rate of forty cents on the hundred dollars, and the proceeds were given entirely to the state.\textsuperscript{99} The items taxed were money on hand, notes, bonds not issued by the United States or by the state or local governments of Kentucky, accounts, credits of all kinds, and shares of stock of corporations having less than one-fourth of their property located in the state.\textsuperscript{100} Last year the legislature greatly increased the number of shares taxable by providing that stocks should be exempted only if the corporations issuing them had three-fourths or more of their property located in the state.\textsuperscript{101} The same legislature increased the rate on intangibles to fifty cents.\textsuperscript{102}

Outside the scope of the general low-rate tax are bank deposits, mortgages, bank shares and corporation franchises, which are subject to separate taxes. The rate on bank deposits is ten cents on the hundred dollars;\textsuperscript{103} that on mortgages, twenty cents on each hundred dollars, paid only at the time of registration, and applicable only to instruments of more than five years' duration.\textsuperscript{104} Both of these charges serve to relieve the property from further taxation. Bank shares and corporation franchises are subject to both state and local taxes.\textsuperscript{105}

The annual assessments of intangibles now classified for taxation,\textsuperscript{106} in millions of dollars, from 1915 to 1925 were as follows:\textsuperscript{107}

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1915</td>
<td>72</td>
</tr>
<tr>
<td>1916</td>
<td>70</td>
</tr>
<tr>
<td>1917</td>
<td>68</td>
</tr>
<tr>
<td>1918</td>
<td>246</td>
</tr>
<tr>
<td>1919</td>
<td>364</td>
</tr>
<tr>
<td>1920</td>
<td>275</td>
</tr>
<tr>
<td>1921</td>
<td>321</td>
</tr>
<tr>
<td>1922</td>
<td>309</td>
</tr>
<tr>
<td>1923</td>
<td>330</td>
</tr>
<tr>
<td>1924</td>
<td>327</td>
</tr>
<tr>
<td>1925</td>
<td>431</td>
</tr>
</tbody>
</table>

\textsuperscript{99} Acts of Special Session, Kentucky, 1917, p. 44.
\textsuperscript{100} Ibid., p. 46.
\textsuperscript{102} Ibid., p. 403.
\textsuperscript{103} Ibid., p. 414.
\textsuperscript{104} Carroll's Code of Kentucky, 1922, § 4019, a-9.
\textsuperscript{105} Acts of Kentucky, 1924, ch. 116.
\textsuperscript{106} This means intangibles exclusive of bank shares, deposits and mortgages, but there is a slight error in this, for the figures for 1915, 1916 and 1917 do contain mortgages. The error is not important.
\textsuperscript{107} Figures for the years 1915-22 are taken from the report of the Efficiency Commission of Kentucky, vol. i, p. 242. Those for 1923-25 were supplied by Mr. Ben. Marshall, Secretary of the State Tax Commission of Kentucky.
The low-rate tax went into effect in 1918. The intangibles listed have increased since its introduction from 68 millions in 1917, the last year of the old tax, to 431 millions in 1925, a growth of over 533 per cent. But the unfortunate fact revealed by these figures is that after reaching a peak of 364 millions in 1919, assessments declined and did not regain their position until this year. Such a decline bespeaks a failure in the administration of the tax as well as the economic reaction following the war. On the other hand, the sharp increase in assessments in 1925, resulting from improvement both of the law and its administration, encourages an optimism as to the future of the tax. This increase is all the more significant since it has been accomplished in the face of an increase of the rate of the tax, to fifty cents.

Despite the increased assessments, the tax has been, up to 1925, inferior to the former general property rate, so far as receipts are concerned. The growth of assessments has not been sufficient to overcome the reduction of the rates.\(^{108}\) Only this year, for the first time, has the tax yielded the state as much revenue as the state and local governments together derived from the taxation of these intangibles before classification, as estimated by the Efficiency Commission. The increase in the yield for 1925 is due, however, to the increase of the rate to fifty cents and the inclusion of a larger number of corporation shares as well as to the expansion of the assessments of items already taxed. It is only fair to say, however, that though the tax has failed to meet expectations in revenue, it has made for greater equity and honesty among the taxpayers.\(^{109}\)

The rate of increase in the assessment of bank deposits under the ten-cent rate has been enormous also. The assessments of such property in millions of dollars from 1917 to 1924 have been as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>1917</th>
<th>1918</th>
<th>1919</th>
<th>1920</th>
<th>1921</th>
<th>1922</th>
<th>1923</th>
<th>1924</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1110</td>
<td>179</td>
<td>209</td>
<td>261</td>
<td>284</td>
<td>270</td>
<td>272</td>
<td>317</td>
</tr>
</tbody>
</table>

Great as this improvement has been, the Efficiency Commission states that bank deposits are still escaping taxation.\(^{111}\)

\(^{108}\) This is the conclusion of the Efficiency Commission. See its Report, vol. 1, p. 249.

\(^{109}\) This is acknowledged as a merit of the tax by the Efficiency Commission. See ibid., p. 249.

\(^{110}\) Seventh Annual Report of Kentucky State Tax Commission, pp. 72-73.

\(^{111}\) Report, \textit{op. cit.}, p. 247.
The Efficiency Commission of Kentucky, which in 1923 made a report upon Kentucky taxation, attributes the poor results obtained from the low-rate tax to weaknesses of administration, and places the blame upon the State Tax Commission. However, the Efficiency Commission admits that the latter has been handicapped by the failure to divide the proceeds with the local governments, since the lack of interest in the receipts has deprived the state authorities of the full measure of popular local support, and of cooperation by the local assessors. It is not fair to the tax commission to continue this system. Either the entire administration of the tax should be assumed by the state or the proceeds should be shared with the local governments.

In further mitigation of the criticism of the tax commission it may be added that that body could do its work much more effectively if it were given the power to appoint and remove the county assessing officials, instead of having to depend upon elected officials whom they approve. The Efficiency Commission intimates that better results could be secured by such a change but does not go so far as to recommend this alteration. In fairness to the tax commission, it should be said that the local assessors have not been vigilant in using sources of information at their disposal for checking up returns of taxpayers, such as records of probate courts and of bankruptcy proceedings. The legislature, in 1924, has made available further information for this purpose by requiring corporations doing business in the state to submit the names of the owners of their shares, with amounts owned, and by requiring banks to declare on request the intangibles assigned to them. This provision is undoubtedly partly responsible for the increased assessments of 1925. The tax commission cannot be held responsible for the delinquency of local assessors in checking up on evasions. Yet it may be expected to do all in its power to urge these officials to make use of such information. It is the belief of the writer that blame for the poor results should probably be laid less upon particular authorities than upon the system of administration. The administrative machinery needs reorganization.

(11) Montana

Low-rate taxation of intangibles was inaugurated in Montana in 1919, as a part of a comprehensive plan of classification. All prop-

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112 Ibid., p. 264.
113 Ibid., pp. 239-240.
114 Ibid., p. 254.
TAXATION OF INTANGIBLE PROPERTY

Property subject to taxation was divided into seven classes. Instead of applying a different rate to each class, it was provided that the several types of property should be assessed at different percentages of their value. The percentages at which the various classes are assessed are as follows: \(^1\) 

- Annual net proceeds of mines and mining claims ........ 100
- Household furniture, agricultural implements, etc........ 20
- Livestock, agricultural products, merchandise, furniture and fixtures ................................... 33\(\frac{1}{3}\)
- Real estate, manufacturing and mining machinery, fixtures and supplies .................................... 30
- Moneys, credits, and securities ............................ 7
- National bank shares and other moneied capital ........... 40
- Miscellaneous ............................................. 40

It is apparent that money and credits are taxed at a much lower rate than other property, being assessed at only seven per cent of their value. Besides being favored by a low percentage assessment, owners of money and credits are allowed to deduct most of their bona fide debts from all their credits except their state and local bonds. \(^2\) "Money and Credits" in Montana includes state and local bonds, that portion of the value of shares of domestic corporations not represented by property in the state, certain portions of the value of shares of foreign corporations owning no property in the state, and all other intangible wealth, except mortgages on real estate, which are entirely exempt from taxation, and bank shares and moneied capital which are placed in a different class and taxed more heavily. \(^3\) The assessment of money and credits is in the hands of local authorities.

The assessments and taxable values of money and credits, expressed in millions of dollars, for the period from 1918 to 1924 are as follows: \(^4\)

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessed Value</th>
<th>Taxable or Percentage Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1918</td>
<td>9.6</td>
<td>9.6</td>
</tr>
<tr>
<td>1919</td>
<td>64.3</td>
<td>4.5</td>
</tr>
<tr>
<td>1920</td>
<td>63.0</td>
<td>4.6</td>
</tr>
<tr>
<td>1921</td>
<td>57.2</td>
<td>4.0</td>
</tr>
<tr>
<td>1922</td>
<td>50.9</td>
<td>3.6</td>
</tr>
<tr>
<td>1923</td>
<td>49.5</td>
<td>3.5</td>
</tr>
<tr>
<td>1924</td>
<td>45.2</td>
<td>3.2</td>
</tr>
</tbody>
</table>

\(^1\) Session Laws of Montana, 1919, ch. 51.

\(^2\) Letter of Mr. John Edgerton of the Montana Taxpayers' Association, Helena, Montana, October 12, 1925.

\(^3\) Ibid.

\(^4\) Figures supplied by Mr. J. W. Walker, Chairman, State Board of Equalization of Montana.
The classification law became effective in 1919. The quantity of such property placed on the rolls since 1918 has greatly increased. Within six years it has grown five-fold. But those best informed in the state claim that only a small percentage of taxable intangibles is even now being listed.\textsuperscript{121} So far then, the Montana tax has failed to measure up to the claims made for low-rate taxes. More credits are paying taxes but less revenue is being obtained than under the old system. One reason for the low assessments in recent years is the economic depression in the state.\textsuperscript{122} But the failure of the tax is undoubtedly chiefly due to lack of provision for an efficient system of administration, and to the type of enforcement which local officials have given the law.

(12) South Dakota

The money and credits tax of South Dakota, enacted in 1919, applied to money on hand or on deposit, notes, bills of exchange, cream checks, due bills, book accounts, judgments, annuities, royalties, bonds (except those of the Federal Government or of municipal governments and those secured by real estate mortgages recorded in the state), and shares of corporations the property of which was not taxed in the state.\textsuperscript{123} Practically all stocks, except those of foreign corporations, were by this clause exempted. When the tax was passed, mortgages on domestic real estate were excluded from the classification and subjected to a registry tax,\textsuperscript{124} but in 1923 the latter was repealed, and they were again included with money and credits and taxed at the rate applicable to the latter.\textsuperscript{125} In the same year, also, so much of the value of the shares of banks as represented surplus and undivided profits of these institutions was included with other credits and subjected to the same rate.\textsuperscript{126} The rate of the tax was fixed in 1919 at three mills on the dollar, but in 1923 was increased to four mills. Assessment is in the hands of local officials but the proceeds are divided, one-fourth to the state, one-half to the county, and one-fourth to the school district in which the property is assessed.

\textsuperscript{121} Information by letter from Mr. J. W. Walker of the State Board of Equalization and from Mr. John Edgerton.

\textsuperscript{122} The assessments of personal property and of land also declined considerably during the period 1920-1924. See Report of the ex-officio Board of Equalization for year ending Dec. 31, 1922, and the first biennial report of the new Montana Board of Equalization.

\textsuperscript{123} Session Laws of South Dakota, 1919, p. 92.

\textsuperscript{124} Ibid., p. 90.

\textsuperscript{125} Ibid., 1923, p. 95.

\textsuperscript{126} Ibid., 1919, p. 90.
TAXATION OF INTANGIBLE PROPERTY

The results of the low-rate tax are in part revealed by the data as to assessments of intangibles for 1918, the last year of the general property rate, and for the years since that time.¹²⁷

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessments in millions of dollars</th>
<th>Number of persons assessed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1918</td>
<td>15.9</td>
<td>9,524</td>
</tr>
<tr>
<td>1919</td>
<td>110.9</td>
<td>68,593</td>
</tr>
<tr>
<td>1920</td>
<td>104.7</td>
<td>61,433</td>
</tr>
<tr>
<td>1921</td>
<td>79.7</td>
<td>45,265</td>
</tr>
<tr>
<td>1922</td>
<td>65.8</td>
<td>38,201</td>
</tr>
<tr>
<td>1923</td>
<td>73.2</td>
<td>35,059</td>
</tr>
<tr>
<td>1924</td>
<td>71.4</td>
<td>32,172</td>
</tr>
</tbody>
</table>

These figures are not quite comparable. Under the general property rate in 1918, mortgages were included, but after that year, until 1923, they were excluded. Moreover, in 1923 and 1924 the surplus and undivided profits of banks are added to the intangibles listed. These items, however, are not important enough to destroy the usefulness of the data. In face of these corrections, it is still clear that both the quantity of intangibles and the number of persons taxed are much greater under the new rate than under the general property levy. On the other hand, the best results were obtained in the first year. Since then there has been an appreciable decline in assessments, for which even the addition of two new items has not compensated. Part of this decline is probably due to the agricultural depression,¹²⁸ but not all of it. The real trouble is that taxpayers are not listing their intangibles. Competent opinion in South Dakota supports the conclusion that large amounts of such property are not being assessed.¹²⁹ The result is that the new tax is bringing in no more revenue than did the general property tax.¹³⁰ In assessments and in the distribution of the tax burden, the low tax is superior to the old rate, but in revenue it is no better, if not inferior. Some are pessimistic about securing better results with the tax, but the real difficulty has not been dealt with. The difficulty is weakness of administration. The writer, though an outsider, ventures the opinion that great improvement would follow, if the administration of the tax were given entirely to the State Tax Commission. If that cannot be done, much could be accomplished, if the commission were given broader supervisory powers, and provided they were properly used.

¹²⁷ Annual reports of the South Dakota Tax Commission.
¹²⁸ Letter of Mr. C. O. Bailey, Sioux Falls, South Dakota, August 25, 1925.
Nebraska, in 1921, began low-rate taxation with a unique plan. Instead of fixing a specific rate throughout the state, the legislature provided that intangibles should be taxed at a rate one-fourth of that applicable to tangible property in the district where the intangibles were assessed. The intangibles classified and subjected to this rate were money, gross credits, notes, accounts, contracts for cash or labor, judgments, choses-in-action, annuities, bonds, other than those of the Federal Government, of the state or of political subdivisions of the state, shares of foreign corporations, and that portion of the value of the shares of domestic corporations not represented by the assessed value of their tangible and intangible property located in the state plus the actual value of such property outside the state.\(^{131}\)

The tax on this corporate excess was laid on the corporation, which was given a lien on its shares for taxes paid. This tax was thus an “at the source” method of reaching share values. Bonds of Nebraska and its political subdivisions, excluded from the one-fourth rate, were taxed at one mill on the dollar. Shares of banks were not included, because subject to the same rate as tangible property. Domestic mortgages were omitted, because for some years they had been treated as real estate of the mortgagor who was given the right to shift the tax to the mortgagor, who also paid on the value of his real estate in excess of the mortgage. Under this plan mortgages on out-of-state property were taxed and under the new law remained so.\(^{132}\) Under the Act of 1921 no deductions for debts were allowed. Assessment of intangibles was to be carried out by local officials, with some supervision by the newly created State Tax Commissioner. The proceeds of the tax were shared by the state and the local governments “in the same proportion that the respective levies of the state and such governmental subdivisions bear to the total of said levies.”\(^{133}\)

Very unsatisfactory diversity of rates in different sections of the state resulted from this system of taxing intangibles. To remedy this situation, the legislature this year amended the law. By the new act, intangibles are divided into two classes and each class is subjected to a specific rate, uniform throughout the state. Class A, containing money, is given a rate of 2½ mills on the dollar and


\(^{132}\) Information furnished by Mr. T. E. Williams, State Tax Commissioner.

\(^{133}\) Laws of Nebraska, 1919-21, ch. 133.
class B, comprising all the rest, a rate of 5 mills.\textsuperscript{134} The taxes on other intangibles, not included with money and credits under the Act of 1921, remain the same, with two exceptions. The rate on bank shares is changed to seventy per cent of that on tangible property, and the one-mill tax on the bonds of the state and of political subdivisions is repealed, because of a decision of the state supreme court in 1922, to the effect that such securities cannot be taxed in the hands of residents of the state.\textsuperscript{135}

The assessments of intangibles, expressed in millions of dollars, for the last year before the classified rate went into effect and for the four years since then are: \textsuperscript{136}

\begin{center}
\begin{tabular}{ccc}
1921 & 85.6 & 1924 & 128.3 \\
1922 & 141.6 & 1925 & 151.0 \textsuperscript{137} \\
1923 & 138.0 & & \\
\end{tabular}
\end{center}

Two very discouraging facts are revealed by these figures. The first is that in some years the authorities have not been able to retain on the rolls what has once been put there. This is shown by the decline after 1922, although that reduction may be in part attributable to unfavorable economic conditions in this region. The second fact is that although the estimated assessments for 1925, if correct, are the largest yet obtained, they are not even double the quantity listed under a rate four times as high. In revenue, therefore, the new tax is inferior to the old, for being one-fourth the general property rate, it must produce quadruple the assessments to yield as much revenue.

One reason for the failure of the tax has been the political opposition to it since its enactment and the constant agitation for its repeal. A repealing bill was passed by the House in 1923 and 1924, but was defeated each time in the Senate.\textsuperscript{138} The tax has scarcely had a fair trial in such an atmosphere of hostility and uncertainty. The tax has also been handicapped by the diversity of rates, some of which may have been low enough and others too high. But the chief difficulty is the ineffective administration. Officials have been lax in enforcement, and the tax commissioner has not been given sufficient power to compel activity on their part. Reassessment can be ordered only by the State Board of Equalization. In the deliberations of this body the commissioner has only one vote.\textsuperscript{139} Being an ex-officio body of politically-minded

\textsuperscript{134} Pamphlet edition of the Act of March 30, 1925.

\textsuperscript{135} Letter of Professor G. O. Virtue, October 8, 1925.

\textsuperscript{136} Data furnished by the assistant tax commissioner, Mr. Harry W. Scott.

\textsuperscript{137} This is only an estimate.

\textsuperscript{138} Letter of Professor Virtue.

\textsuperscript{139} Letter of Professor Virtue.
individuals, it cannot be expected to take drastic action. The authority to order reassessments should be vested in the commissioner alone. If the latter officer were given this and other broader powers, better results might be obtained with the tax.

(14) New Hampshire

New Hampshire two years ago made an entirely new departure in the taxation of intangibles. Instead of classifying them and taxing them on their values at a low rate, the income from them was taxed at the rate on other property in the state.\textsuperscript{140} Thus, to meet the constitutional difficulty, income was treated like property and subjected to property rates, and only recently the supreme court of the state has upheld the tax as within the constitution.\textsuperscript{141} Only the future can reveal whether this decision may open to other states, handicapped by constitutional restrictions, the way to taxing investment income as property.

The new tax is a levy upon interest and dividends. It rests upon interest on bonds, notes, and other debts due, and on money at interest, except that in savings deposits and building and loan associations, and applies to dividends from most corporations, and from partnerships, associations, or trusts which issue shares.\textsuperscript{142} Some items not taxed by the old law are reached by the new. The former law, as interpreted, exempted shares of stock of corporations from taxation, but the present tax, by including dividends, touches such property. Domestic real estate mortgages, not paying tax in excess of five per cent, were formerly exempt, but interest from such instruments is subject to the new tax. Moreover, under the former law, only money in excess of that which the owner paid interest for was taxable, but now the interest from money is taxable without any deduction for debt.\textsuperscript{143} The inclusion of these items means considerable addition to the quantity of taxable intangibles.

The separate taxes on certain other intangibles remain. Such are those on bank shares,\textsuperscript{144} savings deposits,\textsuperscript{145} and building and loan associations.\textsuperscript{146} The interest from bonds of the state and its

\textsuperscript{140} The New Hampshire tax on investment income is considered here because the income is subjected to property rates.

\textsuperscript{141} Letter of Mr. John G. Marston of the staff of the New Hampshire Tax Commission.

\textsuperscript{142} Pamphlet edition of the Act of May 4, 1923.

\textsuperscript{143} Letter of Mr. Marston, cited above.

\textsuperscript{144} Laws of New Hampshire, 1923, ch. 22.

\textsuperscript{145} \textit{Ibid.}, ch. 72.

\textsuperscript{146} \textit{Ibid.}, 1903, ch. 126.
political subdivisions, heretofore issued, is exempted by the
new act, but this provision does not change the status which
such property had under the former law, for, since these bonds
were then exempted, unless they paid interest of more than
five per cent, they were practically eliminated from taxation.

One provision of the law which limits very much the scope
of the tax is that providing that investment income not in excess
of $200 shall be exempt. This exemption represents, at five per
cent, a capitalized value of $4000. Such a high deduction serves
to concentrate the tax to a large extent upon the well-to-do, and
reduces very much its yield. The tax commission recommends
repealing the exemption entirely, claiming that any tax of more
than five cents would pay for its collection.

The rate of the tax is not specific and unvarying but is the
average of the rates on property throughout the state in the year
in which the income is assessed. Of this rate there are two criti-
cisms. The first is that it does not allow the authorities enough
time to do their work. Since the tax is required by the law to be
paid on October 1, and since the various property rates cannot be
known before September 1, only one month is available for com-
puting the average rate, checking up the returns, and rendering
the tax bills. The second criticism is that the rate is too low.

Assuming an average property rate as high as $2.50, on the hun-
dred dollars, which in recent years has not been reached, that rate
on the income of a bond yielding five per cent would be only
12½ cents on each hundred dollars of face value, a much lower tax
than that on intangibles in most states. If it is constitutionally possible,
the present rate should be changed to a higher and specific one.
If this cannot be done, either the date of the payment of the tax
should be fixed at a time later in the year, or the rate should be
changed to the average of the rates on property prevailing in the
year in which the income is received.

One of the best features of the new tax is that its administra-
tion is placed entirely in the hands of the State Tax Commission.
The proceeds, after the deduction of the cost of collection, are turned
back to the localities in which the taxpayers reside. Intangibles
thus continue to be a source of revenue for the local governments
alone.

It is too soon to pass judgment upon the tax. It is new and the
people have not become accustomed to it. The tax commission has
refrained from aggressiveness in its enforcement, until its consti-

147 Letter of Mr. Marston.
149 Thirteenth report of the New Hampshire Tax Commission, p. 11.
150 Ibid.
tutionality shall have been determined.\textsuperscript{151} Office and field force adequate for the assessment work has not been organized. The commission has so far based its assessments largely on information obtained from local assessors, selectmen, and from former tax lists. The law as now written has not allowed time for investigation of returns. Despite these facts, the yield of the present tax is substantially more than that of the old law. The revenue from the old tax on intangibles in 1923 was $187,000. The receipts in 1924 from the new tax on the income received for the eight months of 1923 remaining after the passage of the act was $218,000. The estimated receipts for 1925 from the tax on the income of the entire year of 1924 are more than $430,000.\textsuperscript{152} How much of the increase is due to the inclusion of more intangibles and how much to better assessment of the new tax on those formerly included is not now clear.\textsuperscript{153} Whatever the reason, the present levy is a better revenue-producer than the former general property tax.

(15) Kansas

Kansas, in 1924, amended its constitution, to permit classification of intangibles, and this year the legislature enacted a low-rate, effective for 1925. The new rate is twenty-five cents on the hundred dollars of value. The proceeds are shared, \( \frac{1}{6} \) to the county, \( \frac{1}{6} \) to the city or township, and \( \frac{1}{6} \) to the school district in which owners reside. The assessment of the property is given to local officials, with some supervision by the tax department of the Public Service Commission, which is made the successor of the State Tax Commission.

The items subject to the new rate are money, bonds of outside states and political subdivisions, and of corporations, except those secured by real estate mortgages recorded in the state and on which the registration fee has been paid, shares of corporations which do not have their principal office in the state, shares of building and loan associations, mortgages on outside real estate, and on domestic real estate, if the registration tax has not been paid, notes and accounts receivable, annuities, royalties, contracts, copyrights, and other claims.\textsuperscript{154} It is a very comprehensive tax, but three important kinds of property are not included. These are the shares of banks, and of all domestic corporations which are taxed in other ways, and those domestic real estate mortgages paying the registry

\textsuperscript{151} Letters of Mr. Marston.

\textsuperscript{152} Data supplied by Mr. Marston.

\textsuperscript{153} The writer is indebted to Professor L. P. Rice of Dartmouth College for calling his attention to this point.

\textsuperscript{154} Session Laws of Kansas, 1925, ch. 277.
tax, which excuses them from further taxation. The largest assessments in 1925 were of money, notes and accounts receivable, shares of building and loan associations, and mortgages. The assessments of these items formed more than seventy per cent of the gross assessments this year.\textsuperscript{155} Intangibles owned by merchants, manufacturers, and corporations are not assessed because such businesses are subject to other levies.\textsuperscript{156}

Assessments\textsuperscript{157} in Kansas in millions of dollars, from 1922 to 1925 are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1922</td>
<td>148.3</td>
</tr>
<tr>
<td>1923</td>
<td>140.1</td>
</tr>
<tr>
<td>1924</td>
<td>120.1</td>
</tr>
<tr>
<td>1925</td>
<td>148.7</td>
</tr>
</tbody>
</table>

The assessments for 1925, the first year of the new tax, are scarcely greater than those under the old rate in 1922. The result is that intangibles are now producing less revenue than before classification. So far then the Kansas tax is a failure.

But it should not be judged on the basis of one year’s experience, for there are some mitigating circumstances. The law went into effect in February and found the assessors already in the field, without sufficient time to receive instructions or to familiarize themselves with the law. Moreover, they had to face the very determined hostility of many taxpayers not yet educated to the merits of the tax. An additional handicap was the ruling of the Public Service Commission that debts may be deducted from credits owned. No authorization for this action is found in the new law but the commission held that the debt-deduction privilege allowed against credits in an unrepealed section of former law was still in force.\textsuperscript{158} Such deductions are enough to cut the heart out of a tax of only twenty-five cents on the hundred dollars. Besides these handicaps, the rate of the tax is too low to yield a substantial revenue. If these initial difficulties are removed, it will still remain to be seen whether, without a thorough change of the administrative system, the tax can succeed.\textsuperscript{159}

\textsuperscript{155} Based on figures furnished by the Kansas Public Service Commission.

\textsuperscript{156} Letter of Mr. Clarence Smith of the Public Service Commission, August 31, 1925.

\textsuperscript{157} Letter from the Public Service Commission. These figures do not agree with those found in the reports of the Tax Commission, but the writer has taken them as the result of more recent investigation of the data.

\textsuperscript{158} Letter of Mr. Smith.

\textsuperscript{159} Members of the abolished State Tax Commission were opposed to the enactment of a low-rate tax, because they believed that without modifications in the administrative machinery, the low rate would fail to produce as much revenue as the general property rate. See ninth biennial report of the commission, p. 12.
(16) California

California has adopted a low-rate tax very much like that which Nebraska has tried and changed. The California law provides that intangibles shall be assessed at seven per cent of their actual value and shall be taxed at the local rate on property prevailing in the county or city where the owners reside. This method permits of as much variation of tax burden as did the former Nebraska scheme, and would seem equally unsatisfactory. There has been no experience under the new law, and at present it is not possible to form a judgment concerning it. However, the Board of Equalization of the state is hopeful of it.  

(17) Vermont

The recent Vermont law providing for the taxation of intangibles assigns such property entirely to the local governments for taxation, and classifies it into two groups, for each of which a definite rate uniform throughout the state is fixed. In the first group are such items as money on hand, bank deposits outside the state, checking deposits in domestic banks, money loaned at interest to a person or to a corporation, book accounts and written contracts bearing interest, and bonds of states and local governments, except those exempted. In the second group are bank shares, moneyed capital in competition with banks, and shares of certain foreign and domestic corporations. The items in the first group are to be taxed at a rate equivalent to forty cents per hundred dollars and those in the second at $2 on the hundred. No deductions for debt are allowed. In an effort to put teeth into the law, and following the Connecticut precedent, it has been provided that in case a citizen dies possessed of intangibles on which he has not paid tax, a claim for as much as six per cent of their value may be made against the estate to be settled by the probate court. The administration of the Act is entirely local. It does not become effective until January, 1926, so that there is no experience on the basis of which it may be judged.

III. Summary of Legislation

Reviewing these taxes, we find that since 1885, seventeen states and the District of Columbia have adopted some form of low-rate taxation on intangibles. This increase in the number of states

160 Letter of Mr. M. D. Lack, secretary of the State Board of Equalization, August 24, 1925.

161 For information concerning this law, I am indebted to Judge E. M. Harvey, Commissioner of Taxes of Vermont. Through no fault of his, the information comes to the writer too late for a more detailed analysis of the law.
using the classified tax indicates that the income tax has by no means displaced it as a means of tax reform.

These taxes reveal so much diversity that statistical comparison of their results, one with another, is impossible. They differ in what intangibles they include for taxation at a common rate, ranging from Maryland, with a brief list, to states like Minnesota and South Dakota with a large number. Most states exclude bank shares, which they tax in other ways. Virtually all states exclude the shares of domestic corporations, because the latter are taxed otherwise. All states, however, include the shares of foreign corporations. Some states include domestic mortgages, others subject them to registry taxes, or treat them as part of the value of real estate. Some include state bonds or those of their own political subdivisions, while some do not; but all tax outside bonds. They differ also in their treatment of debts; some allow deduction of debts, others do not. They are unlike also in their rates. In two, favored treatment is given, not by rates, but by assessment; in one, there are as many rates as classifications of intangibles; in three, there are two classes and two rates. In others, there are single specific rates: in one, 2½ mills; in one, 3 mills; in six, 4 mills; in one, 4½ mills; and in two, 5 mills. In still another, not property, but income from it, is taxed and at the average of the rate on other property.

The prevailing system of administration of these taxes is that of local assessment, with varying degrees of central supervision. In only three states does any form of state assessment and collection of comprehensive taxes on intangibles prevail. With the exception of a few special taxes on bank deposits, and in many cases special charges on bank shares, there is very little use made of collection-at-the-source, in taxing intangibles. The most notable instance of this method is that of the Pennsylvania loans tax.

There is no uniformity among the states as to the control of the proceeds of these taxes. In four states the receipts go entirely to the local governments. In two the revenue is enjoyed by the central government alone. In all the others the proceeds are divided. In two states the division is made by assigning for taxation certain intangibles to the state government and certain others to the local governments. In one state, the revenue is shared by fixing a definite rate for local purposes and for state purposes. In another, the taxes on certain items are for state uses alone, while on other items two rates are set, one for the central government and one for the local governments. In three states the central and the local governments are given certain fractional parts of the proceeds. In another there are state and local rates on a low percentage assessment. In two others there is a division, but by a more complicated method. In the District of Columbia the receipts are of course enjoyed by the local government.
Of all these taxes, not one has worked with entire satisfaction. Some have produced much better results than others, but there is nothing the writer can find to indicate the much-boasted success of low-rate taxes, even in those states reputed to have achieved good results. On closer examination of the latter, it is found that in certain centers the taxes on all intangibles are working well or that the state-collected portions of the taxes are succeeding.

In every state considerable quantities of intangible wealth are escaping taxation, but in every case, as much, and in most cases, more of such property has been assessed under the low rates than under the high. On the other hand, the increased assessments in some states at the low rates have produced scarcely more, in some, even less revenue than the former general property taxes. In other states the listed intangibles have been sufficient to bring in, even at low rates, more revenue than was obtained from the old rates. In the case of most of the taxes, more persons and more property are paying tax than formerly under the higher rates. This represents an improvement in tax equity and tax honesty, but in revenue, many of the taxes have failed to meet expectations.

The reason for this failure is that they have not been given the right type of administration. Persons who reside in states which have not been particularly successful, stress the absence of effective administration as the chief cause of the poor results. Where these taxes have worked best, there has been effective central supervision or courageous and competent local assessment. Undoubtedly proper administration is the *sine qua non* of successful low-rate taxes. The lowering of the rate *per se* is not sufficient. But if the rate is made the equivalent of a reasonable tax on the income from intangibles and the administration is made as effective as that which present income taxes receive, why should not the levy on the property value be as successful as a charge upon the income? The diagnosis for property taxes on intangibles seems clear. Their remedy is equally clear. Their administration must be improved. To this end, the writer ventures to make some suggestions.

**IV. Suggested Improvements in the Taxation of Intangibles.**

1. In the first place, the administration of such taxes should be placed in the hands of the state, preferably of the State Tax Commission. If this were done, the assessment would be lifted up out of local political influences and given to more competent authorities. Centralized administration ought to bring better results with these taxes, just as it has with income taxes. Of course it may not be politically possible to make such a change in some states. Of that each state must be the judge.

2. Where the system of local assessment, with central supervision
remains, it should be strengthened. More adequate supervision should be provided. Full-time, permanent state tax commissions should take the place of ex-officio boards, where they exist. These commissions should be given broad powers over local officials. If possible, they should be authorized to appoint and remove local assessors, and in any case should have the right to make reassessments of intangible property.

3. Moreover, if assessment by local officials continues, the local governments should be given a share of the proceeds of the tax. It has been seen that the failure to give the local government an interest in the revenue has, in some cases, tended to cause local officials to be less inclined to do their utmost in securing assessments. The writer agrees with the Kentucky Efficiency Commission that "local assessment without local interest in the proceeds is bound to produce results inferior to central assessment, accompanied by central interest in full assessment." 162

4. Every opportunity possible of collecting the taxes "at the source" should be taken advantage of. It is easier to reach intangibles in this way than to seek out their individual owners. The experience with taxes of this kind upon bank shares and savings deposits indicates the efficacy of collection at the source. The use of this method must needs be limited. It is not applicable to all forms of intangibles, but it could be employed generally in the case of taxes on the bonds of public and private corporations, as has been done in Pennsylvania. It could also be used where shares of domestic corporations are taxed.

5. Wherever collection at the source is not feasible, "information at the source" should be required. Certain states already require foreign corporations doing business within their borders to report the owners of shares residing in their territory. Where individual depositors are taxed upon their deposits, banks should be required to report the names of their depositors and the amounts of their accounts. Other sources of information also should be used. Banks should be compelled to give the amount and ownership of collateral pledged with them. Inheritance tax records and bankruptcy proceedings would prove fruitful sources of information to assessors, in investigating the return of taxpayers. Routines should be established in assessors' offices for securing all this information, and recording it.

In addition to these suggestions as to administration, three other recommendations are offered.

1. In the first place, the laws providing for the taxes should be simplified. It requires careful study of these taxes to determine

162 Report of the commission, vol. 1, p. 239.
what is taxable. They are enmeshed in a system of taxes. Because of other taxes, many intangibles are exempt. It should be made easier for the taxpayer to determine his tax obligations. Besides simplifying the law, instructions also might well be issued to taxpayers and published in papers. Some tax-dodging grows out of ignorance and may be avoided.

2. In the second place, effective penalties for tax-dodging should be provided. Some states have found it advisable to deny validity in the courts to claims on which taxes have not been paid. The Connecticut plan of penalizing failure to pay taxes on intangibles, by collecting considerable amounts at death from estates containing intangibles on which taxes have not been paid, would seem worthy of adoption by other states.

3. Deductions for debt should not be permitted. If permitted, rigid restrictions should be thrown around this privilege.

The above list of suggestions is not intended to be definitive. Moreover, a method of administration which proves effective in one state may not be satisfactory in another, but one thing is clear; the administrative machinery is the weak spot in the present taxes on intangibles. Tax administrators in the various states should therefore study their taxes on intangibles to discover what administrative methods are best suited to their condition and strive to strengthen the administration of these taxes. If these taxes are properly administered there does not appear any reason why they may not succeed in measuring up to expectations, both in assessments and in revenue. Without effective administration, they cannot fully succeed.

Mr. Blodgett (Connecticut): Mr. President, I take this opportunity to introduce a resolution, in order that it may be turned over to the resolutions committee.

Chairman Armson: Read the resolution.

Mr. Blodgett: I offer this resolution at this time:

Resolved, That the Executive Committee of the National Tax Association be requested to appoint a committee of seven to represent said association and confer with similar committees of other recognized organizations interested, for the purpose of investigating the present dividend and income alternatives of section 5219 of the United States revised statutes, in the taxation of national banking associations, to the end that suitable amendment may be made to said alternative provisions, so as to carry out the purposes of said section and to obtain the consideration of the results of such investigation by the Congress of the United States.
I offer this for consideration.

Chairman Armson: Under the rules, the resolution will be referred to the committee on resolutions.

I am sure that we have all enjoyed Professor Williamson's very interesting discussion of the taxation of intangible property. It is quite possible that some of us may not altogether agree with the professor's conclusions, but I am sure that a little later in the evening you will be interested in a discussion of this very important subject.

We will, however, proceed with the regular program, the discussion coming later, and will now call on Mr. Snavely, of the University of Virginia, to discuss or present a paper on Conflict between State Control and Local Self-Government. Professor Snavely.

Tipton R. Snavely (Virginia): In view of the approval of Professor Williamson's announcement that he would not read his paper at this time, I have considerable hesitancy in reading mine, but what I have to say is in such form that I shall ask your indulgence, as I shall prefer to read the paper, rather than to talk from my manuscript. I promise, however, not to hold you unduly long.

CONFLICT BETWEEN STATE CONTROL AND LOCAL SELF-GOVERNMENT

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The evolution of state taxation during the past few decades has been characterized by two important movements. One of these has been the attempt to find a more accurate and scientific gauge than the ad valorem tax, by which to measure tax-paying ability. The second is a tendency toward the concentration of administrative power in one or more central state agencies. In a large number of those states which have not been restricted by constitutional limitations, the first movement has taken the form of a classification of taxes, either as to rates or assessments, while in a considerable number of states also the income tax has been introduced, either as a substitute for property taxes or as a supplementary tax. Of the various central agencies which have been created as a result of the second movement, the most logical and effective is the state tax commission.

It is difficult to say which of the movements referred to has been of greater significance in tax reform. To a considerable degree each is dependent for its success upon the existence of the other. In its crudest form the general property tax has broken down in
practically every state. It could not be enforced by the most stringent sort of administrative authority that has yet been entrusted to any tax commission. On the other hand, the greatest degree of success has been attained by those states which have revised the property tax—combined also in a number of states with the income tax—and which have placed the administrative machinery in charge of a central tax commission. It should be added that the tax commission must be properly equipped and possessed of reasonable powers.

Inasmuch as both of these movements for better taxation have involved the use of more authority by state governments and a restriction of the functions previously left to the localities, they have seldom at first received the unqualified support of the taxpayers. The legislative sanction necessary to accomplish reform measures has not often been approved by the locality, without considerable opposition and misgiving. Some states have found it impossible to enact classified property taxes, because of an unwillingness to permit the necessary constitutional changes, while most states that have created full-time tax commissions have seriously impaired their work by many hampering restraints. To the student of tax problems and to the experienced official, such opposition to state authority may seem abortive; but measures involving the relinquishment of local control are not usually adopted without a struggle. It is a common experience that our counties and cities seem willing to bear indefinitely the evils of local administration, rather than give up one jot or title of their accustomed powers. The fear of undue usurpation of control by state governments has been and will doubtless continue to be a powerful factor in retarding tax reform.

We may find it profitable, therefore, at the present stage of development in taxation, to inquire into certain aspects of the conflict which lingers between state control and local self-government. It is of course not confined to the sphere of taxation but applies in many other governmental provinces. Yet many functions which are quite analogous to those in taxation have been cheerfully placed by the localities under a centralized state agency. Such agencies, for example, are those of the higher courts, corporation commissions and many industrial, educational and protective state boards. Burke tells us that the battles for human freedom have been waged around the question of taxation. Perhaps this may in part account for the fact that the localities have clung tenaciously to the privilege of administering the tax laws for themselves. Be that as it may, it is obvious that they have done so at great sacrifice, not only to themselves, but also to the states of which they form an integral part. The purpose of this paper is, first, to emphasize a few important facts concerning the powers and duties of the state in rela-
tion to the locality, and secondly, to point out the effects of an ex-
aggerated policy of local self-government, as illustrated in my own
state of Virginia.

Considering now the powers and duties of the state in relation
to the locality, I wish at the outset to lay down two general propo-
sitions. The first is that complete authority over all state taxation
is vested in the state government, except such rights as may have
been specifically reserved by the constitution. The second is that
the state has the duty to see that the burden of taxation, as between
and within localities, is equalized. Although these propositions
may appear at first as mere truisms, it is clear that they are on
altogether different planes, no matter how closely connected. The
power of the state, it may be said, is a question of fact, since it is
a question of law; the duty of the state to do a thing is a question
of opinion, and therefore involves all pertinent extra-legal consid-
erations, ranging from sound principles of economics and finance,
to political expediency. That is to say, what a state can do and
what it ought to do are very different things.

There are, however, many people who confuse the two; and
when one is trying to contend that the state ought to overcome a
strongly entrenched idea of local self-government in a certain case,
naturally assuming its legal power to do so, the discussion is often
thrown onto a different plane, by the contention that the state can-
not do the thing in question. It seems important for this reason
to establish beyond the possibility of doubt the fact that no local
area has any absolute legal right against the state, since all local
powers are derived from the state. This fact having been estab-
lished, the problem of bringing public opinion to the point where
it will cause the state to do a thing which it undoubtedly can do
legally, becomes much simpler. In substantiating the supremacy
of the state over all local matters, I shall cite a few well-known
court decisions and opinions.

As was said above, the legal nature of the relationship of the
several states to their component counties, municipal corporations
and lesser areas is no longer a matter of doubt. Professor W. B.
Munro in his Government of American Cities says: “This is a
fundamental principle, so well recognized that it is not nowadays
open to question.” In his Municipal Corporations, Dillon states
that in the absence of special constitutional restriction, the legisla-
ture may confer the taxing power upon municipalities in such
measure as it deems expedient. He holds further that the “power
of municipalities in taxation is wholly statutory and must be plainly
conferred,” and that as a “general proposition the legislature has
complete power over public revenues and their distribution, except
where restrained by express constitutional limitations.”

The case of McCulloch vs. Maryland is one of the landmarks in
American jurisprudence, especially in questions of taxation. In rendering the decision Chief Justice Marshall held, among other things, that "the people of a state, therefore, give to their government a right of taxing themselves and their property, and as the exigencies of government cannot be limited, they prescribe no limits to the exercise of this right, resting confidently on the interest of the legislator, and on the influence of the constituents over their representative, to guard them against its abuse. * * * It may be objected to this definition, that the power of taxation is not confined to the people and property of a state. It may be exercised upon every object brought within its jurisdiction. This is true. But to what source do we trace this right? It is obvious, that it is an incident of sovereignty, and is co-extensive with that to which it is an incident. All subjects over which the sovereign power of a state extends, are objects of taxation; but those over which it does not extend, are, upon the soundest principles, exempt from taxation. This proposition may almost be pronounced self-evident."

It is possible to cite a long list of court decisions similar in import to that of Chief Justice Marshall. Only two or three will be quoted here. In the case of New Orleans vs. Clark, 95 U. S. 644, Mr. Justice Field spoke as follows: "The power of taxation which the legislature of a state possesses may be exercised to any extent upon property within its jurisdiction except as specially restrained by its own or the federal constitution; and its power of appropriation of the moneys raised is equally unlimited. * * * Of the expediency of the taxation or the wisdom of the appropriation it is the sole judge. The power which it may thus exercise over the revenues of the state, it may exercise over the revenues of the city, for any purpose connected with its present or past condition. * * * and, in imposing a tax, it may prescribe the municipal purpose to which the money raised shall be applied. A city is only a political subdivision of the state, made for the convenient administration of the government. It is an instrumentality, with powers more or less enlarged, according to the requirements of the public, and which may be increased or repealed at the will of the legislature."

Mr. Justice Harlan in the case of Cape Girardeau County vs. Hill, 118 U. S. 68, maintains that, "The township, being a part of the civil government of the state, established for public purposes, the powers conferred upon it were at all times subject to legislative control or modification. * * *"

Again Judge Cooley in citing Comanche County vs. Lewis, 133 U. S. 198, speaks of "the full control of the state over municipalities." The same view is advanced by Black in his Handbook of American Constitutional Law. Finally, powers and duties are mentioned together in Madison vs. Lancaster County, 65 Fed. Rep. 188, where the decision says that local areas "exist only for the pur-
pose of the general political government of the state. They are the agents and instrumentalities the state uses to perform its functions. All the powers with which they are entrusted are the powers of the state, and the duties imposed upon them are the duties of the state."

The cumulative effect of these authoritative opinions and court decisions is irrefutable. Yet the influence of the doctrine of inherent and natural rights dies hard in this country; and it appears difficult for many people to be persuaded that an individual or a community cannot possess something coming from nowhere. Bentham could decide many years ago to leave behind him the doctrine of natural rights, as without foundation in history or logic; but many people in Virginia and other states, where it so happens that certain local communities existed before the states themselves, have not yet left it behind, if they ever will.

As to the second proposition, that of the duty of the state to equalize the burden of taxation between and within its local divisions, we are on safe ground in asserting that this duty rests on the factors of justice and expediency. Is it not clear that just as the localities do not have the power or right to go their own way, regardless of everything, there is equally little ground for contending that it is just and proper for them to do so? Authorities are in general agreement on this question also. It is merely less definitely possible to prove a thing wrong than to prove it contrary to law.

The constitutions of nearly all states contain a mandate to the effect that the subjects shall be taxed in a uniform and equitable manner. The chief difficulty here, however, is to overcome unsound ideas of the so-called principle of home rule in government and to get opinion to the point where the state will do what it undoubtedly has the power to do. The virtues of self-government have been so magnified as to prevent the state from setting up an effectual means by which to administer a just and efficient tax system.

The result is a seeming propensity to gesture at tax reform and to experiment with machinery which is not only ineffective but also harmful in its results.

For a good many years after 1789 the need for the states to exert direct control over their component divisions was less urgent than it became subsequently, when trade and industry took on a more complex form. Not only is this true, but with the complexity of modern civilization, the functions of government centering upon the states have been greatly extended. Their governmental activities have been enormously broadened as the localities have demanded the building of roads and bridges, schools, better health conditions, public welfare institutions and a wide range of activ-
ities to improve agriculture and industry. The localities are insisting today that the financial maintenance of these and many other enterprises, formerly left to the individual or to the local units, shall be made through the states, as central agencies.

As a consequence of the tendency just noted, the relative tax burdens for state and local purposes have been commensurately increased. Hence it is of far more concern to the state now than it was formerly to see that the tax burdens are equitably imposed on all citizens. If the duty of the state has not changed in this respect, the need has been altered very materially. The tendency today is to dispense the advantages of government, as far as possible, to all regions, regardless of their rating as contributors to the state's revenue, and it is manifestly necessary that the state should place upon all a just portion of the burden.

Among the most recent problems of government that have arisen, one which occasions much difficulty is the proper division of functions between state and local governments. If a clear-cut alignment of activities existed between these governments, the question of obtaining revenue for each would be simplified. Unfortunately such a policy, however desirable, is impossible of exact realization. There is little uniformity between the different states, and what is perhaps more important, between the municipalities, counties and other divisions within the states.

In the building of schools, for example, we find that the cities and more highly developed counties have largely made provision for their own needs, frequently having done so by the issuing of bonds, whereas the poorer and more backward localities demand large school appropriations from the state. The building of roads is a case even more in point. As a result of this situation an objectionable feature which is cropping up in Virginia and other states is the tendency between local governments and the state to shift the burden of taxation from one to the other. It is plain that under such conditions the need for state control in fiscal administration becomes imperative.

This conclusion is emphasized repeatedly in current publications of a number of state tax commissions. In its 1925 report the Special Joint Committee on Taxation and Retrenchment in New York asserts that the growth of state aid to local governments has taken on vastly more importance in recent years. In addition to greatly enlarged grants for school and highway purposes, the state is contributing to its local governments by a division of the yield of several important state taxes. "As a result of these two forms of assistance," says the commission, "state participation has become a factor of the utmost importance in the financing of local government, and it is therefore vital that it should be based upon sound principles. At the same time the extension of this policy has contributed greatly to the fiscal problems of the state itself."
The duty of the state to prevent avoidable injustices in taxation has been admirably summarized by the tax commissioner of Connecticut, Honorable Wm. H. Blodgett, in his supplementary report of 1925. "But the state's first obligation and business," he says, "is to see to it that its plans looking toward an equitable distribution of the tax burden among its citizens, as nearly as this is reasonably attainable, are made effective. No consideration should be permitted to set aside this obligation. But the state has granted much discretionary power of one kind or another, within limitations, to the cities, towns, and other municipalities within its borders. This policy has come to be denominated 'home rule'. Little local discretion or local rule has been recognized with respect to the use of the taxing power. Had the state recognized home rule with respect to the power to impose taxes, it is difficult to see how such a policy could be sustained through the years after the appearance in connection therewith of deliberate or persistent misuse of the power granted pursuant to such policy. Under the guise of home rule the state has not extended any irrevocable license to discriminate among citizens, by favoring some and punishing others who have done no wrong."

We may conclude that the state has not only the right but the sacred obligation to exercise such control over its local divisions as may be necessary to equalize the tax burden of all its inhabitants. It remains true, notwithstanding the fact that there is much vague reasoning to the contrary. But the extent to which such control is exercised at a given time and location is in part a matter of expediency. It varies in different states and depends upon the homogeneity of the population and industry, but especially upon such factors as custom and tradition. In practice the states have permitted a large degree of local self-government in carrying out their tax powers. Particularly is this true of tax valuations on personal property, where the principle of home rule has frequently been interpreted to mean self-taxation.

The state has been forced to take cognizance of the abuses arising from this extreme interpretation and has found it expedient to provide some administrative means by which to remove them. It has sought to find some agency to act as an impartial arbiter, as well as to supervise and administer its laws, and as was noted at the beginning, the agency which has proved most satisfactory is a state tax commission. It has likewise been compelled to alter in many respects the loose relations which have existed between it and its local officials. Centralization of supervision is more and more necessary.

The precise relationship which should obtain between the tax commission and local officials is one of the most difficult problems in tax administration. Needless to say, it must be determined in
considerable measure by the conditions peculiar to each state. While the commission's corrective and supervisory powers over local property assessors must be ample, they should be used with discretion. It has been found that unceasing persuasion and vigilance are more effective in the long run than is the policy of too drastic enforcement. The activities of the commission as a clearing house of information for its various municipalities is by no means its least important work.

Various experiments have been made in the hope that a means might be found which would make it unnecessary for the state to increase the use of its administrative authority. There has been careful search for a plan which would so divide the interests and functions of the state and its municipalities, that the former might with advantage follow a policy of non-interference over its local units. Legislators have sought diligently for some automatic device which would remove the need for centralized control and would allow the localities the fullest amount of freedom in taxation.

Such efforts have been like a search for the will-o'-the-wisp. Boards of review and equalization, with limited powers, a division of the sources of revenue between the states and localities, and various types of ex-officio commissions have been found useful, but as a substitute for centralized control they have not succeeded. No decentralized plan meets the exigency in state taxation today as does a full-time tax commission—a commission vested with reasonable powers, aloof from political considerations and proceeding only on scientifically impartial lines. The American states need to take a lesson from the experience of Great Britain, from whom they inherited the doctrine of home rule in government. In Great Britain, where practically all local taxation takes the form of rates, that is, a tax on the yearly value of real property, the great virtue of the system grows much less out of the fact that the central government does not set a rate on real property than from the fact that assessments are scientifically and impartially made.

The chaotic results which have followed from the persistent assertion of municipal self-government in taxation are generally familiar. The escape of property, persons and income from the assessment rolls, the inequalities of assessment as between and within local taxing districts, an unfair discrimination between different classes of property, a continual effort to shift tax burdens, the wasteful procedure of maintaining unnecessary local officials and inefficient methods—these and other abuses are to be found in every state. They are abuses which have become more intolerable with our modern industrial development, but even those states which have been tardy in commercial growth have not benefited as fully as they might from the experiences of those which have undergone a more rapid industrial advancement. In several of the
older states which long remained predominantly agricultural and in which, by virtue of their early heritage, a desire for home rule was deep-rooted, progress in tax reform has been made with great difficulty. Among the older states thus referred to is Virginia, the conditions in which will be treated briefly in the remainder of this paper.

The Commonwealth of Virginia has developed the idea of local self-government certainly as far as, and perhaps further than, any other state. Its people are probably the most conservative among all the commonwealths and states in the union. It is perhaps unique among the states of the union in this respect, that each of its twenty-three cities is entirely independent, territorially and governmentally, from the counties in which they are respectively located. Each city is also a separate taxing unit. In this way no county taxes apply to property located in a city within its borders, nor are county ordinances and regulations enforceable within the cities. Every city has plenary power of taxation; their authority in enacting local legislation is almost unlimited. While the counties have not enjoyed heretofore such wide latitude, the tendency seems in certain respects rather toward broadening that authority, with respect to the counties, than toward limiting it.

For many purposes Virginia in effect may almost be said to be a federal union of one hundred counties and twenty-three cities, each supreme in authority, with relation to purely local matters. In addition to the hundred counties and twenty-three cities, the state also has about two hundred incorporated towns, that is, municipalities containing a population of less than five thousand each. These towns are somewhat like cities in other states, each town being a part of the county wherein it is located, both territorially and governmentally. While each town has the power of taxation, it is not a separate tax unit, apart from the county, except for certain purposes, such as the repairing of its streets or provisions for the health of its inhabitants.

Each county is divided into three or more magisterial districts. Each of these districts is, for certain purposes, such as roads and schools, a separate tax unit. Thus in a county there is laid a general county levy, county school levy, and county road levy. In each district there is laid in addition a district school levy, and a district road levy. There are also various miscellaneous levies authorized by special acts of the legislature. The incorporated towns also have the power to levy taxes, so that a resident of the town is subject to four different taxing authorities, including first, town taxes, secondly, district taxes, third, county taxes, and fourth, the state tax.

Thus it is seen that the architecture of Virginia's government is such as to give the local communities a maximum amount of free-
dom for governing themselves. This principle had long been ingrained in the English blood and it was both inherited and fostered during the colonial period. The principle of self-taxation had been well established long before Patrick Henry proclaimed against the injustice of taxation without representation. As the Court of Appeals in New York pointed out (Allison vs. Welde, 172 N. Y. 421), “The principle of home rule, or the right of self-government as to local affairs, existed before we had a constitution.” The rights which had been secured only after a long struggle “were brought over by the colonists, the same as they brought the right to breathe, and they would have parted with the one as soon as the other.”

This heritage remains exceedingly strong in Virginia and has thwarted the efforts put forth by progressive leadership in the commonwealth for a genuine program of tax reform. The stubborn insistence on decentralized administration has resulted in the same inequalities which have usually been found in all states retaining the general property tax. The fact is, that even from the colonial period, a notable tendency to inequality has prevailed in the adjustment of tax burdens, and there has been a decided lack of uniformity in assessment between localities.

Today the business of producing revenue from taxation for the state and its political subdivisions is approximately fifty million dollars a year. The administrative organization under which this amount is collected has been split up into four independent and unrelated divisions, each having complete charge of an essential part of the central administrative duties. These comprise the state auditor of public accounts, the state Corporation Commission, the motor vehicle commissioner and the State Tax Commission. The auditor of public accounts supervises the local officers, to the extent of interpreting the tax laws and furnishing forms and blanks by which assessments are made. He exercises various powers in the assessment and collection of property taxes; and in addition, he is charged directly with the duty of administering the inheritance tax law. The State Corporation Commission is required to assess the property of railroads and other public service corporations, and it also supervises and cooperates in the assessment of mineral lands. Upon the vehicle commissioner is placed entire responsibility for the assessment of license taxes and fuel taxes of all motor vehicles.

The State Tax Commission is an ex-officio body, consisting of the auditor of public accounts, the second auditor and the state treasurer. It has been given important supervisory duties over the assessment and tax laws of the state, including the duty of ascertaining the best methods of reaching all property and of making assessments equitable. It is required further to collect and furnish information to the land assessors and commissioners of revenue, to instruct, aid and check their work, for the purpose of promoting
uniform valuations. It is charged with the task of investigating and supervising the laws governing mercantile, professional and all other licenses, to the end that the burden of taxation may be fairly equalized among all classes of residents within the commonwealth. Coming within its functions also is the appointment and direction of the work of the examiners of records.

The foregoing enumeration is sufficient to indicate the wide powers and duties devolving upon the tax commission, and a stranger suddenly landing in Virginia from the planet Mars might confidently expect to find in the commonwealth a tax system that was reasonably equitable and just. His disillusionment would come quickly, however, when he discovered that each member of the commission holds an important state office, requiring his full time, so that he is precluded from working day by day to carry out the law. At best the official meetings of the commission can only be held at infrequent intervals. However able and conscientious its members may be, the task imposed upon them is an impossible one. The statute creating the commission requires the acquisition of facts concerning property valuations which cannot be obtained without an enormous amount of labor and investigation. Its work demands such close observation and cooperation with the local officials as can only be given by men whose attention is constantly focused on the problems before them.

Twenty or more agencies of the state government, having no connection with the four chief divisions, have been assigned specific duties, bearing a relation to the state financial system. Some of these are highly important revenue-producing agencies; others collect fees which are purely nominal and are in the form of charges. The attorney general is responsible for the collection of fees derived from permits made by his office in administering the prohibition law. The secretary of the commonwealth is required to collect state fees for sundry records, which are copied by his office; he is furthermore responsible for the proceeds which are derived from the sale of state publications. The amount of revenue thus collected by these two officers is of considerable importance.

There are five other agencies that collect important revenues from fees or licenses, which accrue either to the general fund of the state or are used to defray all or a part of the cost of administering the laws under which they operate. Finally, there are eleven state examining boards which collect fees as payment for the services they perform. Some collect examination fees only, while others collect both examination fees and fees for the renewal of licenses or certificates.

Standing at the base of Virginia's tax system are about one thousand local officials. Between them and the various state agencies referred to above there is the loosest sort of relationship,
They are appointed or elected from sources other than those from which, under the law, they are to receive supervision. Such supervision is, however, more theoretical than actual. It is essentially voluntary in character; that is to say, it is not the sort of supervision that would characterize any business concern, however loose its structure. There is no means by which these officials may obtain information and direction as to the devices which are used by their fellow officers in determining values. No effective power exists through which they may be induced, whether from instruction, persuasion or fear, to conform to the standards required by law. They neither receive praise for the faithful discharge of their duties nor are they censured for failure to observe either the letter or spirit of the laws governing their work. In fact, they are likely to receive more praise in their constituency if they honor the mandates of the constitution more in the "breach than the observance."

In fairness it must be said that there has been a large minority in the state which has stood squarely for better tax administration. A real movement for revision of the general property tax did not start until after 1900. The new constitution of 1902 recognized the need for reform, although it made no provision by which it should be brought about. Singularly enough, the constitutional convention considered the possibility of segregating the taxes of public service corporations and other sources to the state, thereby making it possible for the localities to retain control of the property tax on individuals; and it placed a clause in the constitution to the effect that the general assembly should be free to divide the sources of revenue for purposes of state and local taxes. Thus it passed on to the general assembly the problem of formulating a suitable plan and putting it into effect.

Because of the factor of self-taxation involved in it, this plan of tax reform fell on fertile ground in Virginia, only however in so far as it might be accomplished without the addition of centralized control. The farmers of the state, who are politically the controlling class, accepted the suggestion inserted in the constitution as a specific mandate. At the same time property assessments in the cities and a few of the more progressive counties were increasing rapidly and the inequalities of assessment between the localities were becoming more burdensome.

In the last fifteen years, three special commissions have been appointed to investigate the tax system of the state and to recommend important changes to the general assembly. The first of these was in 1910, but its report of 1912 did not present a plan for complete segregation such as was contemplated by the general assembly. It recommended instead a full-time tax commission, with powers to fix average valuations for given districts and to correct "papably unreasonable valuation." But the general assembly defeated
the commission's recommendation. "The first reason for our failure," said Doctor D. S. Freeman, secretary of the commission, "lay in the fundamental fact that the system we proposed was centralized. The old system was local and failed largely because it was local." It failed also, as he said, because the theory of separation had come to be accepted by political leaders as the royal road to tax reform.

It was assumed, however, that tax revision would be made at the legislative session two years hence, on the general basis of segregation. But again the problem of allocating the sources of revenue in a satisfactory manner to the state and its localities proved to be difficult. Accordingly the Special Joint Committee on Tax Revision, of 1914, was created, for the purpose of making a thorough investigation, the result of which should be reported at an extra session of the legislature in 1915. The commission's report analyzed the gross defects existing in the state's property tax and indicated essential measures of reform. In a majority report it recommended a State Tax Commission, while a minority advocated segregation and an unpaid ex-officio tax board.

The general assembly, at its special session, passed several constructive acts, among which was a provision for the classification of certain forms of intangible property, but its attempt to enact a system of segregation was accomplished only in part. It left to the state government a one-mill rate, afterwards raised to 2½ mills, on real estate and tangible personalty and gave to the localities a portion of the rates on certain classes of intangibles. Furthermore, it accomplished practically nothing toward the removal of inequalities of assessments which the commission had reported as grievous in the extreme.¹

As a result, it need scarcely be said that the demand for further reform quickly arose as an issue in the decade which has followed. Particular dissatisfaction became evident, because of the fact that a large number of the counties continued to receive more money from the state treasury than they contributed in revenue, and hence were in a sense beneficiaries of the remaining municipalities. Eighty-four of the one hundred counties benefited thus in the year 1923. The quinquennial assessments of real estate in 1915, and again in 1920, not only showed no tendency to bridge the gap between assessments and actual valuation, or to rectify the sectional and individual inequalities, but there was a noticable trend in the case of several counties and cities to make their assessments even lower.

The legislative commission on simplification and economy in gov-

ernment, which was authorized to report its investigations to the general assembly in 1924, made a further careful study of tax conditions and found the burdens more unequal in many respects than they had been in 1912 or in 1914. For the third time the weakness of segregation was pointed out by a special commission, and for the third time also it emphasized the necessity of a permanent tax commission "with definite duties and powers as to the valuation of real estate and tangible personal property, and the equalization of assessments throughout the state." Yet the issue of home rule as against centralized control and a desire of many localities to shift the state tax burden resulted once more in the rejection of all bills introduced in the general assembly for a permanent commission. Such has been the result of a strong predilection for local self-government.

But the hydra-headed monster of tax reform will not down. The newly elected governor is committed to a program of revision at the forthcoming session of the general assembly, which will effect between the localities a more equitable distribution of the tax burdens. It is true that he favors, "if practicable," a system of complete segregation and that he is opposed to a centralized commission, but whether the time is more propitious than formerly for a plan of separation, which will prove satisfactory to a majority of the localities and enable the state to eliminate a current deficit of more than $2,000,000, is seriously to be doubted.

In conclusion, let me say that it has not been my purpose in the present discussion to minimize the benefits of local self-government. It is to be counted among the most precious of all forms of liberty inherited by our forefathers. But when given an extreme interpretation, or if applied too literally, under modern conditions, it may destroy the very rights which it was intended to preserve. It would seem that this has frequently been the result of its interpretation under the taxing powers of our American states.

Mr. Saxe (New York): Mr. Chairman, I believe it is always a graceful thing for visiting organizations to conform to local custom. I noticed in the newspaper here this evening a very excellent article on armistice day, and that one of the items on the program was to give three minutes in silent memory to those who passed on in the great war. I would therefore move, Mr. Chairman, that when this conference adjours tonight, it adjourn out of respect to the memory of those who made the supreme sacrifice, and when the conference is ready to adjourn that the chair announce that adjournment is at hand and that the assembly stand in silent memory in tribute to those who made the great sacrifice.

(Motion duly seconded)

Chairman Armson: You have heard the motion offered by Senator Saxe. What is your pleasure?

(Ayes and Noes)

Chairman Armson: The motion is carried; the suggestion will be observed at the close of the meeting.

This completes the formal papers or addresses of the evening session. We will now revert to the paper presented by Professor Williamson, on the taxation of intangible property, and open the subject for general and brief discussion.

Henry F. Long (Massachusetts): Mr. President, Professor Williamson wants me to express his deep regret that he could not stay until there was discussion of his paper. He left reluctantly, but he had made reservations for a train and could not stay any longer, and wished merely to convey his regrets through me.

Carl C. Plehn (California): Mr. Chairman and gentlemen of the conference: Professor Williamson's interesting paper has suggested two thoughts to me which I would like to leave with you, to mull over at your convenience, later. I am sorry he has gone, because I wanted to compliment him upon such an excellent and thorough review of the field that he undertook to cover.

There was one little slip—I think it may have been merely a verbal slip, and I would not mention it except that it lays the foundation for one of the things that I want to call your attention to— I think he stated that the insertion of income in the property list in New Hampshire was something new. Perhaps it was merely a slip of the tongue, for the idea of inserting in the general list something representative of ability to pay, which is not strictly property, but which was designated as faculty, was not uncommon in New England, way back in colonial days and in the early days of statehood. Thus an artisan, a carpenter, would be put in the list of his faculty at a certain designated sum, usually designated by what it was supposed he had earned during the year, and the same rate was applied to that as applied to property. I said I would not have picked up what may be a trifling slip in the statement of the speaker except for this, that the tendency of our people to demand the assessment of intangibles is, I think, a part of the ancient history of the general property tax.

When the tax originated, the underlying conception, as shown by the inclusion of those things with property, was that one's whole earnings, or his legal estate, including all sorts of rights that were not separable properties, was the index of his ability to pay. It is a concept of property which is strictly in accord with the meaning
of the word itself. "Property," strictly speaking, is a relative term, and implies an owner.

Now, in the course of time we have changed the concept there, in the administration of our tax laws, and we have shifted the property tax, so that instead of being a personal tax, a tax upon persons in proportion to their estate, or properties or holdings, it has become a tax upon property, defined as something separable from the other.

I think I could give you definitions from the tax laws of many states, which show that taxable property is conceived of as not what a man owns, but anything that is ownable; and I know in some of the states they permit the assessment of property to unknown owners. That represents a very wide departure from the old conception that the tax was a personal tax, in proportion to what one owned. Yet the tendency, which crops up every little while, to tax mortgages, to tax all sorts of intangibles, is a recrudescence of the old idea of the property tax, and it does not fit in our system. It does not fit, because these things we reckon as intangible property are not separate from the owner. On the one side are the shares of stock, or whatever it might be. The right conveyed, on the other hand, is not separable from property.

Let us take the stock of the corporation: The common phrase is that "it stands for and represents property." If you tax the corporation in full and then turn around and tax the stock again, and tax that up to the hilt, it is double taxation. If you tax the property and tax a mortgage also, both at full value, it is double taxation.

That brings me to the second point, which is, that generally speaking, these tangibles which we get after, usually because of the recrudescence of this old and otherwise abandoned notion of the property tax, ought not to be taxed at all.

In most states stock in a domestic corporation is not taxable if the property which it stands for is fully reached through the taxation of the corporation. Why not take the same principle and extend it right straight down the line to all intangible property? We do it in many states. In regard to our own corporations, the intangible property representing tangible property within our boundaries, we do not tax it, do we? It is the foreign security we get after. That is not fair between the states; it is not interstate comity; it is not decency in a brotherhood of states, living together and which ought to live together in a certain degree of harmony. It usually results in revenue, trivial in itself, where you could obtain the same result in some other way, much more effectively; and we are forgetting, when we do that sort of thing, as Mr. Graves said yesterday, that this is one country; that the boundaries between states are not business boundaries; that business pays no attention to the imaginary line dividing one state from another; we
are forgetting that the foreign security is taxed up to the hilt, undoubtedly, in some other state or states. and that by this process we are merely doubling up the taxes. And there is no real additional ability to pay, in any proper sense, represented by these intangibles or these securities representing intangible property.

I therefore feel that this movement that we have been going through is like the movement that went all over the country at one time, to make a desperate effort to compel the owner of a mortgage to pay a tax on a mortgage, whether or not the owner was taxed up to the hilt or not, and that it will eventually die out again. It is contrary to the general notion of the property tax and the modern methods of handling it and of all other parts of that tax with reference to different kinds of property. Those may be things that you have thought of before, but it seemed to me, in connection with the admirable paper that surveyed the whole field so thoroughly and so clearly, that it was worth while thinking over those two fundamental ideas that go back to the notion of what is taxable intangible property.

Chairman Armson: If you will indulge the chair for just a moment, I should like to refer very briefly to the experience of Minnesota in the taxation of intangible property.

It is not my purpose to enter into any discussion of the theoretical question involved in the taxation of intangibles.

In 1910 our legislature enacted a law providing for a flat tax of three mills on the dollar on intangible property. Mortgages were already subject to the registration tax.

In 1910, the last year of the attempt to assess money and credits the same as other property, we had listed in the state a little less than fourteen millions of dollars for taxation. This year we have listed for taxation somewhat in excess of $414,000,000.

In 1910 a little less than 6,200 people made returns for intangible personal property. This year something over 104,000 people have made returns of intangible property.

Our revenues under the low three-mill tax rate in Minnesota are now almost four times more than the revenues were under the general property tax prior to 1911.

That, in brief, has been our experience in Minnesota with the taxation of intangibles.

Now, gentlemen, we shall be glad to hear any delegate present briefly, keeping in mind our seven-minute rule.

Mr. J. W. Walker (Montana): Professor Williamson referred to Montana as being one of the states where the administration of intangibles was a failure.

Now, if he had reference to the revenue the state received from
this tax, he was perfectly correct; it has been a failure in Montana, in that sense.

We have rather a peculiar system, and I think it might be of interest to the members here to explain, to a certain extent, our system of assessing intangibles. We have a very much classified law in the State of Montana. All property in the state is supposed to be assessed at its full and true value, and I believe we get nearer to that than probably most of the states. But, for the purpose of taxation this property is divided into seven different classes.

Mines in Montana are assessed upon their net proceeds. We do not take the value of the mine but the value of the net proceeds for the taxable value for the ensuing year. For the reason that mines are assessed at much less than their actual value, the taxes are extended against 100 per cent of the assessed value.

Real estate, including city lots and improvements, is assessed at full value, but the tax levies are extended against thirty per cent; live stock and stocks of merchandise at 33⅓ per cent; money invested in the banking business at forty per cent; household goods, farm machinery, and that class of property that has no earning capacity of itself but must be used in connection with a man's personal efforts, at only twenty per cent; money in banks and solvent credits at seven per cent; and all other property not listed at forty per cent, which includes railroad lines, hydro-electric power lines and the usual public utilities.

So we have the seven different classes, with six different rates, 7 per cent, 20 per cent, 30 per cent, 33⅓ per cent, 40 per cent, and 100 per cent.

Before this law went into effect Montana had solvent credits and intangible property returned at $9,000,000; last year we had $35,000,000, but taking only seven per cent as the taxable value, the revenue is much less than it was under the former method.

The state and the county and the school district levies are extended against each valuation. The assessor puts the value upon the assessment book, and then it is turned over to the county clerk, who extends the taxes. The assessor has nothing to do about the classification.

The assessor gets all tangible property. We have one county assessor who prides himself on not letting anything get away from him. When he and his deputies go out over the county to get the property, they go into the back yard of every farmer and count the chickens.

On the assessment roll in 1924 he had 66,000 chickens, assessed at fifty cents apiece, or $33,000 for chickens. Chickens are live stock, and they go in the 33⅓ per cent class, and these chickens pay taxes on a valuation of $11,000.

In this same county the bank statements showed more than
$4,000,000, in addition to some wealthy people living in the county, and yet we only had $150,000 on the assessment roll for intangibles, which took the seven per cent class, or ten and one-half thousand dollars.

I asked the assessor why he only got this amount of intangibles. He said, "I can count the chickens, but I cannot tell how much money a man has in the bank."

I thank you.

Chairman Armson: May I ask, please, that we have just a little more quiet in the rear. It is difficult to hear the speakers.

Just one other thought in connection with Professor Williamson's talk. He said that no state had attained complete success in the taxation of intangibles. Just what he meant by "complete" I don't know. If he meant that no state succeeded in securing a complete listing of intangible property, I think he was right; but I doubt whether any state has attained complete success in the assessment of real property, or tangible personal property; and you can readily understand how much more difficult it is to attain complete success in the taxation of intangible property.

He made one other slight error, as applied to Minnesota: He said that all of the states tax the stock of foreign corporations. That is not quite correct as to Minnesota. We tax the stock of foreign corporations owned by a citizen of Minnesota, if the foreign corporation is not subject to a real or personal property assessment in the state, but when the foreign corporation is doing business in the state, their stock is not subject to the tax.

Mr. Hunt: May I ask the delegate from Montana what property is classified at 100 per cent?

Mr. Walker: Proceeds of mines. Mines in our state are not assessed upon the actual value but upon their net proceeds.

Mr. Hunt: What per cent on other property?

Mr. Walker: Thirty per cent on real estate; 40 per cent on public utilities; 33⅓ per cent upon live stock and stocks of merchandise; 20 per cent upon household goods and farm machinery, and 7 per cent upon intangibles.

Mr. Coody (Mississippi): I should like to ask the member from Montana what the total annual revenues of his state are, and what are his state rates of taxation.

Mr. Walker: Rates are rather high. The average for 1924 was 52.8 mills upon the taxable value; not upon the assessable value, upon the taxable value. That includes state, county and school district levies.

Mr. Coody: What is the state levy?
Mr. Walker: Three and one-half mills, of which two mills is for the state general fund, and 1½ for educational institutions. We voted a $5,000,000 bond issue in 1920, and an additional 1½-mill levy for a ten-year period. After 1930 the levy will again be two mills, unless some other vote is taken.

Mr. Coody: How much was the total revenue of the state?

Mr. Walker: For all state purposes, of which about forty-five per cent is received from ad valorem taxes, the total is approximately $4,000,000—very close. For all purposes it is $23,000,000.

I wish to say one thing here, which we feel a little proud of. In 1917 it cost to run the State of Montana $21,000,000—that is, for county, city, state and school district purposes. In 1924 it cost us $23,000,000, only $2,000,000 increase; and in 1923 we paid $7,000,000 bond interest and sinking fund. We ran our state government in 1924 for less than we did in 1917, and I don't think many states have such a record.

Mr. Hunt: I wish to ask the gentleman from Montana one further question: Is it to the best reputation of your state that you have such a low assessment and such a high rate, or would it be better to have a proper assessment and a low rate. Now, I gather from what you say, that you have five dollars on a hundred. That is enough to scare any man that does not know anything about your low assessment, isn't it? Which is better, to have a full assessment and a low rate, or a low assessment and a high rate?

Mr. Walker: The legislature in 1917 put in this classification. Under our constitution we should have had to have a constitutional amendment to change our assessment of mines. We felt that they were not paying sufficient taxes. In order to get them up to 100 per cent this classification law was necessary. Of course the rates are high. We cannot help that.

Chairman Armson: I am afraid we are drifting away slightly from the subject, when we enter into a discussion of the desirability of an assessment at full value or percentage of full value.

The question this evening is the taxation of intangibles, and I think we should confine ourselves to the subject.

Delegate: I should like to ask the gentleman from Montana what he means by net proceeds and what assessments they make if there are no proceeds.

Mr. Walker: They pay no taxes on their ore deposits.

Same Delegate: What do you mean by net proceeds?

Mr. Walker: It is not exactly net profits. It is the gross proceeds of the mining operations, less the cost of the mining, less the
cost of melting and reduction, cost of transportation, and the cost of sale; and also the cost of developing, but it does not allow as a deduction taxes or interest on investment. These are not allowable deductions.

Mr. Vandergrift (California): When there is nothing else to talk about, we usually talk about California. Professor Plehn brought out this particular theory on taxation of intangibles, but he did not explain in any way our particular law or how it comes about.

Now, we have not had the operation of our particular plan and the tax on intangibles long enough to determine just exactly what it is going to do, but we believe in California that you should not tax intangibles out of existence; you should not tax them so high that you make a class of tax-dodgers.

We have, as you know, the dual system of taxation for support of the state government and local government, the franchise tax supporting primarily the state government, leaving other sources of revenue to the local government. Under that form, if you declare your foreign securities, they are frequently taxed more than the revenue they produce. Therefore our good friends coming there from Iowa and other desirable communities did not declare these intangibles as they were required by law to do. In one community — Santa Barbara County, a relatively small county — they had practically no intangibles on the roll.

Now, we had some little difficulty getting this law across, and I might tell you that the way it went across was because one assessor assessed a few million dollars of intangibles at full value, and they were taxed at the local rate, as was required by the law.

Now, we changed our assessment to a seven per cent valuation, figuring as close as possible, so that the tax on intangibles would be the same as that on other property. This seemed to us to be fair. We find that comity between the states does not exist in this matter.

We have not yet seen the operation of our law so as to know positively how it will work, but we believe it is a better law. We are not so sure about the administration of it by the local assessor, and I may say that we have already one difficult situation, but this law was sponsored by the taxpayers, it was voted by the people, and the California Taxation Improvement Association is going to attempt to see that it is carried out as was intended.

It is a difficult situation to project at the present time. We are hoping that we shall not create a group of tax-dodgers, but if you had to pay the local rate, frequently, as I said before, you would pay more than the income from a particular stock that you held. We considered that was unfair, and that it was better to have a law
that our people could obey, rather than to have one that they would have to avoid.

We hope that next year we may report the operation of that law under the plan which was pointed out by the speaker on this subject, with the assessment at seven per cent and the local tax rate as it may exist in the particular assessing district. Thank you.

Mr. White (Canada): I should like to ask the gentleman from California whether the seven per cent is on the par.

Mr. Vandergrift: On the market value.

Mr. Mayer (Pennsylvania): I should like to ask why you decided on seven per cent.

Mr. Vandergrift: Our tax experts figured out that the seven per cent would bring the taxes, at our average tax rate throughout the state, to approximately, as near as they could figure, the same tax which property had to bear.

Chairman Armson: Any further remarks or questions you wish to ask?

Mr. Philip Zoercher: I move we adjourn.

Chairman Armson: Dr. Page, will you please come forward and resume the chair?

The session so far as the regular program of the evening is concerned is about to adjourn, and we have Senator Saxe's motion here.

(Thomas W. Page presiding)

Chairman Page: You adopted this evening a motion made by Senator Saxe of New York, that when we adjourn we should adjourn out of respect for those whose memory we wish to perpetuate, particularly on Armistice Day, and that preliminary to adjourning we should give one minute of silent standing. Please rise.

(Assemblage stands in silence for one minute)

Chairman Page: This session of the conference is now adjourned.

(Adjournment)
FIFTH SESSION

THURSDAY MORNING, NOVEMBER 12, 1925

CHAIRMAN PAGE: The conference will please come to order. We are very much honored in having as our presiding officer this morning Senator Edmonds of Philadelphia.

FRANKLIN S. EDMONDS (Pennsylvania) presiding.

CHAIRMAN EDMONDS: The secretary, Mr. Holcomb, has an announcement to make.

SECRETARY HOLCOMB: The ladies, I believe, will meet downstairs at 12:45, so you will please see that that is arranged for. The photographer will endeavor to take a picture of us at 12:30, directly opposite, at the University Place entrance.

CHAIRMAN EDMONDS: The subject for discussion is business taxes, to be presented in three papers, from three different angles.

The first is on the present status of the state income tax as a business tax, and in introducing Commissioner Long I want to express the very great thanks and appreciation of the Pennsylvania Tax Commission for the assistance that he has been to us in our work. Commissioner Long of Massachusetts.

PRESENT STATUS OF THE STATE INCOME TAX AS A BUSINESS TAX

HENRY F. LONG
Commissioner of Corporations and Taxation of Massachusetts

The subject assigned to me is so all-embracing and my opportunities to do it justice so limited that what I shall say is not to be taken as even an attempt at a worthy contribution to the difficult problem of income taxation. For my shortcomings I offer humble apologies. My observations will relate to government and taxation, from the point of view of the tax commissioner.

The government under which we live is founded on the principle that all shall enjoy the advantages that government gives and all must contribute to the cost of that government, in proportion to ability to pay and the protection or benefit that is received from the government. Taxes imposed with reference to the ability of the
person on whom the burden is placed to bear them have been levied from the foundation of government. Determination, either of the ability to pay, or the extent of the protection or benefit for which the tax is supposed to be the compensation, leads us to a consideration of what measures are best adapted for ascertaining of the exaction to be laid. Thus we are faced with the problem as to whether property shall be taxed on its capital value; whether the profit derived from property or the exercise of a privilege granted shall be the means of fixing the tax; or whether there shall be some other measure, either in the determination of the ability of the taxpayer to contribute or the amount which should be paid to compensate fairly for the protection given.

Income accrued or received seems at first glance to be the best solution of the problem of obtaining revenue from certain classes of property or activity, in proportion to ability to contribute and protection and privilege enjoyed. Income indicates ability to pay but it does not necessarily follow that by that test alone should government exact.

To many income indicates not only ability to pay taxes but reason for payment. A closer analysis, however, is convincing that this line of thought is unsound. As demand for enlarged governmental activities has come, a more searching effort has been made to raise the necessary revenue with the least degree of hardship and a maximum of harvest. Excursions into new taxation fields were inevitable and consequently the courts have been confronted with many present-day problems with which they must grapple, with the instruments of another period.

As I do not pretend to any great familiarity with the laws of other states I must of necessity, in speaking on the subject assigned to me, dwell primarily on the Massachusetts law and the experiences under it, making such observations as I can in the light of such decisions of other jurisdictions as have come to my attention. Income has come to be recognized as an appropriate measure of taxation of business corporations as well as a recognized method of distributing the burdens of government, favored because requiring contributions from those who realize current pecuniary benefits under the protection of the government, and because a tax upon it may be readily proportioned to ability to pay.

It has been adopted by a considerable number of states. The National Tax Association has recommended a model tax law, founded upon the conception that such a measure affords a reasonable basis of taxation of business corporations. An income tax law has been held by a court in one state to be a property tax and in another state, with practically the same elements present, as an excise. That is the starting-point of our troubles.

Massachusetts, early committed to the use of income as a taxation
base, has since January 1, 1916, under the state income tax law levied a direct tax on earned net incomes in excess of $2000, minus so-called "family deductions," at the uniform rate of 1 1/2%. The same rate was applied to annuities. A 3% tax was laid on gains from dealings in intangibles, and a 6% tax on interest and dividends, excepting certain classes which for one reason or another were made non-taxable. The law prior to this had provided for a tax on business income, and the full and fair cash value of intangible property at the same rate laid locally on real estate and tangible personal property. This new method of taxing business income has proven acceptable to the individual business, partnership, voluntary association or trust but it has not proven a particularly substantial revenue producer. This is largely due to the liberal deductions and exemptions permitted. On the whole, however, the Massachusetts classified income tax has shown itself worth while and may well grow into a substantial revenue producer. The local communities, having surrendered their right to tax intangibles, receive the proceeds of the income tax. No legal or administrative difficulty is now likely to arise to seriously affect this business income tax which at first was erroneously thought to be an excise but which our court has held to be a property tax.

In any serious consideration of income taxation the fact must be established as to whether it is to be used under a property tax classification or as a measure to determine the extent of an excise. In the language of the Massachusetts supreme court, holding our income tax to be a property tax, "a tax upon the income of property is in reality a tax upon the property itself. Income derived from property is also property. Property by income produces its kind, that is, it produces property and not something different. It does not matter what name is employed. The character of the tax cannot be changed by calling it an excise and not a property tax. In its essence a tax upon income derived from property is a tax upon the property. . . . It follows that our income tax, under the present statutes at least, is not an excise, where the income of a preceding year might be taken as a measure in imposing it. In this respect it may differ from the federal income tax, which apparently in some aspects and applications may be an excise. . . . It is laid directly on the income of property, and as already stated, is in reality a tax upon the property itself." It is also of interest at this point to consider how our court has defined "income", saying in substance that "income", like most other words, has different meanings dependent upon the connection in which it is used and the result intended to be accomplished. In its ordinary and popular meaning, "income" is the amount of actual wealth which comes to a person during a given period of time. At any single moment a person scarcely can be said to have income. The word in most,
if not all connections, involves time as an essential element in its measurement or definition. It thus is differentiated from capital or investment, which commonly means the amount of wealth which a person has on a fixed date. Income may be derived from capital invested or in use; from labor; from the exercise of skill, ingenuity or sound judgment; or from a combination of any or all of these factors. One of its definitions is "the gain derived from capital; from labor, or from both combined." Doubtless it would be difficult to give a comprehensive definition which can be treated as universal and final. It is common speech for one to say that he made so much money during a particular twelve months and to mean thereby that he has increased his wealth to that amount. Such a remark, made by one not engaged permanently or intermittently in business or any gainful occupation, naturally means that by casual purchases or sales of property made in the exercise of good judgment he has augmented the total value of his property.

It is defined as that "gain . . . which proceeds from labor, business, or property; commercial revenue or receipts of any kind, including wages or salaries, the proceeds of agriculture or commerce, the rent of houses, or the return on investments," and also as "The amount of money coming to a person or corporation within a specified time . . . whether as payment for services, interest or profit from investment. Its usual synonyms are gain, profit, revenue." We do not feel any uneasiness as to the security of our personal income tax, although in relation to taxing of national banking associations, it acts as an obstacle to the enactment of a suitable tax statute. It probably is clear that so long as we hold to the property tax base in taxing on the basis of income we are reasonably certain to have our tax system sustained. Our difficulties multiply in the application of an income measure for an excise on business corporations. Massachusetts, starting January 1, 1920, has undertaken to apply income taxation in the assessment of the excise laid on foreign and domestic business corporations, for the privilege of carrying on or doing of business. The law was enacted with the hope that under it, foreign and domestic business corporations would be placed on a parity. In providing for the operation of the law it was felt that by taxing so much of the income as could be allocated to a Massachusetts business and so much of the corporate excess as was employed in Massachusetts, foreign and domestic corporations would be treated exactly alike, and that so far as the income measure was concerned the law would stand the test of the courts as being a reasonable exaction on subject-matter within the jurisdiction of the state. The measure of determining just how much of the income could rightly be taxed by Massachusetts, as set out in the statute, may or may not reflect accurately the income derived from the business done in Massachusetts but having elements of fairness it was thought to be sound.
The method of determination set out in the statute, based upon value of plant, amount of pay-roll and gross receipts as indices, seems clearly calculated to reflect the amount fairly taxable. This measure of determination is largely original with Massachusetts, although certain of the elements appear in the laws of other states and the model subsequently adopted by the National Tax Association bears a marked resemblance.

This excise, which differed materially from the excise in operation in Massachusetts for many years was upheld by our own supreme court, as being a single excise, measured by the sum of a percentage on corporate excess added to a percentage on net income, as those terms are defined in the act. In that decision the court held that the effect of the statute was to impose an excise for the commodity of carrying on business for a less period than one year in cases where such business was not carried on for an entire year, indicating that income naturally imports duration of time for its measurement and property a single date for its ascertainment. In later decisions up to the famous Alpha Portland Cement decision, it was held that income was a proper subject of measurement for the excise tax. In the Alpha Portland Cement case the Massachusetts court applied their rule to the carrying on of interstate commerce, and the United States Supreme Court said that no state could pass an act which would lay a privilege tax on the commodity of doing a solely interstate business, regardless of the fairness of the measures adopted. This was a distinct shock to us, from which we have not only not recovered but are not even convalescing.

It was my feeling that as an excise measured by property has in a number of cases been sustained, even though the property was used in interstate commerce, and that in our act the net income measure did not discriminate against income from interstate business but was laid on net income generally, there was no direct burden upon interstate commerce. I was led to believe this because I felt it was clear that a tax measured by net profits was valid, even though these profits may have been derived, in part, or indeed mainly, from interstate commerce. The Underwood Typewriter case appeared to be in point, where it was held "that a tax measured by net profits is valid although these profits may have been derived in part, or indeed mainly, from interstate commerce." Our tax as a whole was not directed against interstate commerce or property outside the state, but was confined to business done, property located, capital employed, and net income earned within the commonwealth. True, it affects interstate commerce indirectly but it did not seem to me that it was an immediate burden upon it. It afforded to the state only a fair and reasonable revenue for the maintenance of the government, the protection of which interstate-
commerce corporations enjoyed, with those not engaged solely in that commerce. No tax was attempted until the interstate commerce transaction was completed and a profit realized. Regardless of these observations, however, it is now definitely settled, so far as Massachusetts is concerned, at least, and probably so far as any other state is concerned, that a tax cannot be laid upon interstate commerce in the form of an excise for the privilege of doing business. Undoubtedly, we still have open the authority to tax all property within the jurisdiction of the state, whether it is engaged in interstate commerce or not, and in that direction lie our future possibilities of income taxation on corporations engaged solely in interstate commerce. It would appear that there would be no legal objection to the state's taxing on the basis of income when that income is derived from activities within the protection and control of the taxing jurisdiction. The authority of the states to lay taxes has pretty generally been conceded. It seems clear that a state may tax income derived from local property and business owned and managed from without by a citizen and resident of another state. Such power is consistent with the constitutional guarantees and the equal protection clause of the Fourteenth Amendment.

Mr. Chief Justice Marshall, in holding that states have full power to tax their own people and their own property, indicated clearly that the power was not confined to the people and property of a state but could be exercised upon every object brought within its jurisdiction. His language was that "It is obvious that it is an incident of sovereignty, and is coextensive with that to which it is an incident. All subjects over which the sovereign power of a state extends, are objects of taxation." At a later period Mr. Justice Pitney held that "in our system of government the states have general dominion, and, saving as restricted by particular provisions of the federal constitution, complete dominion over all persons, property, and business transactions within their borders; they assume and perform the duty of preserving and protecting all such persons, property, and business, and, in consequence, have the power normally pertaining to governments to resort to all reasonable forms of taxation in order to defray the governmental expenses. Certainly they are not restricted to property taxation, nor to any particular form of excises. In well-ordered society, property has value chiefly for what it is capable of producing, and the activities of mankind are devoted largely to making recurrent gains from the use and development of property, from tillage, mining, manufacture, from the employment of human skill and labor, or from a combination of some of these; gains capable of being devoted to their own support, and the surplus accumulated as an increase of capital. That the state, from whose laws property and business and industry derive the protection and security without
which production and gainful occupation would be impossible, is debarred from exacting a share of those gains in the form of income taxes for the support of the government, is a proposition so wholly inconsistent with fundamental principles as to be refuted by its mere statement.” Or as has been said, “That it may tax the land but not the crop, the tree but not the fruit, the mine or well but not the product, the business but not the profit derived from it, is wholly inadmissible.”

It would appear that so long as the states confine themselves to taxing individuals or property entirely under their control, no difficulty arises. It occurs to the taxing authority that certain property, not at the moment under the control of the state, but which came to being in the state, should be taxed. This, in the form of income, even though credited in another jurisdiction, really belongs to the place where it was actually earned and a portion of this class of property should be reflected in the property to be taxed. The case of Wallace v. Hines is one of the leading recent cases indicating about how far states may go in this direction. That case involved a North Dakota statute, measuring a tax on an interstate railroad, by assessing the value of its property in the state at that proportion of the total value of its stocks and bonds that the main-track mileage within the state bore to the entire line. The court held this indefensible, where it was shown that the cost of construction per mile was low in North Dakota, and that the great terminals were elsewhere, and went on to say that “The only reason for allowing a state to look beyond its borders when it taxes the property of foreign corporations is that it may get the true value of the things within, when they are part of an organic system of wide extent, that gives them a value above what they otherwise would possess. The purpose is not to expose the heel of the system to a mortal dart—not, in other words, to open to taxation what is not within the state. Therefore, no property of such an interstate road situated elsewhere can be taken into account, unless it can be seen in some plain and fairly intelligible way that it adds to the value of the road and the rights exercised in the state . . . .” One of the chief concerns of the states is making available as a source of revenue a tax on corporations doing business within the borders of the state which reflects a fair exaction. It seems strange to the taxing official that by the mere manner of setting up a business all taxation can be avoided, except that to which all would be subjected in any event, and that the general application of an admittedly reasonable method of taxation must be defeated because a particular group is immune.

Various systems of taxation of corporate business have been devised by different states at different times, of which some have been sustained and others have fallen before the test of constitutionality
when brought to the bar of the United States Supreme Court. On account of the variety of methods employed in attempts to levy taxes which will cover the corporate field as widely as possible and yet be valid, it is somewhat difficult to deduce the guiding principles on which the decisions rest. The following observations, however, seem to be justified.

Corporation taxes under state laws may be classified according to the measure or kind of tax, as taxes on or measured by capital stock, gross receipts, property, and net income. They may be unconstitutional, because of either interference with interstate or foreign commerce, or violation of the Fourteenth Amendment. Interference with interstate commerce is found where the tax is of a kind which in the court's view imposes a direct burden on such commerce, or in some way discriminates against it. Violation of the Fourteenth Amendment is a ground of invalidity where it is attempted to tax a foreign corporation with respect to property or business done outside the state, or in such a way as to discriminate against corporations having that class of property or doing that type of business.

The United States Supreme Court, in defining the possible subjects of taxation, said: "These subjects are persons, property, and business. Whatever form taxation may assume, whether as duties, imposts, excises or licenses, it must relate to one of these subjects. It is not possible to conceive of any other, though as applied to them, the taxation may be exercised in a great variety of ways. . . . And an income tax affords no exception to this all-inclusive definition, which has frequently been cited by this court with approval. An income tax may be a tax upon the recipient of the income, that is, a tax on persons, or it may be a tax upon the source of the income, that is, a tax on property or business. In either case, the income serves as a measure of the tax, but cannot itself be the subject of the tax. The income is a mere attribute, either of the owner of the income, or of the source from which it is derived, and can have no real existence apart from its subject. The tax here in question, therefore, considered with reference to the subject taxed, must either be a tax on persons, or a tax on property, or a tax on business."

We who believe strongly in income taxation as a fair measure for taxation purposes find much to comfort and much to disturb us in the decisions of the courts. Always, the last decision either causes elation or depression but never does it seem to quiet the hopes raised by previous decisions. Income taxation is not to be continued unless it is broad in its scope, yields a fair amount of revenue, and is reasonable. We find it, except in its application to interstate commerce, working well but the decisions of the courts leave us uncertain as to its success when applied to corporations engaged in this type of business.
The United States Supreme Court has held that "A state, in laying a general income tax upon the gains and profits of a domestic corporation, may include in the computation the net income derived from transactions in interstate commerce, without contravening the commerce clause of the Constitution," the court saying that, "Stated concisely, the question is whether a state, in levying a general income tax upon the gains and profits of a domestic corporation, may include in the computation the net income derived from transactions in interstate commerce, without contravening the commerce clause of the Constitution of the United States." The court also holds that "It is settled that a state may not directly burden interstate commerce, either by taxation or otherwise. But a tax that only indirectly affects the profits or returns from such commerce is not within the rule." Yet in the most recent case, that of the Alpha Portland Cement Company, it was held that "It must now be regarded as settled that a state may not burden interstate commerce or tax property beyond her borders, under the guise of regulating or taxing intra-state business." Such conclusions lead those who desire equality in taxation, as based on income, to a situation which at present is not entirely clear. It would seem that by some ingenious way an income tax can be laid which will creep in between these apparently contradictory decisions.

The effect of the Alpha decision seems to be that an excise tax imposed by a state on a foreign corporation, engaged in the state exclusively in interstate commerce, is bad, on account of its form, because under the Massachusetts excise it is held to be a tax directly on interstate commerce, although the tax has been measured by things which would possibly have been themselves subject to taxation. Some do not regard the Alpha decision as necessarily inconsistent with earlier cases in which it has been held that property may be taxed, although it is employed exclusively in interstate commerce, so long as it is not actually in the course of an interstate journey, or with those decisions in which it has been held that net income derived from business within a state may be taxed, although that business is interstate commerce. If such interpretation is sound, we may be forced to depart from our attempt to deal impartially with corporations, whether domestic or foreign, and be compelled to treat separately a particular group. We would all agree that separate treatment for taxation purposes is likely to bring great injustice.

If we could hold to what was said in another case, that "the court determines the constitutionality of a state tax upon its own judgment of the natural operation and effect of the tax, irrespective of its form and how it is characterized by the state courts," we might be comforted, but in the Alpha case the court seems to have departed from this professed principle.
In the Alpha decision it would appear that the court had refused to apply this principle, that the substance and not the shadow determines the validity of the exercise of the taxing power. It may be that this is because taxes and logic are usually not the best of friends, or the court wants to show it is no slave to logic. All will agree that taxing jurisdictions should be limited in the extent to which a tax can be laid, but the limitations should not run to the extreme which would allow a particular form of business to escape all taxes, thereby imposing an added burden upon similar business not set up in that particular form, and which thus, under the protection of a pure fiction, avoids its just burden. This would militate against commerce just as surely as excessive taxation by an unthinking state. If we must subscribe to the assertion that an income tax must always be a property tax and therefore be circumscribed by a conclusion that unless there is jurisdiction to tax the source of the income, or personal jurisdiction over the recipient of the income, the tax is invalid, we will lead ourselves into a most astonishing situation. It is easy enough to argue that there should be no tax by a state, except upon subject-matter within its jurisdiction, and if we could correctly visualize all things which really are in the jurisdiction of the state, our path would be less rocky. There must of necessity be much property which is employed in business in the state which is of an intangible nature that does not readily submit itself to accurate admeasurement or identification as property within the jurisdiction. The taxpayer naturally wants a sharp distinction drawn as to his business tax, while the taxing official wants a less sharp line of cleavage, in order that revenue sources will not be constantly changed.

The Alpha decision, while deciding conclusively that the present Massachusetts excise tax, measured in part by income, and in part by corporate excess, is not valid so far as it is said to apply to foreign corporations engaged exclusively in interstate commerce, did not apparently take away the right to tax anything in interstate commerce that could be called property, which must include income earned in the state, accounts receivable, bank accounts, and tangible personal property.

The court seems carefully to have avoided saying what its decision would have been, had the Massachusetts tax been a strict income tax, and perhaps that substantiates the belief that such a tax can be laid. In previous cases it had been held that a tax upon income only remotely affects interstate commerce, and that such a tax is valid though the income tax includes profits derived in part from interstate commerce. It is not clear that the court would find such a tax invalid as applied to a corporation engaged solely in interstate commerce. It would appear to the innocent bystander that the taxing of income after the business had been transacted could not be said to be a burden on interstate commerce.
In the Alpha case the court avoided committing itself upon the question of what its finding would have been had the Massachusetts Act been a property tax. The case contains dicta from which it may well be inferred that the court desires to recede, without much thought of being graceful, from the attitude taken in earlier decisions, with respect to taxes measured by income. Will the court now say that a tax measured by income must be limited to income which flows solely from intra-state business, and that if it is calculated to include income that flows largely or indeed mainly from interstate commerce it will be found unconstitutional?

Earlier decisions indicate that the court would not be exacting in the matter of rules for determination of the income earned within a particular state, recognizing the difficulties inherent in the tracing of income to particular transactions or processes. Dicta in the Alpha case intimate a tendency towards compelling greater precision in ascertaining the measure of the tax. How will this affect our statutory methods of allocation, especially the model system suggested by the National Tax Association? Can this be overcome by administration of the law, and if so, will it not tend to complications embarrassing to administering officials? To concentrate on the situation in Massachusetts, it might be pointed out that the law had to be labelled an excise, because it was a tax laid on the privilege of doing business, rather than an income or property tax. It seemed clear to us in Massachusetts that the court made an error in considering the former excise involved in a previous case as comparable with the present excise, and in differentiating between the two excises only upon the false assumption that the latter simply introduced an “extremely complicated method for calculating the amount of the exaction,” without mitigating the burden. Are we left with a proposition that a privilege tax, even if based upon net income, is objectionable and violates the Commerce Clause of the Constitution? By eliminating interstate commerce from any exaction, do we, in laying an income tax on other classes of property, make that method invalid, because it is not universal in its scope? In the process of elimination is the court going definitely to overrule from time to time certain language in previous cases, in order to bring about a complete freedom from taxation of certain classes of property which will undertake, under the protection of the Alpha decision, to avoid taxation? Is it wise to have the scope of taxation limited and sharply defined? To most of us the answer is “no”.

It is seen that on the whole the states are not greatly restricted in a tax on property or income of foreign corporations not lending themselves to taxation otherwise, because of the decisions in at least two cases in which it was held that in addition to the authority to tax a non-resident on income, accounts receivable were suffi-
ciently within the control of the taxing jurisdiction to be a valid measure of an excise. The court has held that the legal fiction, expressed in the maxim *mobilia sequuntur personam*, yields to the fact of actual control elsewhere. And in the case of credits, though intangible, the control adequate to confer jurisdiction may be found in the sovereignty of the debtor's domicile. The debt, of course, is not property in the hands of the debtor; but it is an obligation of the debtor and is of value to the creditor because he may be compelled to pay; and power over the debtor at his domicile is control of the ordinary means of enforcement. In the Louisiana case the court held that "the credits would have had no existence save for the permission of Louisiana; they issued from the business transacted under her sanction, within her borders; the sums were payable by persons domiciled within the state, and there the rights of the creditor were to be enforced. If locality, in the sense of subject to sovereign power, could be attributed to these credits, they could be localized there. If, as property, they could be deemed to be taxable at all, they could be taxed there."

In relation to the taxing of foreign corporations on income, which after all is our real problem, it is interesting to see that the United States Supreme Court held in *Yale & Towne v. Travis*, that non-resident natural persons could be taxed on such part of their net income as was derived from their personal service in the state. The state having full jurisdiction to tax the source of the income, i.e., the business or occupation in the state; and it was accordingly held that it could tax the fruit as well as the tree. The tax was sustained because the state had power to tax the source from which the income was derived. and again, in *Peck v. Lowe*, where a federal income tax upon a citizen and resident of the United States was sustained, it was held that the tax was not invalid because a portion of the income was derived from the business of export. This was so because the tax was considered to be not a tax upon the source of the income, but a personal tax upon the taxpayer, over whom the government had full personal jurisdiction. Also in *Glue Co. v. Oak Creek*, a tax levied by a state upon a domestic corporation measured by its entire net income, a portion of which was derived from interstate commerce, was sustained, upon the authority of *Peck v. Lowe*. The tax was considered to be not a tax upon the source of the income, but a personal tax upon the taxpayer, over whom the state had full personal jurisdiction. The decision was expressly limited to "persons and corporations otherwise subject to the jurisdiction of the state."

Most states have not as yet adopted personal income taxes, but those states that have enacted laws which were not intended to be discriminatory have found them a valuable adjunct to their taxing system. It is not a tax that can unaidered furnish all the revenue
needed but must be supplementary to other sources. As demand for revenue grows, as it surely will, all the states facing the inadequacy of present sources and ability to reach intangibles will be forced to adopt an income tax. Such a tax appeals to the man on the street, for he recognizes the fairness of a tax that is laid only when income is present to pay it from. States want to lay such taxes on business, whether corporate or not, whether domestic or foreign, and regardless of inter- or intra-state commerce, either in the form of an excise or as a property tax. It appeals to them as fair, whether in the form of a property tax or an excise, and they do not readily recognize that in one form income can be taxed but in another form it cannot. To repeat, they feel that to argue that they "may tax the land but not the crop, the tree but not the fruit, the mine or well but not the product, the business but not the profit derived from it," is wholly inadmissible.

It seems to me that the present status of the state income tax as a business tax is a little uncertain. Unquestionably, as a result of the Alpha decision, some corporations will undertake to crowd the court into a position of making more avenues of escape. The states, on the other hand, wishing to have a broad tax base, will hesitate to embark on the income tax sea, until the situation is more settled and the taxing jurisdictions already employing income taxation will, in adjusting themselves to the Alpha decision, attempt to reach those classes excluded from the general plan of taxation, by the avenues left open for the valid taxation of these special groups. Meanwhile corporate business as a whole may well spend some anxious moments as to how this is all going to affect them, if states are forced to separate groups for taxation or perhaps excuse some from proportional contribution. The principal of income taxation for business is, however, so thoroughly accepted and its application so sure to increase that most of the difficulties we now face will of necessity eventually adjust themselves to modern-day needs and no longer submit to control by pure legal fiction.

Chairman Edmonds: The second address of the morning is on business taxes and the federal constitution, by Professor Thomas Reed Powell, Professor of Law, Harvard University, to be read by Mr. J. F. Zoller.

J. F. Zoller (New York): Mr. Chairman, Ladies and Gentlemen: I did not write this paper; I don't believe that I even agree with it; but it is a very well written document. Whether or not you can bear with me until I read it through, depends almost entirely upon you. I know that I shall not do justice to the author of this paper, but because of his high standing, I think that we ought to give this paper the best attention.
BUSINESS TAXES AND THE FEDERAL CONSTITUTION

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This paper is presented as a postscript to the one offered at the 1919 Conference and printed in the Proceedings after being lavishly sprinkled with commas by some editorial aid in Mr. Holcomb's office who got hold of the comma-pot while Jove nodded. The shining thread of wisdom in this paper as in its predecessor is that Supreme Court doctrine and Supreme Court decision do not always jibe and that we should get our understanding of the law from what the Supreme Court does rather than from what it says. If the Supreme Court would always get its own law in the same way, it would now and then give us something better than what it now and then gives us. This sage suggestion is made with special reference to the Alpha Portland Cement Case, wherein the court blindly followed its doctrine and forgot the substance of its decisions.

I

The doctrine from Olympus is that the states cannot tax interstate commerce. The father of the doctrine is Chief Justice Marshall who conceived of the problem as one of sovereignty and who formulated it largely in political terms. He thought of interstate commerce as an enterprise that is politically as foreign to the states as commerce in Central Asia is geographically foreign to them. Not that he always viewed the problem in this light, but that he sometimes phrased it in some such fashion. When in the seventies and eighties Marshall's successors had before them the problem of state taxation of interstate commerce, they followed Marshall in declaring that the validity of any state tax under the commerce clause depends upon the subject taxed. If the subject

2 Alpha Portland Cement Co. v. Massachusetts (1925), 268 U. S. 203.
3 See the concluding paragraphs of Brown v. Maryland (1827), 12 Wheat. 419, with the reference to McCulloch v. Maryland (1819), 4 Wheat. 316, "the decision in which case is, we think, entirely applicable to this." In the McCulloch Case, at pages 429-430, Marshall says: "If we measure the power of taxation residing in a state by the extent of sovereignty which the people of a single state possess, and can confer on its government, we have an intelligible standard applicable to every case to which the power may be applied."
4 "The constitutionality or unconstitutionality of a state tax is to be determined, not by the form or agency through which it is to be collected, but by the subject upon which the burden is laid." Case of the State Freight Tax (1873), 15 Wall. 232, 272.
is interstate commerce the tax is void as a violation of the commerce clause. If the subject is not interstate commerce, the tax is good, unless it meets some other obstacle than the commerce clause.

This categorical dichotomy presented a pleasing prospect and only in its application could anything vile intrude. The subjects not classified as interstate commerce turned out to be lambs with fleece of interstate commerce, and the states found ways to get the fleece while they were held to be dealing only with the lamb. If the states picked a proper subject, they were allowed latitude in choosing a measure of assessment that takes toll from interstate commerce. This was as it should be. It would be monstrous if the states could not tax interstate commerce. It may be they should tax it tenderly, but certainly they should be allowed to tax it some. Otherwise local commerce must necessarily bear a burden from which interstate commerce would be immune. Business across state lines would enjoy a bounty at the expense of business within the boundary of each state. The Constitution does not command this, and wisdom forbids it. At least my wisdom does. I thought that the Supreme Court's wisdom did, until it handed down the decision in the Cement Case. I know that the Supreme Court must know that the states can tax interstate commerce, even though it lets Mr. Justice McReynolds say the contrary.\(^5\) The states can tax property employed in interstate commerce and assess it at a capitalization of what it earns in that commerce.\(^6\) The states can tax gross receipts from interstate commerce if they forego taxing the property.\(^7\) They can tax net income from interstate commerce.\(^8\)

5 See his opinion in the Alpha Cement Case, 268 U. S. 203, at p. 218.

6 See Mr. Justice Holmes in Galveston, H. & S. A. Ry. Co. v. Texas (1908), 210 U. S. 217, 227: "The state must be allowed to tax the property, and to tax it at its actual value as a going concern."

7 United States Express Co. v. Minnesota (1912), 223 U. S. 335; Pullman Co. v. Richardson (1923), 261 U. S. 330.

8 Net income from interstate commerce was included in the assessment of a general state tax on net incomes applied to a domestic corporation in United States Glue Co. v. Oak Creek (1918), 247 U. S. 321, in a similar state tax applied to a non-resident individual in Shaffer v. Carter (1920), 252 U. S. 37, and in an excise on corporations only, as applied to a foreign corporation engaged in combined intra-state and interstate commerce in Underwood Typewriter Co. v. Chamberlain (1920), 254 U. S. 113. These decisions are all cited by Mr. Justice Brandeis in Atlantic Coast Line R. Co. v. Daughton (1923), 262 U. S. 413, 416, after the statement that "it is conceded by appellants that taxation of the net income of an interstate carrier does not violate the commerce clause." This case held it proper to tax the net income from railroad operations within the state to the operating carrier, even though the carrier by reason of payments for rent, interest etc. received no net income.
All this is not only as it should be, but, what is more important, it is as it is. Interstate commerce may not be a taxable subject but most certainly it is a taxable object.

The division of taxes according to their subjects broke down in the Western Union Case when the court appreciated that a tax on a good subject might still be a bad tax if it was measured by a bad measure. The vice in the measure in this case and its successors was the assessment of extra-territorial values. Such a vice should have been condemned under the Fourteenth Amendment and the Horn Silver Mining Case should have gone the other way. It probably has now been laid to rest though the funeral sermon is yet to be preached. Excises measured by total capital stock are poachers on foreign preserves whenever that capital stock represents in part property in other states. No conception of arbitrary power over some corporate privilege should be entertained to allow the states indirectly to tax values that can be taxed directly only by

9 Western Union Telegraph Co. v. Kansas (1910), 216 U. S. 1.
11 Horn Silver Mining Co. v. New York (1892), 143 U. S. 305.
12 For reasons why this is not necessarily the case, see “The Changing Law of Foreign Corporations,” 33 Political Science Quarterly 549, 558-562. Logically it might still be held that an excise measured by total capital stock representing in part property outside the state violates both the commerce clause and the due-process clause, when the corporation is engaged partly in interstate commerce, but violates neither clause when there is no interstate commerce. Intrinsically such a tax is on extra-state property and bad, unless justified by some superior consideration. The power of a state over foreign corporations might be held a superior consideration when interstate commerce is in no way involved, though an inferior consideration when the commerce clause can be adduced. In spite of the fact that the Horn Silver Mining case was cited in Crescent Cotton Oil Co. v. Mississippi (1921), 257 U. S. 129, 137, as a recognition of the power of a state to exclude a foreign corporation not engaged in interstate commerce, its efficacy as support for its major holding that from this it follows than an excise tax may be measured by capital stock representing property in other states is pretty much shattered by repeated Supreme Court declarations which put the due-process ground of the Western Union Case on an independent, self-sufficient footing. In La Belle Iron Works v. United States (1921), 256 U. S. 377, 392, for example, Mr. Justice Pitney says: “Appellant cites Looney v. Crane Co., 245 U. S. 178, 188, and International Paper Co. v. Massachusetts. 246 U. S. 135, 145, but these cases also are inapplicable, being based upon the due-process clause of the Fourteenth Amendment, with which state taxing laws were held in conflict because they had the effect of imposing taxes on the property of foreign corporations located and used beyond the jurisdiction of the taxing state.”
other states. The doctrine to the contrary still has life enough to sustain recurring fees on domestic corporations which know when they are born that such is to be their fate, but its vitality probably does not go much beyond this feeble spark of power. On the whole, from now on, bad measures will make bad taxes of taxes on good subjects.

II

The division of subjects of taxation into good subjects and bad subjects still remains a useful device for preliminary consideration of the validity of a tax. If the tax is on a traditionally bad subject and there is nothing to cause one to condone this classificatory sin, the tax may justly be condemned without more. Such is clearly the case with Real Silk Hosiery Mills v. Portland, in which the court unanimously condemned a flat fee imposed on persons going from house to house to get orders for stockings to be shipped in from other states. The fact that the solicitors were not employees traveling at the expense of the extra-state mill was not enough to save the tax. This game of putting a flat fee on a specially selected occupation is one that a state might easily play for the ulterior purpose of picking on just those occupations that have to do with the introduction of goods from other states. One may sympathize with local merchant taxpayers in their zeal to impose tax burdens on their peripatetic competitors and yet agree that the Supreme Court is wise in disallowing ordinances which impose a fee not measured by the amount or the profitability of business done.

Somewhat more questionable is the application of the classificatory condemnation to two other taxes which recently came before the Supreme Court. Texas Transport Co. v. New Orleans saved a firm of steamship agents from a fee of $400 when they had annual receipts of over $100,000, and Ozark Pipe Line Co. v. Monier saved a foreign transportation corporation from a franchise tax on doing business in corporate form which was assessed at the rate of one-tenth of one per cent on the par value of the capital stock and surplus employed in business in the taxing state. Both corporations were deemed by the majority to be engaged exclusively in interstate commerce in their operations in the taxing state and their immunity from the tax was premised on the doctrinal ground that the subject taxed was interstate commerce itself. In the case of the steamship agents, the dissent deemed the enterprise one degree

14 (1925), 268 U. S. 325.
15 (1924), 264 U. S. 150.
16 (1925), 266 U. S. 555.
removed from interstate commerce itself, but would have sustained the tax even if this degree did not appear.

Clearly enough these two taxes were well enough in and of themselves. Both would be moderate assessments for a tax on net income. Net income cannot escape assessment solely because it is income from interstate commerce.\(^{17}\) The franchise tax would be clearly valid under the decisions if the pipe line did a modicum of intra-state transportation.\(^{18}\) Probably the tax on the steamship agents would have been sustained if they had done a little local business in addition.\(^{19}\) Their tax as a gross receipts tax in lieu of a property tax would have been impeccable except for a possible excess.\(^{20}\) If interstate commerce cannot escape such levies when it is joined with a little local commerce, why should it escape when it stands alone? In neither case was there the vice of measuring the tax by extraterritorial values. In neither case was the mode of collection obstructive to the continuance of interstate operations. Why, then, this recourse to a doctrine to declare the taxes invalid, when the doctrine is in substance more often honored in the breach than in the observance?

The answer, if answer there is, must rest on the circumstances that both these levies were special in character, not imposed on enterprise universally throughout the state. With such levies, there is always a possibility that some enterprise will pay where other enterprise goes free. This is especially true of the tax on the occu-

\(^{17}\) Cases cited in note 8, supra.


\(^{19}\) Osborne v. Florida (1897), 164 U. S. 650; Postal Telegraph Cable Co. v. Charleston (1894), 153 U. S. 692; Kehrer v. Stewart (1905), 197 U. S. 60; Armour Packing Co. v. Lacy (1906), 200 U. S. 226; Watters v. Michigan (1918), 248 U. S. 65; Browning v. Waycross (1914), 233 U. S. 16; Postal Telegraph Cable Co. v. Richmond (1919), 249 U. S. 252; Postal Telegraph Cable Co. v. Fremont (1921), 255 U. S. 124. These are all cases sustaining specific license taxes on local business, though the taxpayer was also engaged in interstate commerce. The last two cases suggest that such taxes on local business might be so high as to amount to exactions on interstate commerce, invalid under the commerce clause. These are the cases that induced the qualifying word “probably” in the text above. No case has ever yet found such a vice in a specific tax. It is submitted that the test to apply is not whether the tax is so high as to amount to an exaction on interstate commerce but whether it is so high as to amount to an exaction on business or property outside the taxing state. If interstate commerce may be in fact taxed by taxes on property and on net income, it should be tax-able in fact by a specific tax on local business.

\(^{20}\) Cases cited in note 7, supra.
pation of the steamship agents. These special occupational taxes go hit or miss. They hit what the legislator thinks of and miss what he forgets. They may hit what doesn't vote and miss what does, or hit what is indigenous and thoroughly domesticated and miss what is exotic and something of a stranger. Special occupational taxes, if given a free hand, afford an easy chance to put burdens on interstate commerce more generally or more grievously than on intrastate commerce. Their relative fairness can be judged only upon knowledge of many details of a state taxing system which could not readily be brought before the court. If such an occupational tax were to be sustained as part of some taxing systems but not as part of others, the court would have a hard time in finding a workable line of distinction between the good and the bad. For special taxes on selected occupations there is little to be said in these days when general state-wide net-income taxes are at hand for ready use.

The franchise tax on doing business in corporate form is a bird of different feather. The subjection to the tax of all corporations doing business in the state gives it a degree of generality which is sufficient under the equal-protection clause and which ought to be an adequate safeguard against any serious discrimination against interstate commerce. Granted that individual enterprisers and partnerships may be more largely employed in local than in interstate commerce, there is no likelihood that competing local and interstate commerce is done by individuals in the former case and by corporations in the latter. The exclusion of individuals and partnerships from an opportunity to pay taxes which is open to corporations can hardly be deemed a device for preferring local commerce at the expense of commerce between the states. Therefore an excise on corporations which is free from the vice of extraterritoriality and which may be imposed on corporations combining local and interstate commerce is an excise that in all common sense should be imposable on corporations which confine themselves to interstate commerce. Though the tax is called one on the franchise and is commonly classified as an excise tax, it is, when measured by property, in all substance a tax on property. A tax on property is a good tax, so far as the commerce clause is concerned, even though the property is employed exclusively in interstate commerce.

Let the state re-baptize its franchise tax and call it

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21 See Southern Railway Co. v. Watts (1923), 260 U. S. 519, where a franchise tax confined to railroad corporations was sustained against objection based on the equal-protection clause.

22 The point seems never to have been contested. In Henderson Bridge Co. v. Kentucky (1897), 166 U. S. 150, the so-called "intangible property" of an interstate bridge company was assessed by capitalizing the gross re-
an additional tax on the property of corporations. This cures the
doctrinal defect. It does not change the substance of the tax. A
discriminating court might well have seen that this was a case for look-
ing at substance and that the substance was sufficient to save the
tax from condemnation.

III

This brings us to Alpha Portland Cement Co. v. Massachusetts, which held that an excise on doing business cannot be imposed on
a foreign corporation whose business within the state is exclusively
interstate commerce, no matter how the tax is measured. Most of
the opinion of Mr. Justice McReynolds is quite characteristically
the product of scissors and paste. This part of the work is well
done. When the industrious Justice goes on to add something of
his own, he is not so happy. He says that the Underwood Type-
writer case approved of an excise on local business "measured
by income reasonably attributed to intrastate business," and adds
that "local business was a sufficient basis for the excise, and there
was no taxation of interstate commerce or property beyond the
state." There was taxation of interstate commerce in that case,
in the sense that the allocation was an allocation of all income in-
cluding that from interstate commerce. That was the situation also
in the Oak Creek case which Mr. Justice McReynolds does not
mention. Nor does he mention Peck & Co. v. Lowe which held
that a federal tax on the net income from an exporting business is
not a tax on exports. If in the face of explicit constitutional pro-
hibition against a tax on exports, a tax on the net income from
exportation is allowed, obviously a tax on net income from inter-
state commerce must be held to be not an invalid regulation of that
commerce. Quite as obviously, however, such a tax is one that
receipts and then deducting the value of the tangible property. As the bridge
straddled the state line, any taxation of it was taxation of property em-
ployed exclusively in interstate commerce. There was a suggestion that the
receipts were not from interstate commerce but were merely rent received by
the owning corporation from the lessee operating corporation, but similar
rentals from cars were treated as receipts from interstate commerce in
Cudahy Packing Co. v. Minnesota (1918), 246 U. S. 450, 453.

23 (1925), 268 U. S. 203.
26 Ibid.
27 United States Glue Co. v. Oak Creek (1918), 247 U. S. 321.
28 (1918), 247 U. S. 165. This is followed by National Paper & Type
Co. v. Bowers (1924), 266 U. S. 373, and Barclay & Co. v. Edwards (1925),
267 U. S. 442.
feeds on interstate commerce. The recent cases all make absolutely certain that the Supreme Court sanctions the inclusion of income from interstate commerce in the assessment of taxes on traditionally proper subjects of taxation. They make clear also that taxes on traditionally proper subjects cannot be measured by extra-territorial values. The picking of a good subject no longer excuses the use of an intrinsically bad measure. Therefore when the court has sanctioned the use of the measure of net income from interstate commerce in the assessment of taxes on traditionally proper subjects, as it has in the Oak Creek case, the Underwood case, the Bass Ale case, in Shaffer v. Carter and in Atlantic Coast Line Railroad Co. v. Daughton, it is manifest that net income from interstate commerce is not an intrinsically bad measure for a tax on a traditionally proper subject. None of these cases can be put out of the way on the ground that they assumed that the net income involved was reasonably attributable to intrastate business.

The major problem of the Alpha case comes down to the simple question: If an intrinsically bad measure can vitiate a tax on a traditionally proper subject, why in the name of common sense can't an intrinsically good measure validate a tax on a traditionally improper subject? The only answer is: Because the Supreme Court can't see it that way. It is still obsessed enough with classificatory doctrine to invalidate substantially proper taxes, though it can get away from classificatory doctrine to invalidate substantially improper taxes. The sauce of substance is regarded more highly when it is unsavory than when it is savory. On this point it seems pertinent to quote what Mr. Justice Pitney said in Shaffer v. Carter in answer to an argument premised on a characterization of the tax in question as a personal tax: "This argument, on analysis, resolves itself into a mere question of definitions, and has no legitimate bearing upon any question raised under the federal Constitution." Yet it is on a point of definition that Mr. Justice McRey-

29 Note 27, supra.
30 Note 24, supra.
32 (1920), 252 U. S. 37.
33 (1923), 262 U. S. 413.
34 Note 32, supra.
35 252 U. S. 37, 55. This is followed by the sentence: "For, where the question is whether a state taxing law contravenes rights secured by that instrument, the decision must depend not upon any mere question of form, construction, or definition, but upon the practical operation and effect of the tax imposed." The sentence above quoted in the text is quoted by Mr. Justice Brandeis in Underwood Typewriter Co. v. Chamberlain, 254 U. S. 113,
nolds invalidates the application of the Massachusetts excise to foreign corporations engaged exclusively in interstate commerce. He quotes from the brief for the Commonwealth the statement that "Being excises, these taxes are not taxes on property or net income, but taxes measured by property and net income, used in or derived from business done in Massachusetts," 36 and observes: "This view of the nature of the exaction was adopted by the court below, and we think it is the correct one. The right to lay taxes on tangible property or on income is not involved." 37 Therefore the decision boils down to this: Even though it be conceded that a tax on property may be imposed on property employed in interstate commerce and that a tax on net income may be imposed on net income from interstate commerce, nevertheless an excise on doing business measured by property properly taxable and by net income properly taxable may not be imposed if the only business done is interstate commerce.

So be it, since it is so held. The thing for Massachusetts to do now is to get out its baptismal font and rebaptize its tax into a tax on net income and a tax on property. Then the difficulties of traditional doctrine will disappear and the Supreme Court can see as through a glass lightly instead of darkly. Yet it may have difficulty even then, if it believes with Mr. Justice McReynolds that the income which was the measure of the tax in the Underwood case 38 was only that "reasonably attributed to intrastate business." 39 It may overcome that difficulty by referring to the remark of Mr. Justice Pitney in Shaffer v. Carter 40 that the tax "is plainly sustainable, even if it includes net gains from interstate commerce." 41

120, as the concluding part of a sentence which reads: "In considering this objection, we may lay to one side the question whether this is an excise tax purporting to be measured by the income accruing from business within the state, or a direct tax on that income..." The objection in question was a complaint of the taxation of extraterritorial values, founded on the Fourteenth Amendment, but the statement of Mr. Justice Brandeis, with its quotation from Mr. Justice Pitney, dismisses such questions of definitions as having no legitimate bearing upon any question raised under the Federal Constitution.

36 268 U. S. 203, 216.
37 Ibid.
38 Note 24, supra.
40 Note 32, supra.
41 252 U. S. 37, 58. In Underwood Typewriter Co. v. Chamberlain, 254 U. S. 113, 120, which Mr. Justice McReynolds misstates, Mr. Justice Brandeis said: "This tax is based upon the net profits earned within the state. That a tax measured by net profits is valid, although these profits may have been derived in part, or indeed mainly, from interstate commerce, is settled."
A more direct approach to the problem is to analyze the major differences between the taxes that have been sustained and the taxes that have been annulled. The taxes sustained have been of a general character, i. e., taxes on property generally or on income generally or on corporate enterprise generally. The taxes that have been annulled have been for the most part of a special character, i. e., taxes on some specially selected enterprises, or taxes measured in some whimsical or arbitrary way, as by population, or by a graded series of specific amounts. The taxes sustained have been basic taxes rather than cumulative taxes. Though this line of demarcation is somewhat sketchy, it is distinct enough to disclose some taxes that should clearly be allowed, in spite of the fact that in a substantial sense they are taxes on interstate commerce. Among such, the plainest is a state-wide net income tax on all business. It would be absurd beyond belief to require Massachusetts to refrain from any taxation of any part of the net income from sales of cement shipped in from without the state in response to orders secured from solicitation within the state and thus to compel her either to forego revenue from corresponding local sales or else to put the local product at a competitive disadvantage within the state. Such a complete restraint would be even more absurd than the present contrast which sustains inclusion of net income from interstate commerce in the measurement of an excise on corporations which do a little independent local commerce, but exempts entirely net income from interstate commerce when that is all the income there is.

Toward that part of the Massachusetts excise which is measured by what Massachusetts chooses to call the "corporate excess" domesticated in Massachusetts, one may well feel less sympathetic. If the property may enter into the ratio used for allocation of income, there seems no compelling reason for using it directly as the measure of part of the tax. Such a use in one sense amounts to a higher rate on the property of corporations than on the property of individuals. Yet such excises measured by that part of the total assets which is properly attributed to the taxing state are allowed when some independent local commerce is indulged in, and it is hard to see why the presence or absence of a little local business should make such a difference. When the state takes as a base the value of total capital stock it takes account of a capitalization of all earnings, interstate as well as intrastate. Whatever ratio it uses takes account of a fraction of this capitalization. Why make the inclusion or non-inclusion of this fraction of the capitalization of earnings from interstate commerce depend upon whether there is local commerce in addition? The contrast between the Hump

42 Cases cited in note 18, supra.
Hairpin case\textsuperscript{43} and the Ozark Pipe Line case\textsuperscript{44} is one that can stand only on doctrinal legs, and the doctrine that interstate commerce is not taxable is false to the facts of a long line of decisions allowing state taxation of interstate commerce in the substantial sense. The doctrine is well enough for use in killing state taxes that are special and discriminatory, but it should not be accepted at its face value and used to spare interstate enterprise from taxation that bears no more heavily on it than on corresponding local enterprise.

IV

The states, however, are not always losers from the spasmodic Supreme Court following of ancient lights of doctrine. Apparently there is enough left to the test of the subject on which the tax is imposed to cause the court still to overlook some bad measures for taxes on good subjects. The light and leading of the Western Union case is not followed to the full extent of insisting that an excise on intrastate corporate business must restrain its measures within the limits set for direct taxation of property or of income. In\textit{Bass, Ratcliffe & Gretton v. State Tax Commission}\textsuperscript{45} the mere fact that the New York operations may have yielded no net income during the preceding year was declared to be insufficient to invalidate an assessment under an excise called by the court "not a direct tax upon the allocated income of the corporation in a given year, but a tax for the privilege of doing business for one year, measured by the allocated income accruing from business in the preceding year."\textsuperscript{46} Thus we see that if a state adopts a mode of allocation not inherently arbitrary\textsuperscript{47} it may by an excise on doing local business succeed in substance in taxing some income though no income was earned within the state.

If pressed to justify such a result, the court might declare that the excise measured by income is not in substance a tax on the income but on the privilege conferred of operating for the ensuing year in the hope of getting income. We need not quarrel over the substantial meaning of substance. It is enough to say that the court lays down a doctrine that an excise \textit{co nomine} on doing business, though professedly measured by income, may be allowed more

\textsuperscript{43} Hump Hairpin Manufacturing Co. \textit{v.} Emmerson, note 18, \textit{supra.} The details of this case are set forth on pages 182-3, \textit{infra.}
\textsuperscript{44} Note 16, \textit{supra.}
\textsuperscript{45} (1924), 266 U. S. 271.
\textsuperscript{46} 266 U. S. 271, 280.
\textsuperscript{47} The qualification "not inherently arbitrary" is necessary, because, as is considered later, modes of allocation that on their face seem to the court improper are disallowed.
latitude than would be accorded to a tax *co nomine* on income. This is the direct doctrinal descendant from the Baltic Mining case and those following it 48 which sustained Massachusetts and Virginia demands in fact measured by total capital stock, under statutes which set maximum limits to the possible demand. The privilege of doing local business is subject to taxation whether any business is done or not. The tax may be a specific flat tax if it is not too high. 49 It may be measured by total capital stock representing in part property outside of the state, if there is a reasonable maximum limitation. 50 It may be measured by a fraction of total net income which by the application of a reasonable ratio may be allocated to the taxing state, at least where the company fails to show by clear proof that the ratio works out unwarrantably in its case.

This last qualification is introduced because in the Bass Ale case Mr. Justice Sanford pointed out that there was no evidence in the record to show that there was no net income from the New York business. 51 This invites prospective contestants to prepare and offer such proof, notwithstanding the declaration in the opinion that "we think that the Court of Appeals rightly held that the tax imposed for the carrying on of the business in New York is not invalid merely because in the preceding year the business conducted in New York may have yielded no net income." 52 The ensuing paraphrase of this declaration is followed by the comment that "this is especially true where, as in the present case, the corporation is entirely relieved of any personal property tax." 53 For this there is cited a case sustaining a gross receipts tax in lieu of a property tax. 54 These two circumstances of failure of explicit proof and of relief from taxation of personal property afford ways of escape from the declaration in the Bass Ale case whenever the court has a clear case of palpable excess in the estimation of income assumed to be derived from the taxing state.

48 Baltic Mining Co. v. Massachusetts (1913), 231 U. S. 68; Cheney Brothers Co. v. Massachusetts (1918), 246 U. S. 147; General Railway Signal Co. v. Virginia (1918), 246 U. S. 500. See also Southern Railway Co. v. Watts (1923), 260 U. S. 519, 530, where Mr. Justice Brandeis in answer to a contention based on the equal-protection clause observed that "a privilege tax is not converted into a property tax because it is measured by the value of property."

49 Cases in note 19, supra.

50 Cases in note 48, supra.

51 266 U. S. 271, 283.

52 Ibid., 284.

53 Ibid.

54 United States Express Co. v. Minnesota, note 7, supra.
Another way of saving a taxpayer from a plainly excessive allocation can always be found in a criticism of the statutory method, in so far as it applies in the particular case. A method deemed good enough in general may be deemed inapposite to an unusual type of business or to unusual circumstances in some common type of business. Its inappositeness to the situation at bar may cause the court to call it inherently arbitrary. We may expect the court to lean back on the pillow of doctrinal distinction between the subject of the tax and the measure of its assessment whenever there is no plain foray against extra-jurisdictional values, and still to sit up and take notice when such a foray is forcibly brought to its attention. None the less we must recognize that a state has an advantage over the taxpayer in being able to enforce dubious allocations when the allocation is applied not to the subject of the tax but merely to its measure.

Thus the excise tax, which under the Ozark case and the Alpha case cannot be applied to corporations confining themselves to interstate commerce, has its compensating advantage of being relieved from the maximum of strict scrutiny when applied to corporations indulging in intrastate commerce. This distinction may tempt some state to call its tax an excise measured by income, when imposed on corporations combining local and interstate commerce and to call it a direct tax on income when imposed on corporations engaged exclusively in interstate commerce. This would present to the Supreme Court the substantial absurdity of its classificatory distinction, but it would present also a formal situation of an income tax imposed only on interstate commerce and thus give the court a chance to brand it as a discrimination against interstate commerce, notwithstanding the substantially corresponding excise on local commerce measured by net income from all commerce.

Only an instinct for intellectual mischief could advise a state to put such an issue up to the Supreme Court, even though the result of a judicial rebuke would be no more serious than the result of the Alpha case. Yet it might not be wholly foolish for a state to declare that its exaction should be regarded as an excise measured by income or as a direct tax on income, according as one cognomen or the other would contribute to constitutional correctness. The court itself has on occasion gone behind a name to look at effect

53 See, for example, Air-Way Electric Appliance Co. v. Day (1924), 266 U. S. 71, discussed infra, pages 179-80.

56 Note 16, supra.

57 Note 23, supra.

58 In Western Union Telegraph Co. v. Massachusetts (1888), 125 U. S. 530, 552, Mr. Justice Miller saved a tax from condemnation by aid of the remark that "the tax in the present case, though nominally upon the shares
and it might as easily accept now one statutory name and now another when the effect is the same whatever the name. Such mischievous suggestions as these are more appropriate to the classroom than to a tax conference of practical men. They both have the sin of urging a state to make use of artificial differences to get something it does not deserve in addition to something it does deserve. Any decent state should be willing to have its method of allocation rigidly scrutinized to restrain it from levying on extra-territorial enterprise. To motives of decency may be added motives of self-interest. A separate tax on corporations engaged exclusively in interstate commerce would be pretty sure to come a cropper. A general tax with a name that changes according to the kind of business to which it applies might be told to take one name and stick to it. Plainly it would be wise as well as decent to have a straight tax on income from all business within the state. The loss because of a stricter confinement to income earned within the jurisdiction would be more than made up by the gain from reaching income of corporations confining themselves to interstate commerce.

V

Whether the states call their taxes excises measured by property or income or direct taxes on property or income, there will still be problems of allocation in the use of the unit rule of assessment. The fundamental problem is whether the unit rule can be used at all. For property taxation it has long since been sustained against railroads, railroad cars, telegraph lines and express companies. In the case of express companies the court said that there was a "unity of use and management" and that this was of the capital stock of the company, is in effect upon that organization on account of property owned and used by it in the state of Massachusetts." Similarly in Postal Telegraph Cable Co. v. Adams (1895), 155 U. S. 688, which sustained a tax called by the statute a privilege tax as in substance a property tax, Chief Justice Fuller declared at page 697 that "by whatever name the exaction may be called, if it amounts to no more than the ordinary tax upon property or a just equivalent therefor, ascertained by reference thereto, it is not open to attack as inconsistent with the Constitution"; and at page 700 he added: "In marking the distinction between the power over commerce and municipal power, literal adherence to particular nomenclature should not be allowed to control construction in arriving at the true intention and effect of state legislation."

59 State Railroad Tax Cases (1876), 92 U. S. 575.
60 Pullman's Palace Car Co. v. Pennsylvania (1891), 141 U. S. 18.
61 Western Union Telegraph Co. v. Massachusetts, note 58, supra.
sufficient. The Connecticut excise sustained in the Underwood case applied a ratio to the base of the total net income of a manufacturing corporation. The objection of the taxpayer seemed to be, not to the use of the unit rule, but to alleged misuse. For all that appears in the Bass Ale case on the New York excise measured by an allocation of net income, there was no contention that the use of the unit rule was necessarily improper. Mr. Justice Sanford, however, quotes from an opinion justifying resort to the unit rule in assessing an excise on a railroad corporation and then adds that "this is directly applicable to the carrying on of a unitary business of manufacture and sale partly within and partly without the state." This suggests the question whether the unit rule may be employed for enterprises not deemed "unitary." The question need not be raised under any statute which offers the taxpayer an opportunity to present segregated accounts of business within the taxing state dissociated from business outside. If the taxpayer cannot make such segregation when given the opportunity, there is ample justification for resort to the unit rule. It seems likely also that any complaint that the unit rule should not be used at all can usually be regarded as raising a problem as to the propriety of the factors used in making the allocation. Such issues still await adjudication.

Granted that the unit rule may be used if used rightly, two questions arise: (1) Has the state chosen a proper base? (2) Has it chosen a proper ratio? Analytically these two issues may be distinct, and the first may be the primary one. Yet in practice they must necessarily often be intermingled. The base might be a proper base to which to apply some ratios but an improper base to which to apply others. Doubtless in most cases it may be said that the reason why the base is excessive is that there are no suitable ratios to apply to it. A railroad company can get farm land excluded from the base because it lacks farm land of corresponding value per acre in the taxing state or because only a track mileage ratio is used, and this is obviously inappropriate for allocating the values of farm land. So of the express company which secured reduction of the base by the subtraction of assets used in a banking business. When the Alpha Portland people got the New York Court

63 Note 24, supra.
64 Note 45, supra.
65 Wallace v. Hines (1920), 253 U. S. 66. In this case, however, the mileage ratio was held unsuitable, in view of the peculiar situation alleged in the complaint and conceded by demurrer.
66 266 U. S. 271; 282.
of Appeals to revise the application of the unit rule, one change was made in the base and another change was made in the ratio. The court can't enact a ratio; it can merely modify one made by the legislature. When no modification can yield the desired correction, the only relief must be to perform an operation on the base. Sometimes the necessary correction may be made either through a change of base or a change of ratio.

Nevertheless there are cases where the defect is plainly and solely in the base. Such a case is Air-Way Electric Appliance Co. v. Day, in which Ohio learned that the base of authorized capital stock is a bad base. Such a base must often represent a value in excess of the actual value of the company's total assets. The court condemned the base under the equal-protection clause of the Fourteenth Amendment as a standard which would not apply proportionately to the real value of the assets of different taxpayers. It condemned it also under the commerce clause, with the evident idea that the inclusion in the base of hypothetical values results in the taxation of interstate commerce and of extra-state values, whenever the corporation does interstate business and owns extra-state property or engages in extra-state enterprise. The company at bar had no property outside the taxing state, so that the real vice was an assessment of non-existing values rather than of extra-state values. Even if the company had assets in several states, the problem presented by the reference to authorized rather than to issued capital seems to be one of over-valuation rather than one of jurisdiction. For certain purposes this distinction is of importance, as when we are dealing with the finality of an assessment by administrative officers. In the present instance we may rest content with the belief that values which exist only in imagination do not exist in Ohio.

Parenthetically we may observe that this Ohio tax was an excise and that the complaining corporation was engaged in manufacture in Ohio. Thus the court might have taken the view that this was not a tax on the property but a tax merely on the privilege of doing local business. The measure of authorized capital apportioned to

70 (1924), 266 U. S. 71.
71 At pp. 82-83 Mr. Justice Butler observed: "In this case, the fee fixed by the commission was based on nearly eight times the number of outstanding shares and that determined by the court on nearly six times that number. As some of the outstanding shares are represented by plaintiff's interstate business, the application of the rate to all the shares, or to a number greater than the total outstanding, necessarily amounts to a tax and direct burden upon all the property and business including the interstate commerce of the plaintiff."
Ohio seems a much less arbitrary one than the measure of the old Massachusetts excise of 1909, under which for all corporations having a capital of less than $10,000,000, the assessment was actually based on total capital stock, no matter how much of that capital stock represented assets outside of Massachusetts.\textsuperscript{72} It is the company and not the state that is responsible for the excess of authorized capital over issued capital. Any discrimination or any assessment of mythical values is avoidable by the corporation, through the simple device of keeping the authorized capital down to the issued capital. It might readily strike a practical man as worse to measure an excise by an allocated income in excess of income actually derived from within the taxing state than to measure it by a proper fraction of the number of dollars which the taxpayer chose as the amount to which stock might be issued.

The difference between the attitude of the court in the Air-Way case\textsuperscript{73} and in the Bass Ale case\textsuperscript{74} shows that the distinction between the subject and the measure of the tax will be used or not as the court chooses. It may indicate also that the court will be less critical toward an excise measured by an allocation of income than toward one measured by an allocation of property. Since the state may choose between the two, it has open to it a way of getting a tax in an incomeless year. If this may be done by selection of a property base, it is not so serious that it may happen to be done by the application of an appropriate property ratio to an income base. This is not to suggest that such refinements were in the mind of the court. What is more likely is that the court found in the Ohio statute an obnoxious feature easy to see and easy to eliminate, whereas it approved of the general features of the New York statute and was unconvinced that any serious injury had been done by its particular application. At any rate the two decisions and the two opinions, when taken together, add further assurance that we should pay more heed to what the court does than what it says.

Another phase of the problem of keeping the base within suitable limits is presented by Atlantic Coast Line Railroad Co. v. Daughton,\textsuperscript{75} which sustained an excise measured by operating income from railroad operations within the state, although it was recognized that the taxpaying corporation had to pay out in rentals and interest a sum larger than that of the operating income charged against it. The company’s contention was that the tax was really on its gross income rather than on its net income and therefore was obnoxious to the commerce clause. Mr. Justice Brandeis an-

\textsuperscript{72} Baltic Mining Co. v. Massachusetts, note 48, \textit{supra}.
\textsuperscript{73} Note 70, \textit{supra}.
\textsuperscript{74} Note 45, \textit{supra}.
\textsuperscript{75} (1923), 262 U. S. 413.
svered that it was settled in *Shaffer v. Carter*\(^{76}\) that a state may "impose a tax upon the net income of property, as distinguished from the net income of him who owns or operates it, although the property is used in interstate commerce."\(^{77}\) A little earlier he referred to the fact that the state need not concern itself with a mortgage upon the real estate when it lays an *ad valorem* tax upon the land. Clearly the issue in this case is not one of the assessment of extraterritorial income. The income assessed was concededly all derived from North Carolina operations. North Carolina was clearly entitled to an income tax thereon. The trouble was that the railroad company couldn't enjoy the income but had to pay it all out to lessors and creditors. The lessors and the creditors were the ones who in decency should be taxed. Under the Multonomah case\(^{78}\) it would seem that the state might have worked out some plan so that the tax would fall where in economics it belongs. But *Paddell v. New York*\(^{79}\) shows that the state is not obliged to do so. It may tax the legal owner or the legal recipient although he has mortgaged his property to the hilt and has to pay out to others all that he gets. The Daughton case has troubled our genial Secretary,\(^{80}\) but the result seems very simple though very regrettable. The state, however, ought not to lose its tax on income earned within its borders merely because the income has to go on to creditors and lessors. It ought, however, to do its best to see that they and not the mortgaged railroad feel the smart of its fiscal whip.

Turning now to the problem of proper ratios, we have to deal with simple ratios and with compound ratios, with ratios applied to the base of a valuation of total capital stock and with ratios applied to a base of total net income. The simplest ratio is that sustained in the Underwood case\(^{81}\)—a ratio of tangible property in the taxing state to tangible property everywhere, applied to the base of total net income. The court recognized that special facts might show that this ratio would not work out suitably in individual instances, but it found it good enough for general use and put upon the complainant the burden of showing by explicit proof why its application should be modified. This burden is likely to be a hard one to bear. If the taxpayer is unable to segregate completely the business in each state, he is likely to be unable to show clearly that any statutory ratio yields an erroneous result. His best hope must.

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76 Note 32, *supra*.
77 262 U. S. 413, 421.
78 Savings & Loan Society v. Multnomah County (1898), 169 U. S. 421.
79 (1908), 211 U. S. 446.
80 Bulletin of the National Tax Association, vol. 9, pp. 16-17.
81 Note 24, *supra*.
be to seek for that administrative amelioration which most statutes make possible, since the taxing authorities may help him out on a hunch that he deserves it, without being required to support that hunch by indubitable mathematical demonstration. Where administrative relief is open and not sought, judicial relief is denied. Where administrative relief is not open, a court may well scrutinize the statutory mode of allocation with eager eyes to find a flaw, hoping that a few rebuffs may move all the states to offer administrative balm. Where administrative relief is sought and not obtained, the court must be very clear that the ratio has worked ineptly. Otherwise it will encourage every taxpayer to bother it with the details of his enterprise and his accounting.

The Hump Hairpin ratio comes next for consideration. This was an Illinois excise measured by that part of the capital stock allocated to the state. The company in question, though foreign to Illinois, had no tangible property outside of Illinois. Under the application of the Connecticut ratio, which confined itself to tangibles, the percentage assigned to Illinois would be one hundred per cent. But the Illinois statute used a compound ratio which averaged the percentage of tangible property in Illinois with the percentage of business transacted in Illinois. Apparently without explicit direction from the statute the Secretary of State had concluded that all the business of the company was transacted in Illinois. All of its manufacturing was done there, and all sales were made from Illinois stock, though less than one-tenth were intra-state sales.

The situation is somewhat manhandled by Mr. Justice Clarke when he says that “the statute and the state Supreme Court both show a candid purpose to differentiate state from interstate business and to use only the former in determining the amount of the disputed tax.” They show no such thing. At most they show a purpose to distinguish state from extra-state business, and that purpose seems to have been partially frustrated by the act of the Secretary of State, approved by the state Supreme Court, in treating as completely Illinois business the sales from Illinois stock to purchasers in other states. Mr. Justice Clarke recognizes one phase of this when he says that “if the Secretary of State or the court, in computing the tax, erroneously treated as intrastate that which was really interstate business, such error would be reason in a proper case for correcting the computation, but would not justify declaring the act unconstitutional.” Other features of the opin-

84 258 U. S. 290, 293.
85 Ibid.
ion invite comment, but it may be sufficient to say that Mr. Justice Clarke seems to miss the main point in which we are interested at the moment, so that the case is not a certain basis for prophecy. The opinion treats the complaint as one against taxation of interstate commerce rather than one against assessment of extraterritorial enterprise. Clearly enough if sales may be disregarded entirely as in the Underwood case, and if net income from interstate commerce may enter into the assessment as in a number of cases, there is no good reason for excluding interstate sales entirely from a sales ratio. The real question is whether such sales should not in some way be split between the state of stock and the state of delivery. If sales were the only element in a ratio, some such split should be made. Where, however, a ratio is compound, the problem is whether the compound is a good compound rather than whether each element would be good enough to stand alone.

The treatment of interstate sales will doubtless soon come before the Supreme Court in some case on the Massachusetts statute. One-third of the total income is allocated on the basis of sales, and sales are treated as Massachusetts sales unless they are made by agents or agencies having their chief headquarters outside of Massachusetts. This test of the headquarters of the salesmen, without regard to the place where the stock is stored or the place where the negotiations occur or the place to which the goods are shipped, seems in itself somewhat inapposite. The same may be said of the similar test for the allocation of wages and salaries paid, to get a ratio for application to another third of the total income. On the other hand, the place where the stock is kept and the place where it is manufactured get full recognition in the third element in the ratio which allocates one-third of the total net income on the basis of tangible property. By complete neglect of the place of delivery, there is disregard of the fact that one of the essential elements in deriving a profit from manufacture and sale is to have a customer to take the product and pay the price. Here seems to be an appropriate situation for the application of the judgment of Solomon. Yet what shall Solomon say? How much of the profit is profit from manufacture? How much of the sales profit is due to the goodness of the goods and how much to the gullibility of the customer? Not being Solomon, I will not venture an answer. I doubt if even the Supreme Court will accept the challenge. I expect that it will sustain the Massachusetts ratio as it has sustained the New York ratio, which to tangibles, adds personal property and bills receivable. These combined ratios seem likely to prove fairer than the simple ratio of tangibles. The truth

86 Cases cited in note 8, supra.
is that the question which the ratios profess to answer is unanswer-
able. The court must be sure that it knows a better answer than
the answer of the ratios, before it can call that answer unconsti-
tutional.

The problems of jurisdiction and of fairness raised by ratios are
not susceptible of judicial solution. One who has listened to argu-
ments of counsel before the Supreme Court—perhaps even one who
has made them—knows that the court often has a hard time to find
from attorneys the essential facts in the situation. One who has
read Supreme Court opinions knows that comprehension of tax
issues is not uniform among the various justices. Without adopt-
ing in full the sage remark once made about something else, it is
safe to say that some are better than others. Supreme Court just-
tices are not specialists in economics and accounting and they have
many other things to do. The Constitution offers them no guide
about ratios and bases and allocations. It merely offers them an
opportunity to pass judgment. The sources of judgment are sources
outside the Constitution and outside the common law. The most
that a court can do is to spot something clearly bad, and much that
is clearly questionable is not clearly bad. Judicial condonations of
modes of allocation should, therefore, not be taken as tokens that
those modes are the best that can be devised. Doubtless there is no
such animal as an intrinsically good ratio. The best that can be
hoped for is a good stab at a good ratio. More important than a
good ratio is the adoption of identical ratios by the several states.
A corporation doing business in several states, with different ratios,
runs the risk of paying on the basis of more than one hundred per
cent of its income or of its assets. If this risk were eliminated,
any complaint against the tax of one state would be a confession
that the tax of another state was too small. If we could get any-
thing like uniformity of ratios, the complaints of taxpayers should
greatly decrease. This would be unfortunate for tax attorneys, but
otherwise it would be of general advantage.

The problem of allocation seems to be of sufficient importance to
justify the formation of a committee of this Association to study
the situation and present a model plan. Such a committee should
gather data as to the bother imposed on corporate officials by the
necessity of filing different reports for different states. It should
get testimony from tax commissioners as to the load of labor and
of vexation imposed by the job of making assessments and passing
on petitions for amendment. It should strive to discover to what
extent the adoption of varying modes of allocation makes the sum
of the parts greater than the whole, i. e., allows several states to
take fractions of the same total and together get a total of the
fractions greater than the total that the fractions profess to be frac-
tions of. With such and other relevant data before it, such a com-
J. F. Zoller: Now I ask your indulgence, as I should like to make a few remarks in respect to that paper, instead of arising later during the session.

Chairman Edmonds: Under the rules, Mr. Zoller, as I understand it, the third paper will be read first, before discussion.

Mr. Zoller: I only make that suggestion because it is fresh in my mind. I can get through now and be done for all time.

Chairman Edmonds: Any objection to allowing Mr. Zoller to discuss Mr. Powell's paper at the present time?

(No objection)

Chairman Edmonds: The floor is yours, Mr. Zoller, seven minutes.

Mr. Zoller: For my part I cannot get excited at all, over the decision in the Alpha Portland Cement Company case. I cannot see how the court could have done otherwise. The constitution provides, and always has provided, that the states cannot regulate interstate commerce. That can only be regulated by Congress.

Many years ago the courts held that the taxation of the privilege of carrying on interstate commerce was a regulation, and therefore that any tax upon the privilege of doing interstate commerce exclusively was a regulation of that commerce and unconstitutional.

Now, then, it seems to me that when the State of Massachusetts agreed in writing that this corporation had restricted its operations in Massachusetts to interstate commerce, they gave up all hope that they might ever have had of sustaining that tax against that particular corporation.

I have no doubt that there are a number of corporations that are doing intrastate business in many states, under the guise of interstate commerce, or perhaps they believe that they are restricting their operations to interstate commerce, when they are not. Those questions can be discussed, but so long as the present constitution endures, a corporation that is able to restrict its operations in any state exclusively to interstate commerce, cannot be taxed for the privilege of carrying that on.
You may tax their property used, and all that sort of thing, but you cannot tax any corporation for the privilege of carrying on interstate commerce, because the court has held that that is a regulation of it, and the Constitution says that interstate commerce can be regulated only by Congress and not by the states.

I don't think the fault was with the law. I think tax administration in Massachusetts got a little bit too zealous, as often happens. Administrators want to reach out and make a good showing under their laws; they want to get all the taxes they can.

There was nothing in the excise laws of the State of Massachusetts that required the administering officials to tax interstate commerce. The law was sound; and if it had been declared unconstitutional, as a result of this case—some thought it was—it would not have been the fault of the law, it would have been the fault of the administration.

I may say, too, that in many of these states, tax administrators are going beyond the law and are trying to reach over state lines. and the result is going to be, I believe, in the last analysis of the situation, that some very good laws that are bringing in revenue are going to be declared unconstitutional by the United States Supreme Court; not by the voiding of the law itself, but because of the over-zeal of the tax administrators.

I can point to unconstitutional laws on the statute books of some states today. It was held a long time ago by the United States Supreme Court that a tax upon the total authorized capital of a foreign corporation was unconstitutional, not because it interfered with interstate commerce alone, but because it was an attempt to tax property beyond the jurisdiction of the state. Those laws were declared unconstitutional many years ago, yet we have the State of South Carolina today—I am only using that as an illustration—imposing a tax upon the total authorized capital of foreign corporations. If there is anybody here from South Carolina, he ought to justify that law, or else go back and work for its repeal.

The State of Washington imposes a tax today on the total authorized capital of foreign corporations, for the privilege of doing business in Washington. The supreme court of the State of Washington, ignoring the decisions of the Supreme Court of the United States, has just sustained this law, because they said it was not shown that the corporation was engaged in interstate commerce, but it was shown that the corporation had most of its property outside of Washington, and the United States Supreme Court decisions were not predicated entirely upon the tax being interference with interstate commerce, but there was another reason, which was just as important; they held that it was an attempt to reach property beyond the jurisdiction of the state.

Now, so long as the Constitution stands, I think it ought to be
The United States Supreme Court has held that you cannot reach beyond the borders to get portions of property located outside of the state and bring them into the state, for the purpose of apportioning.

As was stated by Mr. Long this morning, the only excuse for using property outside of the state, in apportioning income, or whatever the tax base may be in the state, is for the purpose of determining the value of the property in the state.

You only have jurisdiction over property in the state. You cannot bring into the state outside property by a comprehensive and complicated scheme of apportionment, where you may assume that a certain per cent of this is equal to a certain per cent of something else. If the result of that is to bring into the apportionment to the state properties located outside of the state, your law is not unconstitutional, but your apportionment is unconstitutional, and if you drive that apportionment scheme too far, it may result in making some mighty good laws, which on their face are constitutional, unconstitutional. I thank you.

Chairman Edmonds: The discussion will be postponed, until after the third number on the program may be fulfilled.

Henry F. Long (Massachusetts): I rise to a point of personal privilege, to say that the reference to the over-zealousness of the commissioner by Mr. Zoller is hardly borne out, although I might want to argue that at length, because the Massachusetts Supreme Court, than which there is no better, sustained the tax commissioner in a very well written opinion.

Chairman Edmonds: I am sure that the reasonableness of the tax commissioner of Massachusetts needs no commendation to this association.
The third number on the program is Need of Uniformity in State Business Taxes, by Reinhold Hekeler.

NEED OF UNIFORMITY IN STATE BUSINESS TAXES

REINHOLD HEKELER
Assistant Secretary, The Texas Company

Undoubtedly many of you have felt, as I do, that something should be done by the several states to simplify tax matters and to lighten the burden that has been placed on business men, in connection with the preparation of tax reports and the payment of taxes.

Inasmuch as most large business enterprises are now carried on by corporations, especially where business is conducted in more than one state, most of my remarks will concern the taxation of corporations.

At the present time, if a business enterprise is carried on in more than one state, the persons conducting such business find themselves taxed in as many different ways as there are states in which the business is conducted. And there seems to be no end to the confusion. The trend seems to be toward a greater variety of methods for taxing corporations, and legislatures apparently do not realize the burden they are imposing on corporations, in making the latter prepare such a multitude of tax returns. Professor H. L. Lutz, in his very interesting book on Public Finance, takes cognizance of this, and says that it has been impossible to curb the tendency toward diversity in taxing methods, and the result has been a bewildering variety of taxes levied on property, capital stock, gross and net earnings, and other indicia of corporate capacity.

A corporation doing business in all the states of the Union has to contend with such a variety of tax laws that it requires the employment of a large staff of experts to look after its tax matters. So many changes in tax laws are made when the state legislatures meet, that the tax experts must continually keep on the lookout, for fear of overlooking some new tax requirement of a state or endangering the corporation's right to conduct business in that state.

I am not stressing the fact that taxes are continually mounting and mounting, and that the favorite "indoor sport" of legislatures is to add more and more taxes on corporations. The same amount of taxes could be collected by all of the states, even if a uniform system were devised. The rate of tax could and would undoubtedly vary, according to the budget requirements of any state, but the many varieties of taxes place an unjustifiable burden on business men, which can and should be eliminated. As stated before, I am not complaining of the amounts that corporations pay in taxes, but
at the same time it will be of interest to know that the corporation I represent, as well as some of its competitors, paid for 1924, in taxes, approximately 70 cents for each $1 paid in dividends. Our company paid for 1924 taxes, $2.15 for each share of stock issued and outstanding, and when we consider that this company has over 30,000 stockholders, residing in every state of the Union, it becomes very clear that in taxing corporations the legislatures are in reality taxing their own citizens. Although a corporation is, as termed in law, an artificial person created by the state, it is made up of the citizens of our country, and in taxing the corporations the states frequently tax persons who can least bear the burden of high taxation, for many persons owning corporate stock need their dividends to eke out their small incomes. High taxes on corporations reduce the income of the stockholders and oftentimes make it impossible for corporations to pay any dividends at all.

Corporations are frequently more heavily taxed than individuals are. A man who has a business in Illinois, for example, will be taxed on his real and personal property, but if he forms a corporation to conduct this business, such corporation will be taxed on the real and personal property as the individual is, and in addition it must pay a heavy franchise tax. This makes the corporation a victim of double taxation. On this question Frederick N. Judson said in his address before the twelfth annual tax conference, at Chicago, under the subject of "Some Constitutional Aspects of Taxation":

"In some states, notably Massachusetts, New York, and Wisconsin, elaborate State income-tax systems have been adopted. The evil of double taxation has been sought to be, to some extent, avoided by making the income tax substitutionary, that is, by exempting from the general property tax, the personal property, consisting of intangible securities. It is obvious, however, that wherever the tax is levied both upon the income and the property from which the income is derived, we have double taxation. Other states are adopting the income tax, not as substitutionary, but as supplemental to a system of property taxation, without any exemption of any class of property from which the income is derived. In such cases we not only have the double taxation incident to such an income tax, but also triplicate taxation, when the same tax is levied by federal and state governments."

Few persons realize what it costs a corporation to prepare tax reports and to attend to the payment of taxes, aside from the amount of money paid for the taxes themselves. An expenditure of many hundreds of thousands of dollars is incurred each year by my company in maintaining a separate tax department under a director and divisional heads both in New York and in the South
and the West, assistants in New York and Houston, a large force of accountants and statisticians, engineers, etc. The company derives absolutely no income or profit from this expenditure, which could be greatly reduced, if there were uniformity in state taxes and the consequent tax returns.

Every state has a different kind of form on which tax returns or reports of business done must be reported to the state authorities. Some states require only a list of officers and directors; others require in addition, a report of the location and value of all tangible property owned by the corporation in the state; others call for figures showing gross receipts from sales or manufacture within the state; others ask for figures contained in the federal income tax return and a copy of the annual statement or balance sheet of the corporation, and so on. The dates as of which these reports are made vary, so that the company must take inventories at various times during the year.

Then, in addition to all the foregoing, some states require the filing of lists of stockholders, and the dates as of which these lists are compiled vary, so that one list for all states will not suffice; it is necessary to prepare many lists, all at the expense of the corporation.

Many of the forms of state franchise reports, or income tax returns, call for information which appears to be entirely irrelevant, but which, nevertheless, takes much time to assemble. For example, the Missouri corporation franchise tax return calls for figures showing the par value of capital stock, clear market value of the stock, surplus and undivided profits, clear market value of property and assets in the state, clear market value and assets without the state, amount of encumbrances on assets without the state and total amount of liabilities; and yet when the franchise tax is computed, the only figures which are taken are those representing the clear market value of property and assets in the State of Missouri. I have never been able to understand why the tax commission goes through the laborious calculation of dividing the assets in the state by the total assets everywhere, and multiplying the resultant fraction by the total assets everywhere. The result is always the amount shown on the return as the clear market value of assets in the state. The rule as given on the back of the return indicates that the fractional part of the capital stock and surplus represented by assets in the state is what should be taxed, and the supreme court of Missouri has ruled that the word surplus means the excess of gross assets over and above the outstanding liabilities, yet the tax commission gives no consideration whatever to the amount of liabilities, either on property without the state, or on property within and without the state. In other words, if the corporation franchise tax return of Missouri merely called for the clear market value of
assets in the state, they could determine the franchise tax just as well as they do now with the other information given.

In 1924 the corporation that I represent filed 187 state reports covering its operations, to say nothing of about twenty-five other state reports it had to file, on behalf of its subsidiaries. This means approximately four reports each week, but the work of preparing these reports cannot be divided and spread over the year, so that four could be prepared each week. Many of the reports are due about the same time, so that during some months the corporation’s tax department is unreasonably overburdened with work.

At the end of this article I will give a statement of reports and taxes required of a foreign mercantile corporation by the various states. An analysis of these, based upon the record of the corporation I represent, will be of interest here.

We filed franchise tax returns in all but two or three states. These were called either franchise, license, excise, or capital stock returns, or certificates, or annual reports. In most of these states a franchise tax was collected, based on these reports. Many states require a franchise report and in addition a license report, or they collect both a franchise and a license tax. These states are Alabama, California, Delaware, Missouri, Montana, Nebraska, New Mexico, Rhode Island, South Carolina, Tennessee and West Virginia. In the following states we filed corporate income tax returns: Connecticut, Missouri, Montana, North Carolina, North Dakota, South Carolina, Virginia and Wisconsin. In addition, we filed miscellaneous reports in Arizona, Arkansas, Massachusetts, Missouri, Nebraska, New Hampshire, Ohio, South Carolina and Vermont. We also filed lists of stockholders in many states, and information as to transfers of corporate stock during the year.

It might not be amiss to relate here an experience we had as a result of our having filed a list of stockholders in Ohio. Last year one of our stockholders wrote us that some one who had access to our books had given his name to the tax commission as a stockholder, and because of this he was taxed about one dollar per share of stock held by him. This reduced his yield from 6% to 4%, and as this was too low he was forced to sell his stock, and did so at a loss. He desired to warn our officials that some employee was committing a wrongful act, but of course we had no choice in the matter, as the law compelled us to file the list of stockholders.

In addition to all these returns we filed lists in various states showing resident employees who received salaries in excess of certain amounts, and in some states, New York for example, we had to withhold personal income taxes from non-resident employees and remit to the state, thus making us the state’s collecting agency, without any compensation for our efforts and for expenses incurred in so doing.
Then there are states that impose a merchant's license tax, in addition to all other franchise or capital stock or income taxes. In Delaware there is a merchant's license tax, based on gross receipts. In Missouri there are two merchant's license taxes, one based on the value of the greatest amount of merchandise on hand between certain dates, and the other based on the volume of business done during the year. Pennsylvania's merchant's license tax is based on volume of business, and Virginia taxes merchants on the amount of purchases made during the year.

The foregoing remarks show conclusively that some action must soon be taken to bring about a uniformity in taxing methods. Something must be done in the near future to simplify the work expected of corporations in apprising taxing authorities of the amount of taxes due.

I am aware of the fact that at a National Tax Conference held some seven or eight years ago a committee was appointed to draft a model business income tax law. This committee drafted such a law and it was discussed and amended in 1922. However, it appears that the question was then dropped and that model law was forgotten. I believe this conference should appoint a new committee to study the situation carefully. It may be that the model business income tax law can be used, making whatever changes present conditions might warrant, but the committee should make recommendations as to ways and means for bringing the proposed model law to the attention of the several state legislatures or at least to the attention of the tax commissioners of the several states, so that suitable action may be taken by the legislatures. This matter is of such importance that there should be no delay, and no effort should be spared to bring about the necessary action by all of the states in the Union.

**Schedule of Taxes and Tax Returns Required of Foreign Corporations in the Several States**

**Alabama.**
- Annual foreign corporation return for franchise tax
- Annual franchise tax
- Application for corporation permit

**Arizona.**
- Annual report
- Annual registration fee
- Statement of income and expenditures, one for each place of business in the state
- Inheritance tax report

**Arkansas.**
- Capital stock tax
- Foreign corporation franchise tax return
- Annual franchise tax
- Anti-trust affidavit
- Intangible property tax return
- Foreign corporation capital stock report
<table>
<thead>
<tr>
<th>State</th>
<th>Reports and Taxes</th>
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| California    | Capital stock affidavit  
                  | Corporation license tax  
                  | Report on general corporate franchise  
                  | Franchise tax                                      |
| Colorado      | Annual report  
                  | Capital stock tax  
                  | Annual corporation license tax                  |
| Connecticut   | Annual report  
                  | Income tax return  
                  | Income tax                                       |
| Delaware      | Annual (income) report  
                  | Franchise tax  
                  | Manufacturer's affidavit  
                  | License tax on receipts of manufacturer  
                  | Merchant's license tax returns and taxes          |
| Florida       | Request for registration of products (oil dealers)    |
| Georgia       | Certified statement for registration  
                  | Corporation application for registration  
                  | Annual license tax                                |
| Idaho         | Annual statement of foreign corporation  
                  | Annual license tax                                |
| Illinois      | Annual report  
                  | Franchise tax                                     |
| Indiana       | Annual report  
                  | Annual report and license fee to industrial board |
| Iowa          | Annual report  
                  | Additional statement                              |
| Kansas        | Foreign corporation annual report  
                  | Annual fee                                        |
| Kentucky      | Annual report  
                  | Capital stock tax  
                  | List of stockholders                              |
| Louisiana     | Annual statement  
                  | Capital stock tax                                 |
| Maine         | Annual license fee  
                  | Certificate of foreign corporation                |
| Maryland      | Annual report  
                  | Franchise tax                                     |
| Massachusetts | Report of stockholders  
                  | Report of salaries paid to residents  
                  | Report of dividends paid  
                  | Excise tax return                                 |
| Michigan      | Annual report  
                  | Franchise tax                                     |
MINNESOTA. None

MISSISSIPPI. Net income statement
Income tax

MISSOURI. Corporate franchise tax return
Income return
Income tax
Franchise tax
Annual report
Anti-trust affidavit
Annual registration
Merchant's license tax returns and taxes

MONTANA. Return of annual net income
Annual statement
Capital stock tax
Annual report
Corporate license tax

NEBRASKA. Annual statement with list of stockholders, to tax commission
Annual statement to attorney general
Annual report
Annual license fee

NEVADA. Annual statement of business of foreign corporation for previous year
Annual franchise tax

NEW HAMPSHIRE. Annual report
Copy of annual statement to stockholders

NEW JERSEY. Annual report

NEW MEXICO. Annual report
Annual franchise tax report
Franchise tax

NEW YORK. Franchise tax return
Franchise tax
Report of salaries paid to residents
Return of personal income tax withheld from non-resident employees

NORTH CAROLINA. List of salaries paid
Income tax return
Annual report
Franchise tax
Income tax

NORTH DAKOTA. Corporation income and capital stock return
Foreign corporation report
Report of income paid to individuals
Income tax

OHIO. Industrial report
Annual report
Franchise tax
OKLAHOMA. Certificate of capital stock employed
Annual license tax report
Annual license tax

OREGON. Annual report
Annual license fee

Pennsylvania. Capital stock, bonus and corporate loans reports
Emergency profits tax return
Emergency profits tax
Bonus on capital
Capital stock tax
Merchant's license tax returns and taxes

Rhode Island. Annual report
Tax return
Corporate excess tax

South Carolina. Annual statement
Annual report
Annual license fee
Income tax return
Income tax
Registration of products
Merchant's stock statements, one for each station

South Dakota. Annual report
Capital stock tax

Tennessee. Annual report
Supplemental information report
Annual license fee
Return of net earnings
Excise tax

Texas. Annual franchise tax report
Franchise tax

Utah. Annual statement
Annual corporation license tax

Vermont. Annual license tax return
Annual license fee
Application for extension of certificate of authority
List of resident stockholders
Statistical certificate

Virginia. Registration fee
Annual report
Income tax return
Income tax
Merchant's license tax returns and taxes

Washington. Capital stock affidavit
Annual license tax

West Virginia. Quarterly estimated business-profession tax return and tax
Annual business-profession tax return and tax
Annual report
Annual license tax
Wisconsin.

Income return
Income tax and surtax
Schedule of stock transfers and report of salaries paid
Annual report
Supplemental annual report

Wyoming.

Annual statement
Annual license tax

The foregoing do not take into account the ad valorem tax returns required in almost every state, nor special returns and taxes on certain industries, such as production or severance taxes, or inspection fees, or gasoline taxes, or freight or tank car taxes.

Chairman Edmonds: The three papers of the morning are now open for discussion.

Edward P. Doyle (New York) : Mr. Chairman and Gentlemen: The Egyptians had a custom or practice of having a skeleton at their feet, and I presume it would serve just as useful a purpose that there should be at every meeting of this National Tax Conference a taxpayer, although necessarily in this gathering of tax commissioners and public accountants he feels something like a lamb among the wolves.

All of these extraordinary taxes that you have been discussing this morning and all this over-zealousness of state tax commissioners arises from the fact that you feel that you must have extraordinary incomes in order to satisfy the mob; in other words, on the same principle that a family pets an unruly and turbulent child.

Now, if this tax conference would educate the people of the United States to come back to the government we had twenty or twenty-five years ago, before this idea came into existence, of which I spoke yesterday; that it is the duty of the government to support the people, rather than the people to support the government, we should have no difficulty about taxation.

This idea is what is called progressive. This idea that the surplus of the thrifty and industrious must be taken, to take care of the unruly, turbulent, idle and lazy people is not new at all, and is not progressive; it is reactionary. It has been practiced by every despotic government from the beginning of the world.

I presume the finest examples of progressive government, such as we call the Wisconsin idea, to some extent, in this country, was in Rome, where there were about 80,000 free citizens. In the morning the free citizen arose and went to the state barber; he went to the state dentist; took a state bath, and then secured his rations for the day, or the week, from the free granaries, and then he consulted with the politician to whom, at the time, he was attached, and then spent the rest of the day watching gladiators killing each
DISCUSSION OF BUSINESS TAXES

other and Christians destroyed by wild beasts; but they had about 700,000 slaves to do the work.

Gentlemen, we have got to get back to the civil form of government, and we have got to believe that the constitution is the supreme law of the land, and that this so-called police power is not in existence and never had any existence. All these extraordinary expenditures, all these extraordinary taxes are sought to be justified under the theory that there is something beyond the constitution called the police power of the state.

Now, the men who took part in forming this country had in mind free government; since the beginning of recorded history they knew all about pure democracies; they knew about despotic governments, which satisfied the mob and destroyed the middle class, and had an inheritance tax, although they collected their inheritance tax in a little different way than we do. Instead of waiting until a man died, when they thought that a subject was rich enough to have an inheritance tax levied on him, they killed him and then took 100 per cent—made his heirs pay 100 per cent inheritance tax.

All these things come because we have been trying to create new functions of government. I believe to a very large extent, this desire to have new functions of government comes from the stressing of education and the degrading of manual labor.

Too many people are so educated, that they do not care to resort to manual labor, and they become physicians, or dentists or doctors or lawyers.

We have 4500 bricklayers in New York City, and 17,000 dentists; and when enough of these people have accumulated, and there are no places for them in their profession, and they get troublesome to the political leaders, some new function of government is created to find places for them.

We have had in our city the most ridiculous bureaus and the most ridiculous exercise of governmental functions. We had people sent out to teach Italian women how to cook spaghetti; to teach Irish women how to cook corned beef and cabbage; all sorts of ridiculous things. And nobody can look at the names of the bureaus in Washington, without becoming absolutely disgusted with government.

What I have been trying to get before this conference, not having the time in which to discuss these great questions of administration and new sources of revenue, is that this great body ought to try to do something to reduce the cost of government and to teach people that they have nothing to expect from government except protection to their lives and property, while in the exercise of their daily vocations; that every other function of government is to be explained and justified, and that the only one function of government is the absolute and primary duty of government to protect.
E. R. Lewis (Illinois): I was very much interested in the paper of Mr. Long of Massachusetts and that by Professor Powell, of Harvard, read by Mr. Zoller, and I wish to discuss those two papers.

I think I agree with Mr. Long more than Mr. Zoller in his comments at the end, as to the lack of clarification of this subject. I don't think the Alpha Portland Cement case is clear; how it happened, or where it is going. That is clearly brought to light by the fact, as Mr. Long interpolated, that the Massachusetts Supreme Court, as I recollect, unanimously decided that the Alpha Portland Cement tax was constitutional, under the constitution of Massachusetts and of the United States.

If I recollect correctly, the supreme court, in the same case, decided that it was unconstitutional. Mr. Brandeis dissented in the United States Supreme Court. Mr. Brandeis is almost a chronic dissenter.

Now, as to the Massachusetts court, I am not a Massachusetts man, so I can say what Mr. Long ought not to say, I think it is the best court in the United States. I do not say it is better than the United States Supreme Court, but it ranks equally with it, and we all know what the United States Supreme Court is. When they differ absolutely and almost unanimously on a question like this, it is reasonable that Mr. Long and Mr. Powell and some of the rest of us would be at sea.

My solution of the trouble is that the United States Supreme Court and the state courts are making law, and are feeling their way. There are not many fixed principles in these income tax cases. I think there are only two or three. One is that you cannot tax interstate commerce as such, or lay a burden on it, and the other is that you cannot tax property outside of the jurisdiction, and those are the only two principles; and the application of those principles to the multifarious circumstances is almost all in the future.

Justice Holmes once said, in a rather high-brow sentence—you have to read it about ten times to get the full significance, and I think it is a very brilliant sentence—"Abstract principles don't decide concrete cases. Decision will depend upon an intuition much more subtle than an intuition from an articulate major premise."

In other words, to be concrete, the articulate major premise is that you cannot tax property outside of the jurisdiction or you cannot burden interstate commerce. You get your Alpha Portland Cement case and you try to deduce from that principle how to apply that case. And as he says, you cannot do it, by simple deduction. In other words, I think a lot of these cases go on what I call cosmic instance; no question about it. The court feels bad one morning and they knock the tax out; the next morning the court feels differently and they sustain the tax.
DISCUSSION OF BUSINESS TAXES

There are a few decisions of the United States Supreme Court, about which, when I was younger than I am now, I would say, "There is no question about that, that tax is unconstitutional; I know it is." Now, when I wake up in the morning, I don't know anything of the kind, and I am willing to guess a few things.

Now, the puzzling thing about this Alpha Portland Cement case— I have read it at least a dozen times, but I think it means this; that if this tax were called an income tax on income arising within the jurisdiction of Massachusetts, it would get by, but that when it is flatly called an excise tax upon the privilege of doing business, and the only privilege that that company exercises in Massachusetts is interstate business, the court is bound to knock it out. If it is made an income tax on income arising from sources within Massachusetts, there is the next question whether that would stand, even in that shape. I understood Professor Powell to think it would, but I am not quite so sure.

Take the glue company case. That was a domestic corporation, but I do not understand that that case went off on the theory of a domestic corporation at all, because if it is a domestic corporation if you want to, you can tax all its income, no matter where it is from; and yet the court went on to argue that a tax on net income from goods sold in interstate commerce was not a burden on interstate commerce. But the glue company case was an instance where they had the factory in Wisconsin manufacturing the goods, and they shipped some of them to branches in the state, which was clearly Wisconsin business; some of them were shipped to branches in other states and sold there.

I think the second class was one of the main issues involved before the Supreme Court—where the goods were manufactured in Wisconsin and shipped to branches in other states and sold there—and the court said that a tax on the net income of those sales, which were interstate commerce sales, was not a burden on interstate commerce; but those goods were manufactured in Wisconsin and the final act of sale, which was interstate, was in another state. In other words, Wisconsin did have a right to lay hold on that transaction, because it originated in Wisconsin and the final act of sale only was outside of Wisconsin. Therefore they suggested that there was a transaction which was at least 50 per cent, and may be 75 per cent Wisconsin; and if the tax was upon all the final net income, at say six per cent—that is their rate—it would not burden interstate commerce.

In the Alpha Portland Cement Company case there was not a thing done in Massachusetts, except to sell to residents there; they did not manufacture there; they did not have a sales office there. The only way I can reconcile the case with the Glue Company case—maybe it cannot be done—but the way I reconcile it is that there
must be intrastate business of some appreciable proportion in the state that is taxing the income, and that if you have an appreciable proportion in that state, you can tax the net income, even if there is an interstate commerce element also connected with it. But I would not go so far as I understood Mr. Powell's paper to go, and say that it would need only an incidental intrastate business to support the tax on interstate commerce business. It seems to me that if the Glue Company case can be reconciled at all with the Alpha Portland Cement Company case, you must have an appreciable intrastate business first, and then the interstate business incidental to that can be taxed on a net income basis. That is the only suggestion I have to make on those cases.

Edward P. Doyle (New York): Speaking of cosmic instances—we have New York rent laws where in effect a homeless man can talk any terms he sees fit and not pay the rent of the landlord but pay what is equitable and just. That went to the supreme court. We figured on a vote of four to three against the constitutionality, but unfortunately one of the four judges had a son who was a lieutenant in the Navy, and while he was unmarried he supported himself. He married a wife and came to live with the Judge. The Judge demanded that his landlord in Washington give him $500 decrease in his rent, and a long and acrimonious correspondence and talk resulted, lasting for about a year. When the vote was taken on that law, the vote was four to three. This one conservative judge, who had trouble with his landlord, voted with three socialistic judges to sustain that law.

Chairman Edmonds: Any other debate?

Mr. Coody (Mississippi): I just want to say a word in regard to the subject discussed by the gentleman over here—I don't catch his name—in regard to the upward trend of the cost of government.

We hear it frequently stated that we are to go back to the simple methods in use twenty years ago. I see no reason why we should limit it to twenty years; just as well make it one hundred and twenty years. It has been suggested that Henry Ford is the greatest cause of increased taxes, due to the fact that he has given us cheap, shall I say, automobiles, and out of that has grown a demand for good roads and more education and increased services rendered by the state to the people.

I think that before we cry too loudly for a reduction in taxes, we ought to consider the purposes for which public revenues are extended. I have made some analysis of that in my state, and since coming here I have asked representatives from other states, and I find that substantially the same figures will apply to nearly all the states.
DISCUSSION OF BUSINESS TAXES

In Mississippi we spend a little more than fifty per cent of the total revenue of the state for purposes of education; thirty-five per cent of our total expenses are for what we call common schools.

Now, if we want to go back to the simple taxes, we have to go back to the little red schoolhouse, rather than to the modern school building, with competent teachers and model equipment.

Thirteen per cent of our total state revenues are expended in what might be termed public health work. By that I mean the care of insane and tubercular patients. I think we have the finest tubercular sanitarium in the United States. We care for our insane and sick by providing charity hospitals and asylums, where they are giving scientific treatment and we are restoring reason to thousands of people, who under the simple system of twenty years ago would spend the remainder of their days bereft of reason.

Then in Mississippi we have no federal pension system, and we can pension our own confederate soldiers, maintaining a soldiers' home and pensioning those who are not physically disabled. That takes approximately ten per cent of our total state revenue.

Our administrative expenses are only three per cent, and that includes all of these multitudinous and multifarious commissions and boards about which so much complaint is made.

Another eight or nine per cent is taken for the payment of interest and the retirement of bonds, which have been issued for the building of our universities and agricultural colleges, hospitals, tubercular sanitariums, and things of that kind.

And, by the way, we have an institution for the treatment of feeble-minded, and a very splendid school, which we call a school of industrial training, commonly known as a reformatory.

The balance is made up of very miscellaneous expenses, the support of our courts, penitentiaries, and the payment of tax assessors, and like things.

Coming back to our county expenses and city expenses, you will find that people in this day and time are demanding that certain things be done, and they are not content with mud roads. We first demanded gravel roads, and now we are asking for concrete or hard-surface roads.

You come into our cities and you find that they want pure water and clearer water, lighting systems, sewerage systems, public parks and garbage disposal—all those things that come along with modern life, and which a man to-day is demanding that his government do for him. After all, it is not the government; it is the people collectively doing those things for themselves, and the only way that has been found to do it successfully and economically is by a system of taxation, which of course should be as simple as it can be. But unless we are willing to go back to other conditions of twenty years ago, or fifty years ago, or one hundred years ago, we cannot attain
that simplicity and the low rate of taxation which we enjoyed at the time we had the ox cart and the mud road.

Professor Gerstenberg: I should not presume to talk on a subject I had not heard discussed in full, except that I did read Mr. Hekeler's paper in the manuscript.

I feel that there is a great deal of force in what was just said, on the subject of expenditures for government. I looked in one of the morning papers and saw a cartoon which pictured the taxing power of this country as Red Grange, standing out in the middle of the football field, and all of us here with our heads together, figuring out how we are going to stop taxes.

I believe that the country is looking upon this conference this morning as having as its main purpose just that—how are we going to reduce taxes.

I sympathize with the problem that the tax commissioner has in raising money to spend for schools, for asylums, and so on, but I do feel that the business man has a legitimate kick.

He says, "I am willing to spend money for asylums; I am willing to spend money for roads; willing to spend money for all of these things, but when I come from Detroit down to Florida, I want to come on a train, and I want to come through to Florida, without getting off that train, and I am able to do that through the work of the L. & N. and the other railroads getting together. But I am not able to do that with the states. I find myself jerked off the train on January first by this state, jerked off the train on the first of March by another state; I have to get a green ticket for this state, a red ticket for that state; I mean by that, a certain kind of report for one state and a certain kind of report for another; and if I make a mistake and do not get off the train when I should, I find I have one kind of a penalty here, and another kind of a penalty there, and that is all wrong.

Now, he spoke about Ford. We have had wonderful improvements in the production of goods. We have experienced wonderful improvements in the transportation of goods; and those are the two primary functions of business—the producing and marketing of goods. All other functions are secondary. One of them is financing, another accounting, and the third is the maintenance of proper relations with government—payment of taxes.

It seems to me that one of the jobs that this National Tax Association can do, if it can do none other, is to try to approximate the improvement that is being made in production; the improvement that is being made in marketing, in an improvement in the way of uniformity of taxes.

I understand that a resolution was offered this morning for the appointment of a committee to study these business taxes, and I
trust that that resolution will be adopted and that everybody here who has anything to contribute to the work of that committee will help, in the way of giving information and experience, so that we can get the same kind of report out of that committee that we got out of the inheritance tax committee; and so that, as years go by, corporations, in one place or another, can do business throughout the United States with a minimum of nuisance.

"We are willing to pay the money," the corporations say, "but we do not want the incidental nuisance that is unnecessary and can be obviated."

Mr. Atwood (California): As an outsider I am much interested in these problems and am an occasional writer. In regard to that, I find myself confronted, whenever I attend any tax meeting, and on many other occasions as well, with two opposing lines or argument.

On the one hand the state tax officials say that the expenditures of tax money are for education, for goods roads, for health; they present conclusive figures showing how the money is spent for these purposes, and furthermore they present an even more conclusive argument, namely, that these things are demanded by the people at large.

On the other hand, the business interests say, at these conferences—and they say to me individually—there is a tremendous waste of public money, and all that sort of thing.

Now, these two lines of argument seem to meet head-on, and there occurs to me just this one simple point, namely, that in every case it is a question of fact as to individual expenditure.

Now, on the line so ably developed a moment ago by Mr. Gerstenberg, which he expressed much better than I can—he is more familiar with it; that is his business and only a very small part of mine—my sympathies are absolutely with the business interests and absolutely against the state tax officials.

I think one reason—I want to speak very frankly—that the business interests of the country are coming down harder and harder upon our federal and state tax officials for a reduction in expenditures, which cannot be reduced, because people will not allow them to be reduced—I think one reason that the business interests are doing that wholly illogical thing, is because of their irritation and annoyance, absolutely just irritation and annoyance over this having to get off the train at every state boundary. It is outrageous and ridiculous.

It is so with inheritance taxes, and it is so with these business taxes.

I want to say as an outsider, to state tax officials; to the federal officials; and to every one connected with our government. that if
they cannot get together on these things, the business interests are going to bump them harder and harder all the time, and are justified in so doing.

On the other hand, I don't think that the business interests accomplish anything by merely denouncing all expenditures of tax money. I think that is puerile. They may go on the theory that by so doing they can arouse public sentiment against it, but why try to deny something that is a fact.

The fact is that people as a whole—the voters—are demanding a large part of this expenditure; I won't say all of it, but a large part of it. If the business interests of the country can change the attitudes and opinions of the voters on this subject, well and good, and perhaps legitimate; but why merely come here and denounce the tax officials for this? That is illogical and puerile.

On the other hand, if the business interests can point to any specific expenditure and say, this is wasted, this is wrong, and can persuade the voters to that effect, I say, well and good.

Why take it out on the merely accounting people, because that is all the state tax people are; they are the ones that are told by the legislature to do certain things; why take it out on them? Why not go to the voters? The business interests are doing that to a large extent, but I don't think they do it nearly as much as they can. Here is a court house, on which seven million dollars are spent, and that court house could be built just as well for five million dollars and would be just as good a court house. "Blazen it forth," I say to business interests. Blazen it forth to the voters and to the people of that city and county, but why make speech after speech denouncing the expenditure of money, merely in generalities and in lump sums?

The business interests say that the expenditures in the state of XYZ have increased in five years fifteen million to fifty million. Oh, terrible, horrible; all of them say. Perhaps so; but I want to know in detail, from A to Z, why it is terrible and horrible. I want to know whether there is any possibility of changing the minds of the voters of that state that voted for that expenditure.

Chairman Edmonds: Any further discussion?

Mr. Maynard (New York): I am not a tax official, gentlemen; I am simply a trust company official, whose job it is to produce the money to pay the taxes, especially on estates of beneficiaries whose income we have in charge.

I am very much in sympathy with what Mr. Doyle had to say in regard to something being done to realize the necessity under which our tax commissioners rest in raising money.

I might also ask the question as to whether or not the constitution or the laws will allow states to tax the intangible property of non-residents; whether that question might not be raised.
But, I do say this; I agree that state and municipal government has gone far, far beyond its scope, in the raising and expenditure of money for public purposes. I believe the educational system of this country is entirely on a wrong basis. Untold millions of dollars are wasted on school education. We have in the City of New York a University which costs many millions of dollars a year, the use of which is restricted entirely to one class of population, and the expense of which is borne by the taxpayers; and not one dollar is contributed by the persons who use it.

I at one time was a member of a board of welfare, as it is now called in the City of New York. At one time it was called the widows' pension board. That board started out by spending a few hundred thousand dollars a year. It is now asking for five million dollars, for the year 1926, to be expended on supposedly dependent widows and children.

These things that are in the nature of public welfare are the subject of great abuse. The persons whom they seek to benefit, in large numbers of instances, should pay for this very service themselves.

Take our public hospitals. I am a hospital man, an executive officer of a hospital. This is a private hospital. We see to it that the individual benefited and who seeks free care is entitled to free care and is not able to pay for the service. The City of New York, which supports large hospitals, has an enormous expense, and has for years, up to last year, never collected a dollar from the patients in the hospital. Now they have begun to see the light. They have begun to try to collect something. Last year they collected something like $500,000 from patients in the public hospital. For many, many years they never collected a cent; and that thing is going on everywhere; the endeavor to do for the people the things that they should do for themselves.

Now, the dependent people should be cared for. Free education, up to a certain point, is absolutely necessary, but beyond that point it is unnecessary, and the individual should provide it for himself, if we are going to make a class of citizens for the future who are to be the strong backbone of the nation and not dependent upon a government which has become entirely parental.

So, I do think that the reduction of taxation has a proper place in the considerations of this body. I am entirely in sympathy with the trouble of the tax commissioners, because, as has been said, they have to raise money; but we have to get at the bottom of the thing; to see that it is necessary to raise so much money.

Now, as to the necessity for the expenditures of government, the name of the particular improvement, for which the money is to be raised, does not always tell the whole story, by any means. I remember going down to Pinehurst one year, and I picked up a paper
on the train and I found that in a particular state there was a great commotion over the increase of the state debt. It increased over seven million dollars in one year. Three years after, the amount authorized was $110,000,000.

It may have been foolish, but what was the effect on me? We happened to have one quarter of a million of those bonds, and I got down to the place and wired New York that the expenditure was not necessary.

In the State of New York, at the last election, the citizens were asked to vote on two propositions for bonds. Shall we authorize the expenditure of bond issues of one hundred million for one thing, and three hundred million for another? Now, there is four hundred million dollars in the State of New York authorized at one election. Of course, the commissioners have to raise the money and pay the sinking fund.

We have to get at the bottom of this thing to see where we are going. I say we are going very fast toward the point where the public expenditures will be unbearable by the people. You say the people want these things. Of course they want them, if they are not going to cost anything. Mayor Hylan of New York made the ridiculous proposal some time ago that we should have a referendum as to whether the people should pay more than a five-cent fare on the railroad. Did you ever hear anything more ridiculous in your life? Of course they don't want to pay more than five cents.

New York City has now two hundred and fifty or three hundred million dollars invested in the subways of New York, on which they have never received a dollar of income, and the people have been paying taxes to meet the interest on these securities, simply because they have municipal ownership in their head. They have put a good many millions of dollars into docks that never paid a cent; and all, supposedly, because the people wanted these things. That is the way we get back to pure democracy, and that is the way we get back to the fallacy of it.

You cannot give the people everything they want, because it is going to mean final destruction of government.

J. F. Zoller (New York): I ask the opportunity to make a few remarks. I think Commissioner Long must have misunderstood me, because he thought the thing important enough to make it a point of personal privilege.

I am a friend of the Massachusetts excise tax; I am a friend of the New York state business tax; and I am a friend of other taxes. I want to see those statutes remain on the statute books, because I think they are a long step in the direction towards better tax administration, and a step towards more equitable distribution of the tax burden.
For that reason I am somewhat apprehensive about the tax commissions, in their zeal to get all the revenue possible, of trying to impose taxes in cases where it may be the means of declaring the whole act—a perfectly good act, raising a great amount of revenue, and upon the whole satisfactory—unconstitutional.

Now, this Alpha Portland Cement Company case only involved $315. I should rather have allowed that company to keep its $315, than to take a chance of declaring a perfectly good law unconstitutional. What would have happened if the United States Supreme Court had declared that law unconstitutional? The act provides that if for any reason it is declared unconstitutional, the old act is revived. Unless you are careful to file a petition so as to get back the unconstitutional tax, you pay two taxes instead of one, for the same period; and every taxpayer in Massachusetts who is onto his job had, because of this decision, to go to the trouble to file a petition to get back those taxes, in case the act was declared unconstitutional.

Can you afford to take the chance of getting a perfectly good law declared unconstitutional, merely for the purpose of collecting $315, which is very doubtful under the constitution?

If I had been that corporation I should have paid the $315. I believe in being practical. I think it is a fool proposition for a corporation to raise these questions where the tax is fair, but they are within their rights, and sometimes their attorneys are within their rights, too, in saying, "Why, you ought to stand on principle, no matter how much money is involved."

I never followed that, to the extent of paying $50,000 in order to save $315. I don't think that you ought to take those chances with these perfectly good laws.

I did not intend to impeach the tax commissioner of Massachusetts. I have been a friend of that law. I tried to help in its operation, when I could, and I hope that it remains. But it is just like these people going to Florida. If a man wants to go to Florida, let him go. If a corporation wants to restrict its acts to interstate commerce in the state, and if they do restrict them to interstate commerce, it does not have the advantages that the corporation does that comes in in a respectable manner and qualifies and pays its taxes. If they want to do that, let them do it, and keep your law, and you are going to come out better that way.

It is perfectly reasonable, for example, for a tax commissioner to say: "I want to see justice done between taxpayers and I am going to try to make this fellow pay," but you cannot afford, in my opinion, to take a chance of having a good law declared unconstitutional, not because of the wording of the law, but because of what I call the over-zeal on the part of the administration. That is all I meant by that.
I think that could happen in other states as well as Massachusetts. If we get a law that is a great step in advance, compared to what we had before, let us do what we can to keep that law, and if we cannot keep these people, after treating them right—and they have constitutional rights that they can stand upon—why should we take chances of losing all, for the purpose of bringing some one to justice whom we think should be brought to justice?

The constitution is there. On the whole, I think it is a wise constitution; and I think it is better to follow the constitution to the letter and resolve some of the doubts in favor of the taxpayer and keep the law. That is all I mean.

Secretary Holcomb: I have not been here, having been called away, so I have not followed the discussion, but it did strike me that I wanted to express the view I had in mind in putting this subject on the program. That was that it has been more and more borne in upon me by the business people of this country, that there is too much complication in the mere making of reports, to say nothing of the burden.

There is too much difficulty, too much diversity of law, where it is not needed. So it was my thought that we could start a movement which might take us two or three years, and see if we could not get together and see what sort of law would lend itself to uniformity, in the first place, and how we could induce various states to use such a law.

That necessarily involved the consideration of a purely legal question. For that reason I wanted Professor Powell to give us the latest dope on the supreme court decisions, in an attempt to reconcile those decisions, as applied to business taxation.

That, of course, brought up this subject of interstate commerce; and, right there, my idea was that if it is true that one person can do a business of thousands of dollars a year and pay no taxes, and next door to him is a man enjoying the same protection of government, doing the same amount of business, and he has to pay taxes, it is not right.

We might as well find that out before we start, because if a man can confine his activities to interstate business and pay no taxes, why then you have to know that, in order to draw your uniform tax law.

That is the point that was involved in Professor Powell's story and that of Commissioner Long. What has been discussed I don't know; but the point was, can we have fair tax laws in this country? If the commerce clause is going to prevent fair taxation of a man doing the same amount of business as his neighbor, then where are we? That is the question I should like to see discussed by you people that have dealt with it from time to time. I thank you.
DISCUSSION OF BUSINESS TAXES

J. G. Pritchard (West Virginia): The point I wanted to raise was in regard to what Mr. Zoller said. I cannot see where the tax commissioner of Massachusetts had any other alternative than to proceed as he did. Shall a tax commissioner have the right to say: as a prosecuting attorney, "That man ought to have been killed"? If they ought to pay the tax, the tax commissioner, as I see it, had no alternative except to proceed to collect it.

Mr. Belknap (Kentucky): Gentlemen, I think that this discussion this morning has shown very clearly the need for this work that Mr. Holcomb speaks of. It also gives me an opening for a little hobby of mine that is beginning to get pretty well ridden, that is, that there is need for a much closer cooperation among the states in the matter of taxation, and that at the present we have no other body than the National Tax Association for accomplishing such cooperation.

You take the work in inheritance taxes. They are a very distinct case in point. All of the states were with entirely different taxes, and until the National Tax Association took up the question there was no information to be had on any way to better conditions.

Now, it seems to me that we must carry that same principle into these other fields; into the fields of state income taxes; into the field of state reports.

One of our good friends here asked me when I was in New York one time about a year or so ago, if I would find out for him what year's taxes he had just paid in Kentucky for his corporation. I told him I would see the tax commissioner, and I went in and asked the tax commission what year's taxes this corporation was paying, and he said he did not know.

Not only he did not know, but nobody in the state of Kentucky knew, as far as I have found out, and they don't know today what taxes they are collecting; what year they are collecting these corporation taxes for.

It is all very easy to sit back and criticize the poor fellow who is trying to work that out. You will say, "Well, that is a boob, that tax commissioner." He is not a boob; he is a darn good tax man and he is a good business man.

Now, what I am driving at is this: It is going to take not only the cooperation of the states to work out this problem of taxation—and there is no question in the world but what it is a very serious problem and concerns the whole country—it has the most serious aspect of threatening all business.

We have got to have not only cooperation of the states, we have got to have cooperation of the business men themselves.

I have been in the state legislature. I am going back to serve my second term. I have had man after man say to me, "You
know, I would not soil my hands with politics.” If I did not have fairly good control over my temper I would haul off and paste that man in the eye, because that is the very man that talks in this mean, snarly way about the tax commissioner. That is the sort of thing he does.

Politics is not a dirty business; it is a hard business. It is a question of educating millions of people; to bring them up to changed conditions, and the man that is not doing his part not only does not get more than is coming to him, but he does not get as much as is coming to him.

The truth of it is that any man of real ability can go into business today and make several times the amount that he can make in tax work or public office, and make it honestly—and most of them are honest, in spite of some things said to the contrary. The truth of it is that people would rather put their sons and their nephews and everybody else into business and say, “We will go on and pay the darn taxes,” rather than to see to it that some amount of time and energy is given to putting the system in order.

My suggestion is this: I think we have to look forward to building up this National Tax Association into a place where there will be close cooperation between all state tax officials. I don’t want to see forty-three states represented here, as we have this time! I want to see forty-eight states represented here, and I want to see every tax commissioner in the United States here.

I should like to see all the governors here. I think it is a pity that we could not combine this with the governors’ annual meeting. Then I want to see men from corporations who are interested in taxes, not just from the point of view of officials, but who are ready to help in constructive programs.

When there is seven million dollars going to be paid for a court house, there are too many business men who are afraid if they say something; that they think five million dollars should be spent, instead of seven—their business won’t get the job of supplying the wall plaster, and they will make enemies and then won’t get their share of business.

Now, if we can get the tax officials of the states together in a spirit of cooperation, not in the spirit of trying to see how many loopholes he can leave for those who have to pay taxes, but how many loopholes he can stop up; if they will come in and agree with the business man on what is the fair way to raise taxes; what is the efficient way to raise taxes, we will get somewhere; and we may have some time left for an efficient way of spending taxes. I don’t know. I rather doubt that.

Chairman Edmonds: The hour of 12:30 has arrived. Mr. Holcomb has announced that the photograph was to be taken at that hour. Ought we not to adjourn at this time?
DISCUSSION OF BUSINESS TAXES

SECRETARY Holcomb: If there is anything more to be said, we ought to give the subject of uniformity a few minutes more.

CHAIRMAN Edmonds: Has anybody anything to suggest?

(No response)

CHAIRMAN Edmonds: Will you please take notice that at 12:30 the photograph of the conference is to be taken at one end of the lobby floor, at the University Place end. At 12:45 the ladies are to be in the lobby, so that they be guests of the local committee of New Orleans. This conference adjourns, to reconvene at two o'clock.

(Adjournment)
SIXTH SESSION
THURSDAY AFTERNOON, NOVEMBER 12, 1925

CHAIRMAN PAGE: The conference will please come to order.

The first paper on the program this afternoon is by Professor James F. Boyle, of Cornell University. It relates to the publication of assessments, with special reference to the income tax. It has been impossible for Professor Boyle to be present himself this afternoon, and Dr. Gerstenberg has kindly consented to read his paper.

PROFESSOR GERSTENBERG: Mr. Chairman, I was told by Mr. Holcomb that if I cared to say anything on the subject of this paper, I might do so. In order that there shall be no anti-climax, I thought I would make a few remarks of my own first, and then read the paper.

It occurs to me that there are certain advantages and certain disadvantages of publicity. I thought we might clear the road by having those stated seriatim, and then if anybody cared he could add to or subtract.

I rather think there are two advantages supposed to come from publicity: one is that the fear of being found out will prompt some to be honest, who otherwise would not be honest, or that some who are partially honest would be more honest or make more honest reports, through fear.

The second is, if dishonesty does occur, there will be a neighboring informer who can bring the facts to the tax-gatherer and we shall get, instead of an a priori collection of the tax, an ex postero collection, one after the fact instead of before the fact.

Those I can see as the two advantages to be gained from publication.

There are certain disadvantages. It seems to me that they are not quite so tangible, but are nevertheless more cogent.

In the first place, I think that the figures that we have gotten, or the testimony that we have from the department is that very little information has been brought to the department and they have collected very few facts from information that they have gotten from informants.

I think the second disadvantage is that these lists are converted or susceptible of conversion to improper purposes. Many of you
have not been unfortunate enough to have major operations performed in your families, but if you have, you know it is the rule, at least in New York, that the doctor gets ten per cent of the man’s income for a year.

Now, that is an unwritten rule, but it is a rule just as much as any definite rule; and I understand in New York men are engaged in the business of ferreting out men’s incomes, in order that the doctor may know what his fee will be for a major operation in that family.

Of course this drives those fellows out of business, because we can tell what the income is immediately, but I don’t believe Congress intended that sort of thing. I won’t allude to such questions as breach of promise suits, and alimony suits, and so on, or even to the possibility of using these lists as “sucker” lists.

I think that a third disadvantage is that the invasion of what one has been taught to believe his private rights—the invasion of private rights by the government—breeds contempt. Of all rights, anybody who has an Anglo-Saxon heritage believes without reasoning it, that a man’s house is his castle. One of the most interesting books I ever read was Smart’s Economic Annals of the Nineteenth Century. He takes up economic events year after year, beginning with the year 1800, and he frequently comes back to the income tax, which was one of the means of financing the Napoleonic war. As soon as Waterloo happened, the income tax was taken off the books, for the reason that the Englishman felt that his rights were being invaded when the tax-gatherer came in and asked him to tell what his business was.

The One Hundred Days came about, and Napoleon became rampant, and it went back on the books, and they have had the income tax on the books, as a matter of necessity over there since, largely because it is a little island that cannot live on tariffs.

The fact is, we do feel, I think, that there should be no invasion of our private rights. The privilege of the wife and of the doctor in private communications; all of those things have tended to build up the home-life morale, and so on. When you break that down, things go a little bit further, and you breed disrespect of all private rights.

Fourth, I believe that by assuming people to be dishonest, you get a lack of faith in people that tends to make them dishonest. I know that in the rearing of children, if you assume that they are good, they are actually a lot better children than if you assume they are bad. I am inclined to believe that the psychology of that situation is the most important argument against publicity of tax returns. The assumption that a man is dishonest tends to make him dishonest. I feel that if a man hasn’t self-respect enough to be honest, who does not fear to lose his self-respect, he will not fear to lose the respect of others.
I am sure that there are whole classes of tax-dodgers that do not care very much about the respect of others, and if that is the purpose of publicity, to maintain the respect of others, through fear, we are not going to get very far. Those are the four disadvantages.

Mr. Boyle's paper is a very short one. I will read it very rapidly.

PUBLICATION OF ASSESSMENTS, WITH SPECIAL REFERENCE TO THE INCOME TAX

JAMES E. BOYLE
Professor of Rural Economy, Cornell University

I. Introductory

Just eighteen years ago it was my privilege to address this body at its second annual meeting, held at Toronto, Canada. My subject then was the "Publication of Assessment Lists," the same topic I have today, excepting that there is added to it now the words, "With Special Reference to the Income Tax." Then I devoted most of my attention to real estate; now to the income tax. At the Toronto meeting I strongly favored publication of the local assessment lists. I have had but one change of heart in the matter during these intervening eighteen years, namely, I am stronger than ever for such publicity for real estate assessments. This is in spite of the fact that the publicity given to the assessment lists in various tax jurisdictions is generally very poorly and improperly done.

The purpose of this paper is to discuss, first, briefly, the problem of the publication of the real estate assessment; secondly, to present a cross-section of opinion of tax officials of this country concerning the publicity of our federal income tax; and thirdly, to state briefly my own conclusions.

II. Publication of Assessment Lists

Little is to be gained, in my opinion, by the publication of the assessment list of personal property, hence I shall focus my discussion of this part of the problem on the publication of the real estate assessment list. It is an important truth, certainly well known to every one of you now actually engaged in the administration of the tax laws, that a little simple device, rightly or wrongly used, may make or break a whole tax system. This principle must be invoked in the publication of the assessment list. When a good thing is done in a bad way it ceases to be a good thing. So we see today that many tax jurisdictions are actually publishing the assessment lists, but are doing it in the wrong way. Invidious comparisons should not be made, but let us take the City of Providence,
Rhode Island, as an example of how not to do it. Here the list makes a neat volume of 452 pages. It is an alphabetical list of all taxpayers in Providence. Four distinct items are shown after each name, namely, real estate assessment, tangible property assessment, intangible property assessment, and amount of tax. It is the arrangement of the book, however, that is fatally at fault. The arrangement is such as to defeat the whole purpose of the publication.

What exactly is the purpose of such a publication? It may be asked. It is to bring about a correct assessment. The real aim of the assessment is two-fold, namely, that the assessor finds all taxable property, and that he assesses it in the lawful, equitable manner. The only way for a person to know whether he is assessed too high or too low is to compare his assessment with similar property of his neighbors on all sides of him. Here we have the key to a proper publication of the assessment list. Such list should actually reveal, in the most convenient manner, the assessments of contiguous parcels of real estate. Publications of alphabetical lists of lump-sum assessments have then no value at all for this purpose, and little value for any other purpose.

This criticism holds true for most of the prevailing methods of publication of assessment lists, in the form of books, booklets, and in newspapers.

My earnest recommendation is that we throw over these faulty devices for securing fair assessments, and try a form of publication which will be absolutely simple, absolutely clear, and in the end cheapest. I refer to publication of maps, showing all real estate parcels, and their assessment, but without the owners' names. The only thing to be gained by such publicity is a correct assessment, and the owner's name is of no value for this purpose. The taxpayer may have no legal right to know who owns the various pieces of real estate, but he certainly is entitled to know the correctness of his own assessment, and this implies a knowledge of his neighbor's assessment.

These tax maps, for local districts, should be discussed at stated times, in public meetings, thus permitting the assessor and the taxpayers to arrive at some consensus of opinion as to the true values of these properties. If the assessor follows his own individual judgment solely, his per cent of error will run pretty large.

Now, briefly, let me present a few typical opinions on this general problem, gathered from various states.

Utah.—"In our opinion the publication of assessment lists will be the means of securing a more nearly uniform assessment upon all property. The assessment lists are open to investigation in the assessor's office of each county but very few people avail them-
selves of this opportunity to ascertain whether their neighbors are assessed upon an equal basis with themselves. If the assessment lists were published, all taxpayers could readily compare their own assessments with the assessments upon similar property in the same community."

Montana.—Montana, like most western states, has the county assessor system. At least fifteen counties in this state have tried the scheme of publishing the assessment list, in one form or another. In 1924 only two counties continued the practice. In one of these counties, Missoula, a complete list of real and personal property was published. In the second county, Blaine, (a livestock county), only a list of personal property, without valuations, was published. The chairman of the State Board of Equalization writes this comment on one peculiar psychological aspect of the Montana experience:

"Strange as it may seem, there is still a large percentage of the property owners of Montana who turn in all their property at its full true cash value. The published list reveals to these honest ones that some of their neighbors are not turning in all their property, and they proceed to do likewise. It is the old story, that a few good eggs in a basket of bad ones will not make them all good, but rather the reverse."

Connecticut.—"I advise that it is my opinion that the publication of assessment lists will not prove efficacious in procuring better assessment by local authorities. Several of our towns and cities have procured revaluations and installed new methods in assessors' offices by other means than publishing the lists of property valuations. This has been accomplished in each case, in Connecticut, by bringing about the appointment of local committees to study the practices in vogue, particularly methods employed by assessing officials, and making public a report thereon, with recommendations for the installation of better methods than previously were employed. Very excellent work has been accomplished in a dozen Connecticut communities in the last year or so, and I anticipate that other towns will pursue the same course. . . . The point I make is that it requires a committee of the best and most public-spirited men to get back of such a movement, in order to accomplish specific and desirable results."

West Virginia.—Here is an opinion which actually gets at the heart of the question:

"I am of the opinion that the publication of the assessment of real estate would tend to secure a better assessment of such real estate. It occurs to me that such publication ought to be made by posting the assessment list in public places in local units, since real estate values are determined wholly by local conditions, and only
persons living in the particular area affected would be interested in the matter of valuations for purposes of taxation."

Rhode Island.—Here the real issue is briefly stated:

"Undoubtedly the tendency would be for the publishing of real estate assessment valuations to result in improved assessments. The publication of these lists has been the standing practice in Rhode Island for so long that objection to the practice is seldom, if ever, heard."

Colorado.—"Nothing to be gained. Unanimous view of this commission, two members of which served for several years as county assessors."

New Jersey.—New Jersey has a law (ch. 166, P. L. 1908), providing that any taxing district may publish the tax list, but it is seldom done.

Massachusetts.—"See no benefit. . . . Perfectly worthless."

Mississippi.—"Would have little value."

Louisiana.—"Would be a valuable adjunct to securing fair and equitable assessments."

Wisconsin.—"No experience with it. No demand for it."

Tennessee.—"Would be a good thing."

New York.—"Many districts do. . . . Distinctly worth while."

Washington, D. C.—"Yes, helps some."

South Dakota.—"Yes, better equalization of values."

Expense Question.—Many states, such as California, North Dakota, Alabama, and Missouri objected to the publication of the assessment list, on the grounds of expense. Since this question was discussed by me at the Toronto meeting, it will not be considered further at this time. I consider it a very minor objection.

Summary.—Many states are indifferent on this subject; a few are strongly in favor of it; a large minority are opposed to it, particularly as now administered. I am more than ever convinced, however, that publicity of real estate assessment lists must be had. The best form, as stated above, is the tax map. The next best form is in a booklet, by local divisions, arranging the items not in alphabetical order, but in some geographical order, as along certain streets, or highways, so that any person can instantly see how both he and his neighbor are assessed.

III. Publication of Income Tax Returns

This is not the time or the place to present the arguments for and against the policy of making public the federal income tax returns. Congress in its wisdom saw fit to pass a law throwing these confidential records open to the newspapers and to the public.
I have canvassed the tax commissions, the tax commissioners, or other similar tax agency, in each of the forty-eight states, to secure a cross-section of opinion from this competent source. This opinion I will now present, first, as to the state income tax returns; second, as to the federal income tax returns.

State.—With one exception—Wisconsin—the states with a state income tax forbid the making public of income tax returns. Practically all of these states, excepting Wisconsin, prefer such privacy. Quoting the Wisconsin report on this question:

"This state does not publish income tax lists, though income tax rolls, like property tax rolls, are open to public inspection. Originally, income tax returns were secret; made so by law; but in answer to a well-defined public demand the ban of secrecy was removed by the legislature, and such returns, as well as the tax rolls, are now public documents and may be inspected by anyone. While we are not able to measure the benefit in administration, resulting from opening income tax returns to the public, we feel confident that it has been helpful rather than harmful. Since such returns have been open to the public we think we can observe a little more care, both on the part of corporations and individuals, in making correct income tax returns."

We pass now to a consideration of the federal income tax returns.

Federal.—This question was put to the central tax authority in each state: "Please give me your frank opinion on our present system of publicity of federal income tax returns on personal incomes."

Most of the states replied. A few were non-committal. In all there were twenty-five clear-cut opinions expressed, six for this publicity and nineteen against. That is, official sentiment seems to be at least 3 to 1 against it. A few of these opinions for it and a few against it will now be quoted.

For

Mississippi.—In the southern states we find more general sentiment for it. Is this because so little of the income tax is paid there? Mississippi has but one objection to the present publicity, namely, there is not enough of it. To quote:

"I do not think the publicity given is sufficient, because the information reaches very few people. In my opinion, the name, net income and tax paid by every person should be published in some newspaper in the county where the taxpayer resides."

Washington, D. C.—"It has helped this office very greatly."

Louisiana.—"We favor it."
Alabama.—"We will state that it is beneficial to us in our work, as we do not have to audit a business to ascertain if it operates at a profit. As you know, income is one of the elements to be considered in arriving at the value of an investment. We believe publicity of federal income tax returns is a good thing."

Oklahoma.—"We have used the federal lists for comparison with state income tax records and have materially increased state collections. It has had the result of giving a more wholesome regard for state income taxation, which lacks the enforcement features to make violations feared. The average man is afraid of the federal revenue officer, but is not afraid to disregard his state income tax obligations. . . . There is no question but what the federal and state governments having income tax matters up for investigation should reciprocate by the return or exchange of information. Reciprocity between the states and the federal government should be followed in all governmental matters, and if adopted in lieu of publication of federal tax returns, it would be acceptable to those state officials who have benefited by the recent opening of federal tax returns."

Wisconsin.—This brings me now to the opinion of Wisconsin, which is, presumably, the most weighty opinion on the negative side of this issue. Wisconsin's opinion will be followed immediately by Massachusetts' on the affirmative, so that these two giants, so to speak, may oppose each other. The Wisconsin statement is:

"The publication of the names of federal taxpayers will doubtless have a tendency to cause taxpayers to be somewhat more careful in making correct income tax returns. As the practice has been established we see no reason why it should not be retained, at least until it is thoroughly tried out. If it proves to be of no value, or it is harmful in administration, it should be abolished."

Against

Massachusetts.—"The most reprehensible thing ever done by government was to say that the federal income tax returns should be open to public inspection. From a tax point of view this practice can be of no use to any one, and it is, by and large, the most petty sort of interference that any self-respecting body of representatives of the people have ever perpetrated upon their constituency."

Short quotations may be given from representative states.

Colorado.—"A great mistake."

Connecticut.—"This information is misleading to the public. Total income is not revealed."

Indiana.—"I do not see how any good can come from making public federal income tax returns."
Utah. — "It is of comparatively small importance. We should respect the opinions of those who pay the income tax."

That is an interesting point, by the way, for it seems that those who do not pay the income tax are most anxious to have the returns made public.

Georgia. — "Am personally opposed to it."

Tennessee. — "I see very little good in it."

Pennsylvania. — "No. No good purpose served, except to appease the curiosity of some people. Believe it is a deterrent to the most successful collection of this tax."

California. — "Results in no real gain."

Missouri. — "No; see no reasons for it."

Montana. — "Aside from making interesting reading for the curious public, I do not believe it will result in any way in raising more public revenue. I do believe, however, that the information should at all times be available to state taxing officials, for official purposes."

North Dakota. — "The amount of the tax paid by individuals does not in any way reflect the true income of the taxpayer, because of investments in tax-exempt securities and because of losses sustained in various enterprises which are perhaps not directly connected with the business the taxpayer is generally associated with. . . . Much added work is given to those charged with administering the income tax. It supplies a source for additional speculation that can do the government no particular good. It works no real benefit to the government and is a source of irritation that can very easily be made the subject of much controversy in a particular locality. . . . Speaking individually, I do not believe that the benefits derived from such publication are enough to justify the practice."

Typical opinions have now been placed in review. I may summarize and close the paper by giving my own conclusions.

Summary and Conclusions.—The only possible good that has come or can come from this publicity of federal income tax returns is the help some states have received in administering their own income taxes. But in every case of this kind the same good results could have been secured in a better and cheaper way, by cooperation and reciprocity between the state and federal tax administrations. Both state and federal income tax returns should be open to both state and federal tax officers, for official purposes only.

To follow the methods of yellow journalism, as is now done, is not the dignified or effective or right way to handle the income tax problem. The privacy of these records should be respected by every citizen, including our congressmen.
Chairman Page: Mr. Matthews of New Hampshire, who was appointed a member of the committee on nominations of the National Tax Association, finds it impossible to accept the appointment; and in place of Mr. Matthews, the president of the association hereby requests that Mr. Blodgett of Connecticut serve. Is Mr. Blodgett present? If not, the chairman of the committee will please get in touch with him and notify him of the meeting which he expects to hold.

Mr. Whitney (New York): I think that Mr. Blodgett of Connecticut has left the city. I am not sure. I know that he anticipated going up the Mississippi. I think he is not here, and will be unable to serve.

Chairman Page: I wish to ask the chairman of the committee on nominations, Governor Bliss, that you advise with other members of the committee and suggest some member of the association qualified to take the place of Mr. Matthews on your committee. The chairman will appoint any man that your committee agrees upon; and will you consider this an official designation for your committee of the man upon whom you and the other members of the committee may agree.

We have now for discussion a subject which is of exceeding importance and one of very great interest to all the members of this association, namely, the subject of Tax-Exempt Securities and the Sur-Tax. It is a subject which we have heard alluded to a number of times. The gentleman who is to discuss this subject is a distinguished student in the field of finance, is a field representative of the Institute of Economics at Washington. He has consented, at the special request of the senate committee now engaged in investigating the bureau of internal revenue, to serve that committee in the capacity of statistician and adviser, and I take great pleasure in introducing to the conference Mr. C. O. Hardy of Washington. As Mr. Hardy has prepared some charts which will assist him in presenting clearly the subject which he has to discuss, I will ask that you assist him in putting the easel up here upon which his charts may be exhibited.

C. O. Hardy (Washington, D. C.): This paper addresses itself to a single or rather narrow phase of the problem of federal tax reform, namely, the inter-relations between the sur-tax rates and the rapidly growing mass of tax-exempt securities.

For several years we have had a very active agitation for the reduction of the high sur-tax rates, with several reductions, and we have always had active propaganda for the abolition of tax-exempt securities.

To a very large extent these two demands have emanated from
the same source. The same arguments have been used in support of both, so that they lend themselves very well to discussion together.

On the one hand we are told that the issue of tax-exempt securities should be stopped, because the availability of these securities is destroying the productivity of the sur-tax. On the other hand, it is argued that the high sur-tax rates should be abolished, because they are driving capital into tax-exempt securities.

It is the view of a large number of students of taxation that the two things will not go together. The conclusion drawn sometimes that both should be abolished, is not sound.

TAXATION AND TAX-EXEMPT SECURITIES

C. O. HARDY
Of Staff of Institute of Economics, Washington, D. C.,
Statistician to Select Committee on Investigation of
the Bureau of Internal Revenue, U. S. Senate

I. Introductory

Our existing system of federal taxation has few friends. Born of the war emergency, it was accepted by the public with as much grace as were most burdens of the war. But its survival into a period when we are comparatively free from most of the burdens imposed by the struggle has been the occasion of a continuous flow of criticism confined to no political party and no single economic or geographical group. It is difficult for the taxpayer to keep in mind that a war is not paid for when it is over. And in spite of drastic cuts which have followed one another in quick succession, the tide of discontent is no whit abated. In spite of our enormous and growing prosperity, the public firmly believes that it is suffering from a grievous burden of taxation, and no program of tax reform can hope for popularity which does not include repeated concessions in the form of lower and lower rates.

This paper addresses itself to a single rather narrow phase of the problem of federal tax reform, namely, the interrelations between high surtax rates and the large and rapidly growing mass of tax-exempt securities. For several years we have had an active propaganda for the abolition of tax-exempt securities and at the same time a continuous agitation for the lowering of surtax rates. To a large extent these demands have emanated from the same sources and each has been used to bolster up the other. On the one hand, we are told that the issuance of tax-exempt securities should be stopped because the availability of these securities for investment makes it impossible to collect high surtaxes; on the other hand, it is argued that the high surtaxes should be abolished because they
are driving capital into tax-exempt securities. It is the view of a large proportion of students of taxation that tax exemption and high surtax rates cannot be successfully combined; the conclusion often drawn is that both should be abolished. While this conclusion of course is unsound, it is clear that if there is a real incompatibility one or the other must give way. Before undertaking an examination of either the logic of the arguments which support this view or their statistical verification, it may be well to state more fully the position of the group whose conclusions we are bringing under review.

First: Tax exemption is widely believed to have caused a great decline in the productivity of the surtax. Of all the arguments put forward in support of the demand for reduction of the surtaxes, this one has attracted the most widespread attention, and probably has been the most influential in creating a following for the "Mellon Plan" and for similar proposals outside the ranks of those who actually pay the higher surtax rates. In its theoretical phase, the argument has been likened by Secretary Mellon to the problem of fixing a railway rate at the point of highest net return—if it is too low, revenue is lost; if too high, traffic declines.1

The practical application of this principle to taxation relates itself directly to the tax-exempt security issue, for it is argued that with high rates wealthy individuals find it more profitable to purchase tax-exempt securities than to invest in industrial or public utility issues. Lower rates would induce these individuals to shift into taxable issues with a resultant gain to the government.

The same view is held by very eminent economic authority. For example, Professor T. S. Adams, perhaps our leading student of federal taxation, stated before this Association in 1922, "While that (the shrinkage of large incomes from 1916 to 1919) is to be explained partly by the variety of methods of avoiding federal taxes by the very rich, it has to be principally ascribed in my opinion to the influence of the tax-free bond."2

Professor Seligman says, "This loss of revenue far transcends any possible gain that might accrue to the federal government from the lower rate of interest on the tax-exempt bonds. . . . If we add to these figures for the Federal Government the sums lost by the separate states through inability to subject these securities to state property or income taxes, the loss of annual revenue becomes appalling."3

1 Compare Mellon, Andrew W., Taxation: The People's Business: 1924 p. 16.

2 Proceedings, National Tax Association. 1922, p. 263.

3 New York Times, December 31, 1922 (Beman, 43).
Congressman Ogden L. Mills made a similar statement before us in 1923: "Of one thing I am perfectly sure: a progressive income tax at high rates and tax-exempt securities cannot exist side by side. Tax-exempt securities must inevitably destroy the progressive income tax, and I am by no means sure that the evil has not already reached such proportion as to make any possible action too late to save our present federal income tax." ⁴

The theoretical basis for these conclusions is very simple. The income tax in the higher brackets now runs up to 46 per cent (formerly 58 and 65 per cent). If a tax-exempt security can be bought at a price to yield the holder 4 per cent, a taxable security would have to yield over 7 per cent to leave the same return after taxes. No investments can be found which yield such a return without material sacrifice of safety. Hence the tax-exempt securities, so far as their supply permits, are the most logical investments for the large buyer. The following table indicates the yields which taxable securities must carry to give the same net return as a 4 per cent tax-exempt to individuals in the various income brackets:

<table>
<thead>
<tr>
<th>Income (in dollars)</th>
<th>Yield</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000</td>
<td>4.30</td>
</tr>
<tr>
<td>25,000</td>
<td>4.60</td>
</tr>
<tr>
<td>50,000</td>
<td>5.26</td>
</tr>
<tr>
<td>100,000</td>
<td>7.02</td>
</tr>
<tr>
<td>200,000</td>
<td>7.14</td>
</tr>
<tr>
<td>300,000</td>
<td>7.23</td>
</tr>
<tr>
<td>500,000</td>
<td>7.41</td>
</tr>
</tbody>
</table>

The amount of the loss to the government from the exemption of these securities has been the subject of widely varying estimates. The following figures, though they are not entirely comparable, illustrate the range of variation between results obtained by various methods of approach. They are all based on 1922 rates.

<table>
<thead>
<tr>
<th>Gross Loss</th>
<th>Net Loss</th>
</tr>
</thead>
<tbody>
<tr>
<td>$300,000,000</td>
<td></td>
</tr>
<tr>
<td>120,000,000</td>
<td></td>
</tr>
<tr>
<td>250,000,000</td>
<td>$140,000,000</td>
</tr>
<tr>
<td>100-120,000,000</td>
<td></td>
</tr>
</tbody>
</table>

The differences between these figures are due chiefly to varying estimates of the propositions of the tax-exempt securities which are held in the different income groups, a subject concerning which our information is very scanty. At a later stage of the discussion I shall attempt to account in detail for the discrepancies and offer an estimate of the probable fiscal significance of the tax exemption.

Second: It is claimed that surtaxes combined with tax-exempt securities cause a diversion of capital into unproductive uses, with

⁴ Proceedings, National Tax Association, 1923, p. 335.
the result that industry is burdened with higher rates and suffers from capital shortage. It is scarcely necessary to multiply quotations in support of this generalization, as it has been accepted by practically all students of the question who have accepted any of the arguments in favor of the abolition of tax-exempt securities. To quote Professor Adams again: "The testimony of investment bankers and brokers is all but unanimous to the effect that the ordinary customers to whom they have turned to support the railroads, the industries, and to take over the new bonds that must be issued from time to time are no longer available. In those ways private industry has been seriously handicapped." 5

Third: It is claimed that the privilege of issuing tax-exempt securities coupled with the existence of high surtaxes, which increase the value of the exemption, has been a great stimulus to state and municipal extravagance. This statement also has been so frequently made and so generally accepted that it hardly seems necessary to support it by quotations. Presidents Harding and Coolidge, Secretaries Glass, Houston and Mellon, Professors Adams, Seligman, Haig and Kemmerer, and many others have given adherence with varying degrees of emphasis to the accepted doctrine.

These three points, the loss of revenue to the Federal Government, the creation of unfair competition between governmental agencies on the one hand and industries and trade on the other hand, and the alleged encouragement of state and municipal extravagance, are the mainstays of the case both for the abolition of tax-exempt securities and for reduction of the higher surtaxes. Other arguments, such as the claim that high surtaxes discourage risky enterprises and the claim that tax-exempt securities create social unrest by creating a class who seem to contribute nothing to the support of the government are of subsidiary importance. There is no really forceful argument for the abolition of tax-exempt securities which does not rest upon their interference with the progressive feature of the income tax, and there is only one cogent argument for the reduction of high sur-taxes which does not involve reference to the tax-exempt securities, that is the simple contention that the rates are too high to be fair and just.

The orthodox doctrine as summarized in the preceding pages rests upon two foundations, one statistical and the other logical. We shall examine first the statistical evidence which is adduced in support of it and then give attention to the soundness of the reasoning by which it is supported.

5 Proceedings, National Tax Association, 1922, p. 264. See also statement of Mr. Edward P. Doyle, ibid., p. 269.
II. THE DISTRIBUTION OF TAX-EXEMPT SECURITIES

The most popular statistical argument in favor of the doctrine that tax-exempt securities are playing havoc with the progressive income tax is found in the figures which show a decline in the number of large incomes from 1916 to 1921. For the last eight years the incomes of over $300,000 have been as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of incomes over $300,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>1916</td>
<td>1,296</td>
</tr>
<tr>
<td>1917</td>
<td>1,015</td>
</tr>
<tr>
<td>1918</td>
<td>627</td>
</tr>
<tr>
<td>1919</td>
<td>679</td>
</tr>
<tr>
<td>1920</td>
<td>395</td>
</tr>
<tr>
<td>1921</td>
<td>246</td>
</tr>
<tr>
<td>1922</td>
<td>537</td>
</tr>
<tr>
<td>1923</td>
<td>542</td>
</tr>
</tbody>
</table>

On the face of the figures the case against the schedules is a strong one, quite regardless of the method which the taxpayers may have used to avoid classification of their incomes in the higher brackets. The steady decline in the number of high incomes, even when the higher figures for 1922 and 1923 are taken into consideration, seems to indicate that these rates are likely to be of progressively less importance unless the law can be amended so as to stop the leakage.

From the standpoint of remedial action, however, it makes a great deal of difference what are the methods by which the reduction in the income of the higher groups has been brought about. If it is due chiefly to the transfer of funds to tax-exempt securities, a possible remedy would be the curtailment or abolition of tax exemption. This, however, in view of the large volume of tax-exempt securities outstanding, would be of very little immediate value. A lowering of the surtaxes has been suggested as the most available remedy. To quote Secretary Mellon:

"With the proposed maximum rate of 6 per cent normal tax plus 25 per cent surtax, an investment yielding 6½ per cent would be the equivalent of a 4½ per cent tax-exempt bond. Businesses with reasonable assurance of such a return can be found, with the speculative probability of greater return. The investor, with the chance of making more, will go into business and reject the tax-exempt security. As a consequence, he will have a taxable income in which the Government will share instead of income yielding no revenue whatever to the Government." 6

6 Mellon, Taxation: The People's Business, p. 82.
Other theories concerning the cause of the shrinkage suggest other ways of "plugging the leaks." Before giving attention to any of these remedial programs, however, we must examine the evidence concerning the cause of the evil, if indeed an evil exists. First let us turn to the question of ownership of tax-exempt securities.

There are five pieces of direct evidence concerning the distribution of ownership of the tax-exempt securities. These are, first, the returns of tax-exempt income by corporations; second, published returns of tax-exempt income of individuals for 1920; third, the returns of tax-exempt securities in the federal estate tax returns; fourth, the results of the investigation conducted by the Federal Trade Commission with reference to ownership of tax-exempt securities in 1922; and finally the data from income tax returns for the years from 1916 to 1924 collected by the Senate committee which is investigating the Bureau of Internal Revenue. The latter body of evidence has not yet been published, though part of it was reported to the Senate last spring and is here given wider publicity for the first time.7

Let us consider first the ownership of tax-exempt securities by corporations. The Treasury Department reports every year the amount of tax-exempt income shown in corporation tax returns. For 1922 the amount reported was $394,000,000; for 1923, $456,000,000. These figures do not include the interest on United States bonds collected by the Federal Reserve Banks, which amounted in 1922 to $17,000,000 and in 1923 to $7,000,000, which amounts, if added to the tax-exempt income of corporations make totals of $411,000,000 and $463,000,000 for the two years respectively. Now there are probably 14 billion of wholly tax-exempt and nearly 20 billion of partially tax-exempt securities. Both groups are wholly tax-exempt in the hands of corporations. On this basis the corporations may be estimated to own approximately $11,000,000,000 of the $34,000,000,000 tax-exempt securities outstanding. The returns do not tell us what proportion of the wholly tax-exempt are included in this figure. Of the 5½ billion tax-free securities owned by banks and trust companies near the close of 1924, 4½ billion were obligations of the United States Government, chiefly Liberty Bonds. The holdings of industrial corporations were also predominantly federal, 90 per cent of them in 1922 according to estimates.

7 It should not be inferred from the author's connection with the Senate Committee Investigating the Bureau of Internal Revenue that the committee is in any way responsible for the opinions expressed in this paper. The compilation of data for the committee's use has not been completed, and the author has no information as to what its recommendations are likely to be.
made by the Federal Trade Commission. Insurance companies also owned at that time more federal than state obligations. Our figure of $11,000,000,000 tax-exempt for all corporations probably does not include more than 2 or 2½ billion of wholly tax-exempt, leaving 11 or 12 billions to be accounted for elsewhere, as well as 11 billion of partially tax-exempt.

Let us consider next the published data for individual incomes for 1920. It will be remembered that the Act of 1917 required taxpayers to make return of the amount of their tax-exempt income, although this information had no bearing upon the amount of tax collected and was of value only for statistical purposes. Nevertheless, the data were not included in the published "Statistics of Income," and so far as 1918 and 1919 are concerned they still remain buried in the returns. The data for 1920 were published, however, in the Annual Report of the Secretary of the Treasury for 1923. The exempt income from federal and from state sources is shown separately. The data are not quite what we would want, inasmuch as the tax-exempt income on partially tax-exempt bonds is omitted, and the figures on income from state sources include salaries as well as interest on bonds. Both these points, however, are probably of minor importance so far as the higher surtax brackets are concerned, though they make it impossible to make accurate comparisons of the higher brackets with the lower. The data are as follows:

<table>
<thead>
<tr>
<th>Income Groups</th>
<th>U. S. Obligations</th>
<th>State, etc.</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-10</td>
<td>3,492</td>
<td>13,985</td>
<td>17,478</td>
</tr>
<tr>
<td>10-25</td>
<td>4,802</td>
<td>15,011</td>
<td>19,814</td>
</tr>
<tr>
<td>25-50</td>
<td>4,398</td>
<td>10,844</td>
<td>15,242</td>
</tr>
<tr>
<td>50-100</td>
<td>5,277</td>
<td>9,502</td>
<td>14,778</td>
</tr>
<tr>
<td>100-150</td>
<td>3,644</td>
<td>4,639</td>
<td>8,283</td>
</tr>
<tr>
<td>150-300</td>
<td>5,408</td>
<td>5,163</td>
<td>10,571</td>
</tr>
<tr>
<td>300-500</td>
<td>2,221</td>
<td>2,613</td>
<td>4,833</td>
</tr>
<tr>
<td>500-1,000</td>
<td>2,952</td>
<td>3,236</td>
<td>6,187</td>
</tr>
<tr>
<td>1,000 and up</td>
<td>5,396</td>
<td>2,933</td>
<td>8,329</td>
</tr>
<tr>
<td>Total</td>
<td>37,559</td>
<td>67,926</td>
<td>105,485</td>
</tr>
</tbody>
</table>

These figures indicate a surprisingly small proportion of tax-exempt income in the higher brackets, not more than 2 billion with 9 billion yet to find. Various Treasury officials have expressed disbelief in the accuracy of the statistics. Secretary Mellon points out that these returns are not audited. Inasmuch, however, as all

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8 It may be added that the Federal Trade Commission's 1922 estimate for industrial corporations checks very closely as to totals for the various industrial groups with the figures reported in the Statistics of Income, which were not available at the time the investigation was finished.
TAXATION AND TAX-EXEMPT SECURITIES

Treasury statistics are published from the unaudited returns, the point is of no great importance, except as it reminds us that we must discount all our statistical information on account of the lack of auditors' checks. The audits of taxable income probably do not make a great deal of difference in the total figure. It is, of course, quite possible that many taxpayers neglected to report their tax-exempt income because they knew that there would be no check-up and considered the matter to be of no importance anyway. On the other hand, there is no financial inducement to the taxpayer to falsify this portion of his report, which is submitted under the same oath as is the rest of the return. It does not seem possible that under-reporting is sufficient to account for the enormous discrepancy between these figures and those which have been used as the basis of the calculations we have cited relative to the amount of income lost by the government through tax exemptions. Of course, there is some under-statement, but is there more than there is among the taxable? The figure is probably a good estimate of what would actually be taxed if the bonds were not exempt.

Our third piece of direct evidence is found in the "Report on Taxation and Tax-Exempt Income," submitted to the Senate by the Federal Trade Commission on June 6, 1924. This report embodies the results of a questionnaire distributed to about 10,800 individuals, mostly from the higher income groups, in which inquiry was made as to the amount of tax-exempt securities owned on December 31, 1922, and the amount of interest received during that year from securities in each class. The tabulated results include reports from about 5,550 individuals, of whom 3,503 had taxable incomes of $10,000 or more in 1922. The report shows more detail than can be embodied in this paper but the most important results are summarized in the following table:

<table>
<thead>
<tr>
<th>Income Group</th>
<th>Tax Exempt Wholly</th>
<th>Partially</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(in thousands of dollars)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10-25</td>
<td>20,429</td>
<td>26,634</td>
<td>47,063</td>
</tr>
<tr>
<td>25-50</td>
<td>17,951</td>
<td>20,806</td>
<td>38,757</td>
</tr>
<tr>
<td>50-100</td>
<td>15,780</td>
<td>11,076</td>
<td>26,856</td>
</tr>
<tr>
<td>100-150</td>
<td>6,164</td>
<td>3,278</td>
<td>9,442</td>
</tr>
<tr>
<td>150-300</td>
<td>7,093</td>
<td>3,112</td>
<td>10,205</td>
</tr>
<tr>
<td>300-500</td>
<td>5,431</td>
<td>3,352</td>
<td>8,783</td>
</tr>
<tr>
<td>500-1,000</td>
<td>15,230</td>
<td>3,829</td>
<td>19,059</td>
</tr>
<tr>
<td>1,000 and over</td>
<td>3,042</td>
<td>172</td>
<td>3,214</td>
</tr>
<tr>
<td></td>
<td>91,930</td>
<td>72,349</td>
<td>164,279</td>
</tr>
</tbody>
</table>

The Federal Trade Commission did not have the figures for number of returns in 1922 in the various income groups, hence had to rely on estimates. I have revised their figures by the use of the data since published in "Statistics of Income."
This also indicates that a much smaller proportion of the investments of wealthy individuals are tax-free than has been assumed by most of those who have discussed the matter.

The following table compares the percentages of tax-exempt to total income in various income groups, as reported in 1920 and as shown by the Federal Trade Commission sample for 1922:

<table>
<thead>
<tr>
<th>Income Group (Thousands)</th>
<th>Percentage of tax-exempt income to total net income</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1920</td>
</tr>
<tr>
<td>10-25</td>
<td>.9</td>
</tr>
<tr>
<td>25-50</td>
<td>1.2</td>
</tr>
<tr>
<td>50-100</td>
<td>1.8</td>
</tr>
<tr>
<td>100-150</td>
<td>3.1</td>
</tr>
<tr>
<td>150-300</td>
<td>3.8</td>
</tr>
<tr>
<td>300-500</td>
<td>4.0</td>
</tr>
<tr>
<td>500-1,000</td>
<td>5.4</td>
</tr>
<tr>
<td>1,000 and over</td>
<td>5.6</td>
</tr>
</tbody>
</table>

A fourth piece of evidence is furnished by the returns filed for the estate tax. These show in considerable detail the amount and kind of tax-exempt securities as well as other assets held in estates of different sizes.

The very large estates have shown a steadily increasing percentage of tax-exempts, as is shown by the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of wholly tax-exempt to Net Estate</th>
<th>Total Stocks and Bonds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1917</td>
<td>2.21</td>
<td>3.26</td>
</tr>
<tr>
<td>1918</td>
<td>4.27</td>
<td>6.66</td>
</tr>
<tr>
<td>1919</td>
<td>5.30</td>
<td>7.87</td>
</tr>
<tr>
<td>1920</td>
<td>9.79</td>
<td>14.60</td>
</tr>
<tr>
<td>1921</td>
<td>8.07</td>
<td>13.30</td>
</tr>
<tr>
<td>1922</td>
<td>6.82</td>
<td>10.53</td>
</tr>
<tr>
<td>1923</td>
<td>11.80</td>
<td>16.41</td>
</tr>
<tr>
<td>1924</td>
<td>9.36</td>
<td>18.61</td>
</tr>
</tbody>
</table>

While it is impossible to relate these figures to the data classified by income groups, they give one a much more decided impression of preference for tax-exempts on the part of the wealthy than do the income figures. There is no escaping the fact that there has been a noticeable tendency for the very large estates to contain an increasing proportion of tax-exempt securities.

10 For years from 1917 to 1921 inclusive, taken from letter of Secretary Mellon to Senator Couzens, dated January 2, 1924, published in Commercial and Financial Chronicle, January 12, 1924, p. 150; for the later years computed from data published in Statistics of Income.
There is no tendency, however, for this drift of tax-exempt securities into the larger estates to decrease with the successive reductions in the surtax rates. The increase in the proportion of tax-exempt securities moreover is far from sufficient to account for the decline in the number of taxable incomes in the higher brackets. For certainly the proportion of tax-exempts to total assets must be much larger than the proportion of tax-exempt income to taxable income in the income groups in which the individuals were classified during their lives. This is bound to be true, in the first place, because the income figures include taxable salaries and profits which have no corresponding items in the estates; in the second place, because the individuals whose estates are probated are predominantly old people. Half the estates of $1,000,000 or more are those of persons past seventy years of age. Individuals who have retired from business and have large fortunes may be expected to invest very heavily in safe securities whether these are tax-exempt or not. The figures for the proportion of government bonds therefore do not look surprisingly high, although the increase from year to year is probably related to the tax exemption. Finally the returns probably figure value of stocks at lowest permissible figure; the federal and many of the state bonds have sufficiently well-known values so that they are less easy to report at less than actual value.

It may be argued, however, that the significant thing is not the amount of tax-exempt income received by individuals in higher brackets, but that received by individuals who would have been in the higher brackets had they not shifted their investments from taxable to tax-exempt securities. Are there not many individuals whose incomes are reported away down in the lower brackets who hold large amounts of tax-exempts, individuals whose real incomes run into the millions but who pay virtually no income tax at all? Is the tax-exempt security the chief explanation of the reduction in the number of very large taxable incomes? To this question we will now give more detailed attention.

In the first place, it is obvious that the much-talked-of shrinkage in the number of incomes of $300,000 from 1296 in 1916 to 246 in 1921 is not in itself sufficient proof whatever of the influence of tax-exempt securities. The year 1916 was characterized by the largest profits the country has ever known; 1921 was the most un-prosperous year in a quarter of a century. To single out these years and argue that the reduction in the number of high incomes is evidence of investment in tax-exempt securities is political piffle. If we look at the earlier years we find that in 1914 the number of incomes of over $300,000 was only 390; in 1915 it was 705. We might almost as well give the income tax credit for the increase from 1914 to 1916 as to give it the chief share of the blame for the decrease to 1921.
Nevertheless, when we take the intermediate years into consideration and also 1922 and 1923, it is clear that these changes in prosperity do not fully account for the fluctuation in the number of large incomes. We cannot ascribe all the remaining change to the tax-exempts, however. There are numerous alternative explanations, some of which do not lend themselves to quantitative measurement. For example, the Statistics of Income afford indisputable evidence that there has been a significant amount of splitting-up of incomes among members of the same family and that this has been most common in the higher brackets. Another considerable fraction is the result of our practice of counting capital gains and losses in computing income. Selling securities on which one has a loss and holding those which show a profit cuts down taxable incomes very materially. Investments in undeveloped real estate, in non-dividend securities and in business promotions which are not expected to yield returns for some time no doubt account for another considerable fraction, but one which we have absolutely no way to measure. Stocks of companies which show good earnings but pay no dividends afford just as attractive a refuge from surtax as do tax-exempts, and offer in addition the prospect of ultimately paying more than the minimum return. Likewise the high-priced industrial securities, the so-called rich men’s stocks, which pay only 2 or 3 per cent on their market value, afford an investment which is very attractive to men of large wealth. Investment in these securities, of course, causes a falling-off in the reported income.

The most satisfactory method of attacking the problem, therefore, is to carry through a study of the incomes of as many as possible of the individuals who had large incomes in 1916 and see to what extent it is possible to account for their disappearance through investment in tax-exempts. This sort of study is now being carried through for the first time, by the Senate Committee Investigating the Bureau of Internal Revenue. The following table, prepared under direction of the Committee shows in detail the composition of the incomes of 4,200 out of the 6,600 individuals who reported net taxable incomes of over $100,000 in 1916. The report as published will contain a good deal more detail, including figures for 1924 and data from a considerable number of additional returns. These 4,200 are individuals for whom complete returns for the period from 1916 to 1923 were furnished by the Bureau of Internal Revenue. The remainder include those who have died since 1916 and those others whose returns are missing for one or more years. In the case of a very large proportion of them, returns are available for a considerable number of years and these will be included in the final report.

This is the most important piece of evidence we have to examine, because it shows exactly what happened to the individual incomes
which made up the high income group before the imposition of the high surtaxes. Data classified according to the net income in each successive year are much more difficult to interpret. If an individual drops out of the $100,000 group because of a shrinkage of one item of his income, he takes all the rest of his income out with him, so that a shrinkage, say in the profits of speculation, may cause a decline in every other item of income received in the group. In the analysis which we are now able to present each item runs through independently of the others and we are able to compare the extent to which the decline in the income received by these individuals is due to a shrinkage in each item.

**Summary of Returns of 4200 Individuals who Reported Net Taxable Income of $100,000 and Over in 1916**

*(in millions of dollars)*

<table>
<thead>
<tr>
<th></th>
<th>1916</th>
<th>1917</th>
<th>1918</th>
<th>1919</th>
<th>1920</th>
<th>1921</th>
<th>1922</th>
<th>1923</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries, &amp;c.</td>
<td>81</td>
<td>111</td>
<td>100</td>
<td>102</td>
<td>103</td>
<td>89</td>
<td>83</td>
<td>87</td>
</tr>
<tr>
<td>Bus. and partn. profits.</td>
<td>401</td>
<td>168</td>
<td>172</td>
<td>197</td>
<td>131</td>
<td>95</td>
<td>122</td>
<td>91</td>
</tr>
<tr>
<td>Profits on sales</td>
<td>61</td>
<td>30</td>
<td>8</td>
<td>36</td>
<td>11</td>
<td>11</td>
<td>25</td>
<td>11</td>
</tr>
<tr>
<td>Capital net gain</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>73</td>
<td>69</td>
</tr>
<tr>
<td>Dividends</td>
<td>619</td>
<td>611</td>
<td>464</td>
<td>457</td>
<td>408</td>
<td>385</td>
<td>402</td>
<td>440</td>
</tr>
<tr>
<td>Interest partially tax-exempt (taxable)</td>
<td>—</td>
<td>—</td>
<td>6</td>
<td>10</td>
<td>8</td>
<td>6</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Other interest</td>
<td>115</td>
<td>126</td>
<td>123</td>
<td>112</td>
<td>104</td>
<td>86</td>
<td>76</td>
<td>69</td>
</tr>
<tr>
<td>Rents and royalties</td>
<td>36</td>
<td>23</td>
<td>21</td>
<td>22</td>
<td>22</td>
<td>23</td>
<td>24</td>
<td>23</td>
</tr>
<tr>
<td>Other income</td>
<td>11</td>
<td>4</td>
<td>4</td>
<td>6</td>
<td>5</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Total gross income</td>
<td>1323</td>
<td>1073</td>
<td>897</td>
<td>942</td>
<td>851</td>
<td>698</td>
<td>814</td>
<td>799</td>
</tr>
</tbody>
</table>

**Deductions—**

<table>
<thead>
<tr>
<th></th>
<th>1916</th>
<th>1917</th>
<th>1918</th>
<th>1919</th>
<th>1920</th>
<th>1921</th>
<th>1922</th>
<th>1923</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bus. and partn. losses</td>
<td>7</td>
<td>8</td>
<td>8</td>
<td>11</td>
<td>24</td>
<td>22</td>
<td>17</td>
<td>16</td>
</tr>
<tr>
<td>Losses on sales</td>
<td>2</td>
<td>17</td>
<td>66</td>
<td>127</td>
<td>224</td>
<td>165</td>
<td>97</td>
<td>105</td>
</tr>
<tr>
<td>Interest paid</td>
<td>27</td>
<td>27</td>
<td>32</td>
<td>39</td>
<td>50</td>
<td>48</td>
<td>43</td>
<td>43</td>
</tr>
<tr>
<td>Other deductions</td>
<td>68</td>
<td>94</td>
<td>103</td>
<td>98</td>
<td>92</td>
<td>96</td>
<td>97</td>
<td>121</td>
</tr>
<tr>
<td>Total deductions</td>
<td>104</td>
<td>146</td>
<td>209</td>
<td>275</td>
<td>390</td>
<td>329</td>
<td>271</td>
<td>285</td>
</tr>
<tr>
<td>Net income</td>
<td>1219</td>
<td>927</td>
<td>688</td>
<td>667</td>
<td>461</td>
<td>369</td>
<td>543</td>
<td>514</td>
</tr>
</tbody>
</table>

**Tax-exempt Income**

<table>
<thead>
<tr>
<th></th>
<th>1916</th>
<th>1917</th>
<th>1918</th>
<th>1919</th>
<th>1920</th>
<th>1921</th>
<th>1922</th>
<th>1923</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax-exempt int. on partially tax-exempt</td>
<td>—</td>
<td>—</td>
<td>3</td>
<td>9</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wholly tax-exempt</td>
<td>23</td>
<td>35</td>
<td>46</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>26</td>
<td>44</td>
<td>54</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Summary of Returns of 126 Individuals who Reported Net Taxable Income of $1,000,000 and Over in 1916

(millions)

<table>
<thead>
<tr>
<th></th>
<th>1916</th>
<th>1917</th>
<th>1918</th>
<th>1919</th>
<th>1920</th>
<th>1921</th>
<th>1922</th>
<th>1923</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries, &amp;c.</td>
<td>6</td>
<td>7</td>
<td>6</td>
<td>5</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Bus. and partn. profits</td>
<td>89</td>
<td>20</td>
<td>14</td>
<td>16</td>
<td>6</td>
<td>6</td>
<td>13</td>
<td>6</td>
</tr>
<tr>
<td>Profits on sales</td>
<td>21</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Capital net gain</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Dividends</td>
<td>189</td>
<td>175</td>
<td>124</td>
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<td>105</td>
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<td>29</td>
<td>27</td>
<td>20</td>
<td>16</td>
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<td>Rents and royalties</td>
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<td>4</td>
<td>5</td>
<td>5</td>
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<td>Other income</td>
<td>3</td>
<td>—</td>
<td>1</td>
<td>—</td>
<td>—</td>
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<tr>
<td>Total gross income</td>
<td>342</td>
<td>240</td>
<td>179</td>
<td>176</td>
<td>147</td>
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### Deductions

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<td>Losses on sales</td>
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<td>Interest paid</td>
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<td>7</td>
<td>8</td>
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<tr>
<td>Other deductions</td>
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<td>27</td>
<td>25</td>
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<td>Total deductions</td>
<td>25</td>
<td>42</td>
<td>56</td>
<td>67</td>
<td>85</td>
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<tr>
<td>Net income</td>
<td>317</td>
<td>197</td>
<td>123</td>
<td>109</td>
<td>62</td>
<td>51</td>
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<td>74</td>
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<tr>
<td>Tax-exempt income</td>
<td>—</td>
<td>6</td>
<td>10</td>
<td>13</td>
<td></td>
<td></td>
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Taking first the 1916 to 1920 comparison, it will be noticed that business profits and partnership profits fall off 75 per cent, profits from sales of real estate, stocks and bonds 80 per cent, while losses from the sale of real estate, stocks and bonds jumped nearly a hundredfold. These are the items which are least likely to be affected by investment in tax-exempt securities. On the other hand, interest shrank only some 20 per cent and dividends less than 30 per cent. Comparisons with 1920 instead of 1921 show similar results. The losses from sales of real estate, stocks, bonds, and so forth were nearly 50 per cent larger in 1920 than they were in 1921, showing how individuals rushed to take advantage of the falling market as soon as it appeared.

Data for the later years do not change the picture materially, except that they show clearly that the lower surtaxes have not brought capital back out of tax-exempt securities. The increase in profits from sales in 1922 and in 1923 is due to the capital net gains provision of the Act of 1921. Dividends came back after the slump of 1921 quite rapidly, and in 1923 were higher than in either 1918 or 1919, though still some 25 per cent below the top figures of the war-boom years.

The figures for tax-exempt income for 1918 and 1919 are here given publicity for the first time. The 1920 figures are, of course, a sample from the same returns which we have already cited, ex-
cept the item of tax-exempt interest on partially tax-exempt bonds, which is not included in the Treasury figures. Accepting the figures at their face value, they indicate a total investment in tax-exempts in 1920 sufficient to yield income amounting to about twice the shrinkage of interest income from 1916 to that date. If all this income were restored to the taxable brackets it would raise the average income of the 4,200 individuals from $110,000 to $120,000. In 1916 it was $290,000.

The item "Interest Received" is of special interest because this is probably the easiest item to manipulate either by selling taxables in order to buy tax-exempts or by transferring securities to other members of the family, and also because it is least affected by business depression. We have already noted that this item declined only 20 per cent from 1916 to 1921. Since that time, however, it has declined much more rapidly. Whatever the cause of this decline, it is clear that it has not been checked by the lowering of surtaxes in recent years. The returns of tax-exempt interest for 1924 for this group will, I presume, be made public by the Senate Committee within a month or two. It will be very interesting to see whether this item has gone up as "other interest" has gone down. The figures for million-dollar incomes emphasize the points just made. The shrinkage to 1921 was in profits. The losses ran up and are staying up. Interest continues to decline. Tax-exempt income is of magnitude similar to interest paid.

III. The Logic of the Case

On the whole, the detailed statistics lend no support to the theory that the great shrinkage in taxable net incomes since 1916 has been caused to any considerable extent by investment in tax-exempt securities. It remains to consider the logic of the theories which have led students to attribute the shrinkage to this cause and see to what extent the inferences we draw from our fragmentary statistics harmonize with what a sound theory would lead us to expect.

In any system of progressive taxation of income, no matter whether the top brackets are taxed 10 times as heavily as the lower brackets or only 10 per cent more heavily, a tax-exempt security is worth more to the large taxpayer than it is to the small taxpayer. The so-called scientific principle of adjusting surtax rates so that rich men will have no inducement to buy them is economic nonsense. If the market were perfectly fluid and investors were all perfectly rational, and if our present surtax rates were known to be permanent, high income taxpayers might be expected to invest all their liquid assets in tax-exempt securities, except in cases where the individual had special knowledge or direct control of a business which would make its securities, although taxable, worth more in his hands than in those of any one else. The competitive
price of tax-exempt bonds would adjust itself so as to capitalize the value of the exemption to the "marginal" buyer; that is, the individual farthest down the scale whose purchases would be needed in order to make a market for the total supply. No one below that margin would buy any tax-exempt securities because taxables would afford him a better net yield. No one above the margin could afford to buy anything else as an investment. The state or municipality issuing the securities would save on account of the exemption, an amount fixed by the value of the exemption to this marginal buyer. All purchasers whose tax rates were higher than this marginal rate would save more money in their taxes than they would lose by sacrificing the higher yield of tax-exempts. As there would be no purchasers below this margin, the Federal Government would obviously lose more money in taxes than the states and municipalities would save in interest.

Most of the current discussions of the fiscal aspects of tax-exemption seem to proceed on the assumption that this theoretical distribution corresponds approximately to the actual situation. As we have seen, the statistical information points to a contrary conclusion, but even in the absence of statistics we should doubt very much the validity of conclusions based on such an analysis. The fallacy of our theoretical statement lay in the assumption that the tax rates and the exemptions could be counted on to persist throughout the life of the bond. If the tax rates are not permanent, and no one knows how long the value of the exemption will persist, the problem is entirely changed. Different individuals will place different values on the exemptions in accordance with their varying estimates of the number of years for which the exemption can safely be capitalized. Suppose, for example, we have two 40-year bonds, both paying 5 per cent interest, one taxable, the other exempt. An investor who pays a 30 per cent income tax can afford to pay a premium of $320.32 per $1,000 face value of the tax-exempt bond as well as he can pay par for the taxable bond if he is sure that the exemption will maintain its present value to him throughout the 40 years. But if he believes that the tax will be removed or the exemption lost at the end of one year, the exemption is worth only $14.49 to him. If the market price which reflects the varying opinions of thousands of buyers and sellers puts the premium at $100.00, a buyer who believes the exemption will have its present value for 40 years can afford to buy it even though his tax rate be as low as 12 per cent, while another who believes the exemption is good for only five years will not pay the market premium of $100 unless his rate is as high as 55 per cent. Consequently, the bonds will be distributed throughout a much wider range of income tax brackets than would be the case if there were no uncertainty as to the permanence of the conditions which give value to the exemp-
tion. The purchase of tax-exempt securities at any price which discounts the value of the exemption over a period of years involves an element of speculation.

In addition, we must remember that the tax-exempt securities as a whole are regarded as the safest type of investment, and that many individuals who pay small taxes are willing to sacrifice part of their income for the sake of this supposed additional safety. There are also a good many institutions which are required to buy government bonds regardless of whether or not the exemption is worth to them what it cost.

IV. The Fiscal Loss through Tax Exemption

The question whether the state, municipal, and federal governments, viewed collectively, gain or lose by the exemption is therefore a complex one, even though we discuss it on the purely theoretical basis and ignore annoying facts. On all securities held by individuals whose incomes are too small to be taxable, on all those held by insurance companies, charitable and educational institutions, foreigners who pay no tax in the United States, and deliberate tax-dodgers, the government saves the full market value of the exemption as it is estimated marketwise at the time the bonds are sold. As to those held by individuals who do pay surtaxes, the case is not so clear. On securities held by some taxpayers the government gains; on others it loses. The amount of this net gain or loss depends on the relation between the market value of the exemption and the rate of tax paid by the owner of the securities. If the bonds can be sold at a price to yield, on the average, one-fifth less interest on account of the exemption, the government makes a net saving on all bonds held by individuals whose highest rate is less than 20 per cent, and loses on all who pay more than that amount.

Any calculation of the net gain or loss must of course be highly tentative. Moreover, so far as the obligations of the United States Government are concerned, the question is largely academic. The conditions under which the Liberty bonds were sold were such that ordinary calculations as to the value of the tax-exemptions are of little significance. It seems fairly clear, however, that the government has lost much more than it has gained by subjecting these bonds to the surtax. The interest on United States obligations subject to surtax amounts to $870,000,000 a year. Of this sum, only $43,000,000 was reported in the individual income tax returns for 1923, and only $25,000,000 by individuals who are subject to surtax at the present rates. The total amount of surtax collected cannot be more than $5,000,000. If tax exemption has any value whatever in lowering the rate which the government has to pay on its borrowings, the loss of interest due to making them taxable must far
exceed this amount. Of course it is to be expected that if the bonds were exempt from surtax more of them would be owned by individuals in surtax-paying groups, but judging by the distribution of the wholly tax-exempts the total amount recovered by the government in taxes on its own bonds and in taxes on other securities which would be exchanged for its own bonds if the latter were wholly tax-exempt cannot be more than a mere trifle as compared with the $70 millions outgoing.

With regard to the state and municipal bonds, the case is different. Here the Federal Government does incur a loss of revenue while the states make a saving in their interest costs, not necessarily the same amount but an amount determined by the valuation the market puts on the exemption privilege. It has been asserted very freely that the loss to the Federal Government is greater than the saving to the states. It has even been claimed that the market has been so saturated with tax-exempts that exemption has lost nearly all its value, though some of the same individuals have also argued that exemption is a great stimulus to municipal extravagance. There are now outstanding about 14 billion dollars' worth of wholly tax-exempt securities, most of them state and municipal. A comparison of the yields on Canadian provincial and municipal bonds and American state and municipal bonds shows an excess of fully 1\(\frac{3}{4}\) per cent in the yield of Canadian bonds in 1920 and \(\frac{3}{4}\) of 1 per cent on the same bonds in 1924.\(^{11}\) At this rate the government would gain something on all tax-exempt securities held by individuals whose tax rates were less than 25 per cent in 1920, or 15 per cent in 1924. This would mean individuals with incomes of $52,000 in 1920 and $30,000 in 1924. At both dates the government comes out slightly ahead on the large volume of tax-exempts held by corporations.

Many of the bonds were issued at a time when the difference was larger than it is now, and some at an early period when it was smaller, but the fairest basis of calculations is the present value of the exemption. On this basis the states and municipalities are saving about one hundred million dollars a year in interest. The amount of surtax collectable on these bonds at present rates would not be in excess of 20 million dollars. Another 14 million might be recovered through the corporation taxes, and six or eight million in normal taxes, making a total of 42 million or considerably less than half of the amount saved by the state governments in their interest charges. The difference, of course, results from the fact that so large a proportion of the bonds are in the hands of insurance companies, charitable institutions, small holders who are

\(^{11}\) A comparison of the yields of substantially the same list of bonds in July, 1913, indicates that the pre-war difference was only about .07 per cent.
not subject to the income tax and outright tax-dodgers. All of
these groups are virtually taxed in the lower interest rate which
they accepted when they purchased the state and municipal bonds.
Indeed, tax-exemption is the only way in which they can be reached

V. INDUSTRIAL EFFECTS OF TAX EXEMPTION

So much for the fiscal aspects of the question. What of the in-
direct effects? As was stated at the outset, the doctrine which has
the widest acceptance at the present time holds that the combina-
tion of surtaxes and tax-exempt securities is objectionable not only
on fiscal grounds but also because it drives capital into unproduc-
tive channels and stimulates state and municipal extravagance.
The latter point we shall not attempt to discuss in detail. Such a
discussion would require an analysis of the purposes for which the
bonds are issued and an estimate of the extent to which states and
municipalities would be discouraged from undertaking their present
activities if they had to pay an additional three-fourths of 1 per
cent to 1 3/4 per cent in interest on their borrowings. Nor shall we
attempt to inquire into the relative utility of the services rendered
by capital invested in highways, bridges, schools, public utilities,
and soldiers' bonuses on the one hand, and competitive industries
on the other hand. (It is, of course, preposterous to assert, as
prominent critics of our tax system have asserted, that capital
which goes into the purchase of tax-exempt bonds is therefore un-
productive.)

We shall merely examine the extent to which it is legitimate to
argue that a lowering of the surtax, by destroying the incentive to
rich men to purchase tax-exempt securities, would increase the
supply of capital available for industries which do not enjoy the
advantages of tax-exemption. If the surtaxes were wholly abol-
ished, it is undoubtedly true that a considerable amount of capital
which has been put into tax-exempt securities by wealthy men
would go into the industrial securities of one sort or another. They
would sell the tax-exempts and buy taxables until the prices of one
group were forced up and the other down, and a new equilibrium
attained. But this would not mean that any more of our national
capital would be allocated to industrial uses. More taxable secur-
ities would be owned by wealthy men and fewer by poor men, more
tax-exempts by poor men and fewer by wealthy men. The sale of
the tax-exempts now owned by the wealthy group would withdraw
as much capital from the investment market at one point as it would
put into it at another point.

The only way in which a lowering of the surtax could affect the
supply of investment capital available for industry is through cur-
tailment of the output of new tax-exempts. If the states and muni-
cipalities decide to continue their present rate of expenditure, they
may have to pay slightly higher rates for their funds, but they can get the money, surtax or no surtax.

If the surtaxes are greatly lowered, the states may sell a smaller proportion of their bonds to very wealthy men than they do now, though that is not certain. But this makes no difference. If these bonds are sold at all they are sold in competition with industry. With any progression at all, the bonds will be worth more to rich men than to poor men. If the surtax is set at a low level and agitation for still lower levels comes to an end, I expect to see the tax-exempts move much more rapidly into wealthy hands. It is the uncertainty about the future of the tax that makes men hesitate to invest in them. But no harm will result if there is a landslide of such men into tax-exempt securities. The poor men who sell them will have that much more to invest in taxables.

In summary:
First: Only a small fraction of the outstanding wholly tax-exempt bonds would be a source of revenue if they were taxable. Nearly two-thirds of them are in the hands of untaxed corporations, individuals who pay tax on incomes of less than $5,000, or none, and tax-dodgers. Half the rest are held by corporations.
Second: Tax-exempt securities have not been responsible for the disappearance of the large incomes reported in 1916, and have not undermined the progressive feature of the income tax.
Third: The amount of income tax which could at present rates be collected on state and municipal bonds is at most half the amount now saved in interest charges by the privilege of tax-exemption.
Fourth: Lowering the surtaxes would not transfer a large volume of capital from unproductive to productive uses.

Note.—Since the preparation and delivery of this address the Bureau of Internal Revenue has released the following data:

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<td>(Thousands)</td>
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<td>10-25</td>
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<td>300-500</td>
</tr>
<tr>
<td>500-1,000</td>
</tr>
<tr>
<td>1,000 and over</td>
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</table>

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Total | 162,428
These figures indicate that there has been a considerable shifting of tax-exempt securities from lower to higher brackets within the last two years. On this basis the amount of additional surtax, to which the holders of these securities would have been subjected if the bonds had been taxable, figures out between $45,000,000 and $50,000,000, instead of $20,000,000 as estimated in the text. However, the saving of interest to the issuing states and municipalities still seems to be larger than the loss of revenues sustained by the Federal Government. The loss of revenue on account of the exemption from surtaxes of the partially tax-exempt securities which is estimated in the text at less than $5,000,000 figures out $4,800,000.

Chairman Page: Gentlemen, I am asked to announce that the committee on resolutions is requested to assemble, as soon as they can, in the room to the right, as you pass out.

Secretary Holcomb: Mr. Chairman, I think Mr. Hardy would like a little rest, so I would like to read a resolution to be presented:

Resolved, That this conference recommends to the National Tax Association that provision be made in the constitution of that association, under the auspices of which these annual conferences are held, that representation at the conferences be broadened, so as to include as delegates qualified to vote therein duly accredited representatives of regularly organized state taxpayers' associations, or similar organizations having statewide representation and support.

Chairman Page: That resolution will be referred to the committee on resolutions.

The floor is now open, gentlemen, to those who wish to discuss the papers that have been presented.

The committee on resolutions will, of course, have to withdraw.

M. D. Rothschild (New York): We have just listened to a profitable paper which, with the facts stated here, I believe, will go very far to counteract misapprehension, and much of the propaganda in connection with tax-exempt securities.

I have not arisen to discuss the paper, but simply to suggest that this drop in the incomes from 1921 to 1923 might very well be accounted for by the actual drop in the interest which has occurred since that time.

My recollection is, as an investor and business man, that in 1921, bonds, mortgages on real estate, and other such investments, were nearer 6 or 6½ per cent than 6. In 1923 interest had dropped very nearly to 5½ per cent, and in many cases to 5¼ per cent. That would account for from 15 to 18 per cent and would bring the figures of 1923 well up to those of 1921.
Mr. Atwood (California): I do not believe I want to come forward. I just want to make a very brief reference to one point in the paper of Mr. Hardy, and what I would like to ask him about has very little bearing on his main argument.

He stated in the early part of his paper, if I remember correctly, that there was only one argument advanced against the high surtax rates, unconnected with the tax-exempt security problem, namely, that based on fairness and justice. Later on in his talk he mentioned various means of avoidance of high surtax rates, such as family arrangements, formation of corporations, and so forth. Is that not another argument against the high surtax rates, in no way connected with the tax-exempt security problem?

These conferences are attended usually by tax-expert lawyers who are said to make vary large incomes by advising wealthy clients how to minimize or avoid—I won't use such word as "dodge"—but how to minimize high surtaxes, and the means of such avoidance are very numerous, indeed. They have sometimes been enumerated in the various reports of the secretary of the treasury and by other people.

Is that not, Mr. Hardy, a legitimate argument against the high surtax rates, having no connection whatever with tax-exempt securities?

Mr. Hardy: I think there are two things to be said about that. In the first place most of those methods, particularly the splitting of the income, or as far as the splitting of the income of the members of the family are concerned, I thing a low surtax will do the same thing, that is, as long as you pay a smaller tax if you and your wife report income separately than if you report together. As fast as people find that out, it will be a very simple matter to take advantage of it.

In the second place—this is merely my personal reaction—I don't think it is an evil; it seems to me it provides for something that the law ought to provide for in some other way, anyhow; that if it is really the income of two people it should not be taxed as high as for one person, for his own use. If a person has a large number of unmarried daughters on his hands to provide for, he gets some relief by transferring some of his taxable bonds to them. I think it takes care of the few to whom progressive tax was intended to apply, by the imposition of a heavy tax on large incomes accruing to single individuals. This income, as a matter of fact, is not accruing to the single individual.

 Personally I should like to see that principle of the community property tax applied in all the states and the rates adjusted. That is a question on which individuals might very well disagree.

Another point suggested by the study of corporation tax returns,
made by the senate investigating committee, comes to my attention. It is that the number of corporations organized outright for the purpose of having them draw somebody's income, in order to relieve him from personal income tax, is comparatively very small. There have been some interesting stories told in the *Saturday Evening Post* and other places, as to the devices used for that, and I expected when I became connected with that committee to find a great deal more of that sort of thing. I did come across some cases, but they are very few. They do not amount to anything, as far as the total amount of revenue is concerned.

Some of the other devices are objectionable. I suppose that it is an evil that a certain part of the revenue of the country is diverted by tax lawyers, who put their time and energy into ways for evading this tax, when they might be able to put their time and energy to figuring out evading another tax.

**Chairman Page:** Is there any one else who wishes to discuss these papers? If not, what is your pleasure, gentlemen? Unless you wish to ask some other questions or prolong the discussion, the chair will entertain a motion to adjourn.

(*Adjournment*)
SEVENTH SESSION

THURSDAY EVENING, NOVEMBER 12, 1925

CHAIRMAN PAGE: The conference will please come to order.

We have an exceedingly timely topic to be presented to us this evening and it will be presented by a gentleman singularly well qualified to speak on the subject. Before beginning his talk, however, this gentleman wishes to offer two resolutions, in the hope that it may not be too late for the committee on resolutions to give them consideration.

The distinguished gentleman that I have to introduce to you needs no introduction; you all know him. Senator Edmonds of Philadelphia.

FRANKLIN S. EDMONDS (Pennsylvania): Mr. Chairman; from the floor, sir, with your permission, I should like to offer these resolutions, with the request that they be referred to the resolutions committee.

Resolved, That the Eighteenth National Tax Conference hereby reaffirms its conviction that inheritance taxes should be reserved as a source of revenue to state governments alone, and that in an ideal system of taxation the Federal Government should retire, and permanently, from this field.

Second: Resolved, That the Eighteenth National Tax Conference hereby endorses the plan of reciprocal legislation, with reference to taxes on the intangible personal property of non-resident decedents, and commends to the various state legislatures of those states which impose such taxes the consideration of this plan as a feasible method of ultimately attaining the abolition of what has been found to be an inequitable and wasteful method of taxation.

CHAIRMAN PAGE: The resolutions are hereby referred to the committee on resolutions, for such attention as the committee may find it possible at this stage of their deliberations to give to them.

I now once more introduce Senator Edmonds to talk to us on the subject of "Progress in Reciprocity in State Inheritance Taxation."

FRANKLIN S. EDMONDS (Pennsylvania): Mr. Chairman, Ladies and Gentlemen: May I say a word first about the Pennsylvania Tax Commission, because the work of our commission is unique, as
compared with the tax commissions of the other states. Ours is a
legislative commission, authorized by the legislature of 1923, for
the purpose of suggesting such changes in the taxation laws as may
be found to be necessary. We have nothing to do with the admin-
istration or the collection of taxes in the State of Pennsylvania.

We have found in our own brief study, first, that we know very
little about the theory of taxation; and I am here today to express
the acknowledgment of my colleagues and myself to the National
Tax Association for the great light and inspiration which were
given to us at the conference at St. Louis last year.

Following, however, upon the St. Louis conference, we felt that
it was right and proper for us to take counsel with the tax com-
missioners of those states whose industrial conditions were similar
to those of Pennsylvania, and as a consequence we have had many
conferences with Commissioner Long of Massachusetts, with Com-
misoner Graves of New York, and his able and courteous assistant,
Mr. Cole and Mr. Stevens; with Judge Leser of Baltimore; with
Mr. Belknap of Kentucky; and such others as we could learn from.

As a result of these conferences we feel that in some measure,
at least, a slight degree of progress has been made toward working
out a tax program for our various communities.

Last December, with the aid of those gentlemen whose names I
have just given, we called a conference in the city of Harrisburg
to consider inheritance taxes on the personal property of non-
resident decedents.

At that conference representatives were present from five state
tax commissions. We united in a statement which was sent out
broadcast all over the Union in which we protested against inheri-
tance taxes on the personal property of non-resident decedents, and
agreed that we would recommend their abolition to the various
states which we represented.

When we presented our recommendation, however, to the legis-
lature of Pennsylvania we found ourselves face to face with two
obstacles. The first was that the state needed the revenue—and the
tax on non-resident decedents yields to Pennsylvania about $800,000
per year—and, in the second place, we found that New York and
Massachusetts and the other states which had for a time repealed
the tax, as an inequitable tax, had later been forced to reenact it
again, because no other states would follow their example. We
found that the precedent which had been set by those states was
unfortunate for determining the action of Pennsylvania.

As is well known to this group, Massachusetts repealed its tax in
1912 and reenacted it again in 1920, as a measure of self-defense.

New York repealed its tax in 1911 and reenacted it in 1919, as a
measure of self-defense.
South Carolina, I think, at one time repealed the tax on the personal property of non-resident decedents, and then afterwards re-enacted it.

With that feeling, therefore, in the legislature of Pennsylvania, we were not able to make progress. In February, however, at the time of the inheritance tax conference in Washington, Mr. Long, Mr. Graves and myself had another conference together, as a result of which we reached the conclusion that if we could not repeal the tax absolutely, we might perhaps be able to start a partial method of repeal, and as a result, in all three of the states which were represented, there was introduced the reciprocity bills which are the subject for discussion tonight.

With that, by way of preliminary, I turn to the very brief formal portion of my paper.

PROGRESS IN RECIPROCITY IN STATE INHERITANCE TAXATION

FRANKLIN S. EDMONDS
Chairman Pennsylvania Tax Commission

The Pennsylvania Tax Commission was authorized by legislative resolution at the session of 1923, for the purpose of making an inquiry into the fiscal system of the state and comparing it with the systems of other states and foreign countries, with a particular view to ascertaining whether the burden of taxation was equably apportioned among the people of the commonwealth, and with instructions to report to the legislature at its succeeding meetings, and to suggest such legislation as may be necessary to carry its recommendations into effect.

The commission is composed of seven citizens of the commonwealth, including manufacturers, attorneys, economists and business men. It is not composed of tax experts, with the exception of our colleague, Professor McKay.

We started upon our work, therefore, with the feeling that we knew little about the problem, except in so far as the experience of each individual taxpayer was concerned. After our preliminary study we recognized that the fiscal system of our state had many peculiarities. We have no State Tax Commission, but collect our taxes through the Auditor General. We segregate completely the sources of revenue for state and local purposes. We have no general property tax, or tax on realty for state purposes. We have no income tax, nor do we have graded or progressive rates with reference to inheritance taxation. We have no tax on corporation capital actually used in manufacturing. We have no state supervision over local assessments and collections.
Recognizing these unique features, we, however, take pride in the fact that our tax on the capital stock of corporations is the pioneer legislation along this line throughout the country; that our collateral inheritance tax is the oldest tax on inheritances to be found in the fiscal systems of the states, and that our personal property tax is the oldest along this line throughout the country.

While our system is, therefore, exposed to considerable criticism, as compared with the more modern taxing systems of other states, we can state that it produces for our commonwealth a large and stable revenue, sufficient to meet the present functions which the state has assumed. If there should be a rapid expansion of the program of the state, some change in our fiscal system is inevitable, but at present we take considerable satisfaction in a system which has taxed neither the farmer on his land, nor the manufacturer on his plant for state purposes, and yet has produced sufficient revenue to keep our state in the forefront of progressive communities.

One of the first problems to which our tax commission addressed itself was suggested by the national tax conference in St. Louis last September. We felt that the overlapping state inheritance taxation on the intangible personal property of non-resident decedents was unjust and inequitable, and moreover that the cost that it placed upon the taxpayer, in getting ready to pay the tax, was so wasteful as to be a challenge to the good sense of tax administrators. Realizing, however, that our experience with the problem was but superficial, in December, 1924, we invited the tax commissioners of New York, Massachusetts, Maryland and Kentucky to confer with us informally, in the hope that some joint remedy might be discovered.

I want to take this opportunity to pay a tribute of sincere thanks and appreciation to the officers of the National Tax Association, Dr. Page and Mr. Holcomb, and the commissioners of those states, particularly Mr. Graves of New York, Mr. Long of Massachusetts, Mr. Leser of Maryland, and Mr. Belknap of Kentucky, for the great assistance which they have been to us in our work.

At this conference, we proposed that these states should unite in recommending to their legislatures the repeal of all inheritance taxes on the intangible personal property of non-resident decedents. We were met with the objection that some time ago, in 1911, New York had repealed this tax, but that as no other states except Massachusetts, had followed its example, it had been obliged to re-enact it in 1919, as a measure of self-protection; and that in 1912 Massachusetts had repealed the tax but was impelled for the same reason to restore it in 1920. It was, therefore, clear that any action by one or two states in the line of repeal might result to the disadvantage of the repealing states, and in no general benefit to the entire situation.
Moreover, in 1925, we were faced with a financial condition in which all of the revenue of the commonwealth was needed, and there was a serious doubt as to whether the legislature would be willing to enact a repealer which might result in a surrender of revenue of $800,000 per year.

Under these circumstances, the Harrisburg conference issued a statement urging the repeal of all inheritance taxes upon the personal property of non-resident decedents, but adjourned with the understanding that if repealers could not be enacted, Pennsylvania, New York and Massachusetts would join hands in an attempt to reach the same result on a reciprocal basis.

Reciprocity, as applied to the taxing systems of the states, involves the conferring of a benefit upon the citizens of one state, in exchange for a similar benefit granted by that state to the citizens of the first state. It is a principle of the same nature as that of retaliation, which involves an attempt to penalize the citizens of another state, because of some disadvantage to the citizens of the first state, in transacting business in the second. These principles are not new to the theory and practice of taxation. They have been applied, with marked success, in the taxation of insurance companies; and if the taxing rates and methods with reference to insurance companies are more nearly uniform in the various states than those applied to any other business, it is due in large measure to the retaliatory provisions in the laws relating to insurance taxation in some thirty states.

Wherever there is a problem common to two or more states, there is an opportunity to apply in some degree the principle of reciprocity. With the increase in corporate investments, however, our tax commission has felt that there was an unusual opportunity to apply this principle in simplifying the inheritance taxes on intangibles of non-resident decedents.

The alarming situation with reference to the multiple taxation of the intangibles of non-resident decedents has been already presented to this conference, and the summary of the vexatious laws of the states contained in the report of the National Committee on Inheritance Taxation is in the hands of each member of this conference.

That the record may be complete, reference is also made to Special Report, Number 33, of the National Industrial Conference Board, published in October, 1925, which summarizes the situation as follows:

"For example, in thirty-eight states, if a non-resident dies leaving stock of a domestic corporation, the shares are taxed by three jurisdictions, viz., by the state of domicile which taxes all his property wherever located (by virtue of jurisdiction of the person), by the state of incorporation (by virtue of jurisdiction of the property), and by the Federal Government. If
the corporation is incorporated in more than one state, as is true of some railroads, the stock may become taxable in each jurisdiction in the case of thirteen states. Nine states have gone even further and seek to impose a tax upon the transfer of stock of a foreign corporation by a non-resident decedent, if the foreign corporation has property within the taxing state, and some states tax transfers of stock of corporations merely operating within the state. State courts in some cases have declared the latter provisions unconstitutional, but in other states they have been upheld. The actual revenue derived from the taxation of the transfers of non-resident decedents is not large, but the irritation, delay, inconvenience and overhead expense therein involved to taxpayers are disconcerting to executors and heirs.

A more or less similar condition exists with respect to the taxation of transfers of other forms of intangible personalty. Thirty states tax bonds physically within the state, irrespective of the domicile of the decedent. Twenty-one states tax transfers of registered bonds wherever situated and by whomsoever owned if the obligor is a citizen of, or is incorporated within, the state, and seventeen seek to reach transfers of coupon bonds regardless of the situs of the bonds or the domicile of the resident. Some states tax transfers of unsecured notes if the obligor is a resident; others tax transfers of bonds and mortgages secured by real estate, cash on deposit, etc.

Often more annoying and expensive than the tax itself is the outlay incidental to procuring a transfer and ascertaining whether or not a tax is due. The delay in procuring a waiver from a foreign state has in many cases prevented the executor of an estate from taking advantage of a favorable market. Eleven states require court proceedings in fixing the tax, the cost of which sometimes exceeds the tax or the value of the property to be transferred. Employment of counsel is compulsory in one state and others require ancillary administration and all the incidental expenses in connection therewith."

To meet this situation, after an exchange of correspondence with New York and Massachusetts, we recommended to the legislature of Pennsylvania, at its session in 1925, an amendment to our transfer inheritance tax, whereby our state would waive all taxes on the personal property of non-resident decedents of those states which reciprocally would not tax the personal property of Pennsylvania decedents under their taxing jurisdiction.

This act passed the legislature unanimously, and was signed by

1 The language of the Pennsylvania Amendment is as follows:

"Personal property of a non-resident decedent made taxable under this section shall not be subject to the tax so imposed if a like exemption is made by the laws of the State or country of the decedent's residence in favor of residents of this Commonwealth."
the Governor, before the decision of the Supreme Court in the Frick Estate case. As a result of that decision, it is limited in its application to intangibles.

At the same time, New York and Connecticut enacted similar measures, effective July 1st, 1925, and Massachusetts, effective December 1st, 1925. As between these four states, therefore, reciprocity is a fact based on positive legislative enactment.

Following the passage of these laws, Commissioner Graves of New York called a conference of the tax commissions of these states, to ascertain whether simplicity and uniformity in administration could not be secured. As a result of these conferences, a simple form of affidavit was agreed upon, to be filed by the executor or administrator in duplicate, with the transfer agent, one copy to be retained by the transfer agent, and the other copy to be returned to the taxing authority of the state, for its recording, the taxing authority having previously given to the transfer agent a general authority to make the transfer, upon receipt of such a form of affidavit.

In addition to the four states, New York, Connecticut, Massachusetts and Pennsylvania, which have enacted reciprocity at the 1925 sessions, the following are also entitled to share in the reciprocity, because they have no inheritance taxes—Florida, Alabama, Nevada and District of Columbia; and the following states, which have no taxes on the intangibles of non-resident decedents; Georgia, Rhode Island, Tennessee and Vermont. There are, therefore, eleven states and the District of Columbia bound together in an equitable arrangement of comity, covering probably one-third of the population of the country, and probably a larger proportion of its wealth.

Correspondence with the various tax commissions indicates that the following states are considering reciprocal legislation on this subject at their next legislative sessions: Arkansas, California, Delaware, Illinois, Indiana, Iowa, Missouri, North Dakota, Ohio, South Dakota, Washington.

If these eleven states will bring their legislations into harmony with the original group of states, we shall have gone a long distance toward accomplishing the 9th and 10th conclusions of the National Committee on Inheritance Taxation, endorsed by this conference, viz.:

9. Multiple taxation of the same property by states should be abandoned.

10. Intangible personal property should be taxed only by the state of domicile of the decedent.

We, therefore, unite in recommending to the tax commissions of the states the favorable consideration of this principle of reciprocity, as affording an equitable method of eliminating one of the most vicious features of our fiscal system.
Certain considerations with reference to this proposition are to be specially noted:

1. If the universal application of the principle of reciprocity results in the abolition of all inheritance taxes upon the intangible personal property of non-resident decedents, it will not cost the states an appreciable loss of revenue. In 1924, the total revenue of the states from inheritance taxes was $82,681,000. The division of this amount between residents and non-residents has only been made in fourteen states, and the results are herewith appended as an exhibit. This would indicate that 13.1 per cent of this revenue is derived in the various states from non-residents.2

The experience of New York State, whose records are more complete than those of any other, indicates that one-third of this amount is derived from the taxation of the realty of non-residents, and two-thirds from intangible personal property. Accepting this classification, it would seem clear that the total amount collected by all the states of the Union from this source is probably less than $7,500,000. This is so slight a proportion of the total revenue as to be negligible.

2. By surrendering this revenue of seven and a half millions, the states will probably save to the estates in costs of administration an equal or even greater amount. This is one of the taxes in which the heaviest burden is not the payment to the Government, but the expense of determining the amount of the payment.

In some states the following facts are required before intangible personal property can be transferred:

1. A copy of the will.
2. The names and addresses of all of those who share in the estate.
3. The amounts of their respective shares.
4. The relationship of each beneficiary to the deceased.
5. A list of all property, everywhere, including that owned jointly by the deceased, as well as individually, and that to which he was entitled, as well as that he was already in possession of.
6. A list of all of the estate expenses.
7. A list of all of its debts.
8. A list of any property which the decedent had transferred by deed, grant or gift (except bona fide sales for full consideration in money or money’s worth) made in contemplation of his death, or which he intended to take effect in possession or enjoyment in any way after his death.
9. A list of any property over which he had a power of appointment.

2 See table.
The preparation of this information requires sometimes the employment of counsel and the use of expert accountants, and also sometimes may involve a heavy loss, because of changes in the market value of securities while the application for transfer is pending.

We must never lose sight of the essential fact that the burden of the expense of Government includes not only what is paid in the form of taxation, but also whatever costs are paid by the taxpayer in determining the amount of his taxes; and with reference to this form of taxation, the last half of the burden is greater than the first half.

3. The universal acceptance of the principle of reciprocity will remove an artificial barrier to the free investment of capital, and thus encourage investment in the states in which the industrial development has been less rapid.

Every attorney in this audience is familiar with the fact that men with capital are seriously concerned over the effect of the taxation of the intangible personal property of non-resident decedents upon the settlement of their estates. Prudent men are selling securities in certain states and investing only in certain other states where the burden of state taxation is less grievous. Thus an artificial barrier is being interposed in the free economic development of the country.

If, for instance, a state asks why we should not tax non-residents, let it turn to the records of the great national corporations and ascertain how many of its own citizens must pay this form of taxation to other states, in the event of the settlement of their estates.

Wisconsin has 1112 stockholders in the United States Steel Corporation, and its citizens own almost 13,000 shares of the preferred and common stock of the Radio Corporation of America; and also a fair share of the stock of other great national corporations. If the principle of reciprocity were universally accepted, this stock would be transferred freely and without tax from other states upon the death of the owners. Otherwise, the citizens of Wisconsin may pay a heavy tax when their estates are settled, not only to their own state, but to other states having jurisdiction of the assets. The same principle applies to every other state.

It has been estimated that from 1918 to 1925, the number of stockholders in American corporations doubled, to a total of fifteen millions and all of these stockholders, together with those who may be interested in the settlement of their estates, are vitally concerned in this problem.

4. The acceptance of the principle of reciprocity by the states will afford a positive proof that the states can clean house. A recent editorial in the *Springfield Republican* is entitled "Are the States Capable of It?" and asks the question whether under our
existing political system, common action by the states upon any problem of general concern can be secured. This is a vital question in an era in which many of the businesses of the country are becoming nationalized and industrial development is proceeding without regard to state lines.

Let us show by our recommendation that we believe that the states can act together for the common good.

Against the principle of reciprocity we have heard but two arguments:

1. The loss of revenue to the states. But that, as indicated, is trifling and will be more than made up by the increased return which the Federal Government seems ready to offer to the states on the inheritance taxes.

2. It has been objected that each state should develop its own taxing system without regard to the taxation of other states, and that each state should have judgment enough to develop a righteous and equitable system without the help of any other state. This objection is doubtless based upon the idea that if a state can procure revenue from non-residents, it is "smart politics" to do so.

In a country in which the industrial and other business interests are as unified as in this, it seems absurd to be obliged to reply to this argument. If the states which urge it will only realize that by taking taxes from non-residents, they leave their own citizens open to the taxation of other states to an equivalent amount, the folly of the proposition becomes evident.

There are other applications of the principle of reciprocity which may be suggested in the future. For instance, some states, like New York, tax no charitable legacies. Other states, like Pennsylvania, tax all charitable legacies. Other states, like Minnesota, tax legacies to charities without the state. We have all recognized that the principle of taxing gifts to charity was wrong, and that money which is left for a proper public or charitable use should not be diminished by the Government in passing to this use.

The tax commissions of Pennsylvania and New York have already agreed that they will recommend that their legislatures exempt from taxation all charitable legacies to charities within the state and without the state to those states which will reciprocate.

Other developments of the principle of reciprocity may fairly be expected in the future, and if it will result in common action among the various states so as to give encouragement to similar legislation, a long step will be taken toward producing that uniformity in state taxation which the highest welfare of the country so urgently demands.
## Statistics of Inheritance Taxation of Non-Residents

<table>
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<tr>
<th>States</th>
<th>Number of Estates</th>
<th>Inheritance Tax</th>
<th>Average Tax</th>
<th>Percentage of Inheritance Tax</th>
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<td>Residents</td>
<td>Non-Residents</td>
<td>Residents</td>
<td>Non-Residents</td>
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### Source: National Committee on Inheritance Taxation.

**Chairman Page:** The floor is now open for discussion of this exceedingly important subject and of the illuminating paper that you have heard.

**Mr. Riley (California):** I should like to ask the speaker one question. There appears to be no substantial difference, legally, between the Matthews flat-rate plan and this reciprocity. What is the legal status of this reciprocity, in so far as your constitution is concerned?

**Mr. Edmonds:** We think, so far as our constitution of Pennsylvania is concerned, that it will be held to be legal by our supreme court. Our constitution permits us to classify. There are various indications and decision that a classification as between those states which grant a privilege to estates of Pennsylvania and those states which do not grant a privilege to Pennsylvania, would be recognized as legitimate classification. In the conferences that were held with Mr. Graves, we all decided that we would accept the
constitutions of each of the four reciprocal states as a 100 per cent constitution, that being the opinion of the representatives of each of the states.

Now, if some supreme court goes off on a tangent, and from what we heard this morning, there is a danger they may do so—if they go off on a tangent, it may involve some other consideration; but our feelings are that what we have started to do is constitutional up to the present time.

**John W. A. Jeter** (Louisiana): I was very much interested in what Mr. Edmonds had to say with reference to states that have placed themselves in line for the reciprocal relations with Pennsylvania, and I notice he did not mention the name of Louisiana. Louisiana collects no tax on intangibles, so I believe that we therefore are in line to be placed with Pennsylvania so far as reciprocity is concerned.

**Mr. Edmonds**: Proud to be identified with Louisiana in anything.

**Mr. Jeter**: Our legislature meets next year, and possibly we could induce them to give us full reciprocity along the line of inheritance taxes, which Mr. Edmonds so well placed before us.

I should like to call your attention to some conditions which exist in Louisiana. When I finish saying what I wish to say first, I will tell you my reasons for doing so.

Inheritance taxes in Louisiana are very moderate and much lower than in many states. For instance, in the case of the average family of five—parents and three children—the family fortune must exceed $57,600, clear of debts and administration expenses, before any tax would be due on the death of either parent, at the age of sixty-five; and would be only $1,087 for the heirs, in the case of a fortune of $250,000 under the same circumstances.

This is so because the surviving parent in this state has the usufruct of the inheritance for his or her expected term of life, which reduces the tax on the heirs often more than fifty per cent, and the surviving parent pays no tax on the use.

In the case of the death of a fifty-year-old parent, under the circumstances cited, the amount of the fortune would have to exceed $100,000, before any tax would be due; and a fortune of $250,000 would cost the heirs an inheritance tax of $250. These taxes would be increased where there is no surviving parent.

If all of this property were on the assessment rolls, the inheritance tax would not equal the annual property taxes. Moderate though these taxes be, some are advocating their abolishment altogether, on the ground that Florida has a great boom because she has no inheritance tax. The argument is fallacious, and the principle unsound. Florida's non-inheritance tax law became effective
in November, 1924. The Florida boom was on long before that time. California has had a sustained boom for many years, with an inheritance tax. Alabama, next door to Florida, has never had an inheritance tax.

The truth is, the absence of an inheritance tax has had little or nothing to do with the Florida boom.

Says B. C. Forbes, noted New York financial writer, in his syndicated article of September 28, 1925:

"In a thousand communities north, south, east and west, a real estate boom is raging. . . . We hear so much about the indiscriminate rise of values down in Florida that the extent and strength of the boom in other parts of the country are little understood. In New York City real estate prices are bounding upward as never before. In Detroit and Chicago, the boom has broken out in all its force. Along the Pacific coast the same is true."

The following is from the Saturday Evening Post editorial, October 17, 1925:

"Reaching from Far Rockaway to Florida and the Gulf, and thrusting fingers far into the Appalachians, a vigorous land boom is still in swing. Many varieties of property participate in the general ballyhoo. There are seashore parcels and sand-lots by the ocean. Other land is fetching unheard-of prices, not so much on its own account, as by reason of the climate which prevails in the air above it. In the north country abandoned farms are being snapped up; business and commercial properties are having their own special boom; corner lots in central districts are soaring."

Right here in the City of New Orleans there is great activity in business and land development, without any melancholy thoughts of death, and its taxes.

I come from Shreveport, Louisiana, a place which no one is leaving for Florida or some other taxless haven, because our city is rich and prosperous and one of the most progressive in the United States. Money is easily made there, and it is a good place to live in. Our citizens have enjoyed a steady but conservative boom since 1920.

The trust company division of the American Bankers Association, on September 29, 1924, at the annual meeting of the American Bankers Association in Chicago, appointed a special committee to make a report and recommendations concerning inheritance taxes in the United States. Under date of September, 1925, the report was made and contains the following:

"It is not believed that the failure of some states and the
District of Columbia, for which Congress itself is the legisla-
tive body, to enact inheritance taxes, will, in the long run, 
make such states or the District of Columbia a Mecca for the 
wealth of the country, to the detriment of other states.”

This report states further:

“On the whole, the state inheritance taxes have not been so 
heavy as to arouse serious antagonism, and the tax laws are 
generally well administered.”

And then, far from endorsing the abolitionment of such state 
taxes, it specifically recommends “the preparation and ultimate 
adoption of a uniform state inheritance tax act,” and at the same 
time the repeal of the federal estate tax, placing its recommenda-
tion on the following ground:

“Inasmuch as the laws of the United States do not control 
the right of transmission of property upon the death of the 
owner, the federal act has not the same logical basis of justifi-
cation that exists in the case of state inheritance tax laws. 
This tax is based on the right of succession, and is one that 
may be logically employed by the states, because the right of 
succession to property is controlled by the laws of the states.”

In any event, we who are charged with the administration of the 
government would ask those who would destroy this source of 
revenue, from whence else do they expect to obtain it; surely none 
can be so simple as to suppose you may abolish one kind of tax 
without laying another in its place.

In Louisiana the net inheritance tax collection for the fiscal 
year 1923-1924 was $744,505.11, and for the fiscal year 1924-1925, 
$613,337.97, or an average of $678,921.54. When this income is 
removed it will take approximately one-half of one mill annually 
on all the taxable property of the state to restore it. It is expected 
that the heavily burdened property owners will cheerfully shoulder 
this additional load to relieve the comparatively few who now pay 
it, and who in paying it pay nothing out of their own pockets but 
only a small portion of what comes to them as a gift! The prop-
erty owners will not agree to this tax being shoved off on them.

On this question, Under-Secretary of the Treasury of the United 
States Winston declared in an address to the National Tax Asso-
ciation, page 251, report of 1924:

“If there is to be any diminution in the size of the stream 
available to the states for the inheritance taxes, it is obvious 
that tangible property will have to bear a larger and larger 
share of the states’ expenses, and this burden will be placed on
the shoulders of those now least able to bear it. More farms will be taxed into continued unproductivity."

It may be raised by increasing the license tax rates now in force fifty per cent. Will business and professional men agree to this? That cannot be expected. It will interest the well-meaning people who may advocate abolishment of the inheritance tax to know that the Tax Commission of Louisiana examined the inventories of all estates paying an inheritance tax in the Parish of Orleans, for the fiscal year of 1924-1925, and found that the total amount of property appraised was $19,985,605.70, whereas the amount on the assessment roll for the Parish assessed to the same decedents was $4,255,223. This is not to assert that the difference of $15,730,382 represents tax-dodging, for much is exempt under the law, and much is paid by the corporations in which the decedents owned stock; nevertheless it is certain that a very large part of this difference would never pay any tax at all unless the inheritance tax is collected.

This puts a serious question up to those who contend that annual property taxation, which means visible property, is the fairest of tax systems.

Some prejudice is sought to be raised against the tax because sixty per cent is collected from the Parish of Orleans. The tendency of wealthy people is to live in cities, and inheritance taxes are collected at the domicile of the decedent, regardless of where the property may be located. There are perhaps twenty parishes in Louisiana where there is no single fortune of $100,000, although the people residing in these may be comfortably independent. For instance, the Parish of Cado paid in 1924-1925 fifteen times more inheritance taxes than the adjoining well-to-do Parish of De Soto. This means that owners of fortunes large enough to pay inheritance taxes lived in Shreveport.

In the same year East Baton Rouge paid $23,514.10; West Baton Rouge and East Seliciana, adjoining, paid respectively $4,385.28 and $1,607.05. It may be added that more than thirty per cent of the property assessment of the entire state is in New Orleans. We confidently assert that in this age, when inheritance taxes are recognized generally throughout America and Europe, as a just and easily collectible government revenue, Louisiana will not follow the example of her neighbor Florida and abolish the inheritance tax. It is by no means certain that even in Florida, when the land boom has passed, as pass it will, the land owners may not cry out against heavy land taxation and demand the return of the inheritance tax. If they do, they will get it, for the same authority that removed the tax may restore it.

The reason I desire to recall these facts, which are peculiar to
Louisiana at the present time, is that a member of the Louisiana delegation has introduced a resolution asking this conference to adopt a resolution voicing its approval of the inheritance tax as a legitimate source of taxation for the states. This resolution was introduced by Senator Howard B. Warren, of Shreveport, who has been compelled to return to his home. I regret his absence very much, as he is better qualified to discuss this subject than I am, so the best I can hope to do will be to present to you the reasons and arguments which he has presented, asking for the endorsement of the National Tax Association for the imposition of inheritance taxes by states as a sound, economic, and a legitimate source of much-needed revenue, and that is especially true, because of the inadequate operation of the general property tax, and also because of the large amount of property which is exempted from taxation by constitutional authority.

When this resolution comes before you, gentlemen, we ask for its endorsement, primarily because certain interests in Louisiana are pressing for the abolishment of this tax and much-needed source of revenue, and we of Louisiana who are sincerely interested in the affairs of our state and its institutions feel that the prestige of such an endorsement from so authoritative body as you gentlemen compose, will assist us materially in our argument for the retention of the tax.

Chairman Page: Further discussion is in order, gentlemen. Does some one else wish to speak?

Mr. Vandegrift (California): I should like to ask the gentleman from Louisiana one question, in relation to his statement about Florida not having an inheritance tax. I understood him to say that this situation arose in 1924.

Mr. Jeter: November, 1924.

Mr. Vandegrift: And the boom began before. Florida has never had a state inheritance tax.

Mr. Coody: To make the situation clear, I would say that Florida has never had an inheritance tax, but in November, 1924, they adopted an amendment to the constitution providing that the legislature should not have the power to levy it.

Chairman Page: Any further discussion?

Mr. Sneed: If the discussion of this is closed, Mr. Chairman, I have been asked to read the report of the resolutions committee tonight, although it is not to be voted on tonight. I have no desire to interrupt the discussion here.

Chairman Page: Is there any further discussion? If not, the
Chair will recognize Mr. Sneed, chairman of the committee on resolutions, to read the resolutions which his committee wishes to lay before the conference. These resolutions are not to be voted on tonight, as I understand, but are to be read for your information, so that you may be prepared to discuss and to vote upon them at the proper time tomorrow.

(Mr. Sneed reads resolutions)

Chairman Page: Gentlemen, that concludes the program of the conference, as arranged for this evening, but there was some unfinished business left over from a previous session of the conference, which I will ask Mr. Vaughan to state to you, and it will then be your pleasure as to whether you will proceed with that unfinished business at this time, before the business meeting of the National Tax Association begins.

Mr. George Vaughan: At yesterday morning’s session, devoted to problems of the local assessor, you recall there was quite an interesting discussion, which was interrupted by reason of the brevity of the morning session, and the time taken up by other subjects, and we promised to open the subject again. There has been no earlier opportunity, but at this time if there are those present who would like to discuss the subject or make any remarks or ask any questions regarding the problems of the local assessor, we want to give him an opportunity.

I should like to have an expression to know whether it is desired that we do that. Mr. Coody led the discussion in a very interesting manner, and there was considerable interest at the time, so we want to resume it now if it is the desire of any of those present.

(No response)

Mr. Vaughan: Mr. President, I suppose we may go on with something else.

Chairman Page: It is an embarrassing situation, gentlemen, because naturally, those gentlemen present who would be glad to reopen this discussion, hesitate to rise and announce their desires. Individually, I think perhaps it would relieve the situation somewhat if I merely asked for an aye and no vote. Therefore, will those who wish now to return and renew the discussion of the problems of the local assessor signify by saying aye?

(No ayes recorded)

Chairman Page: I shall not put the other side.

I shall declare, then, that so far as this session of the conference is concerned, it is now at an end.

(Adjournment)
BUSINESS MEETING OF THE NATIONAL TAX ASSOCIATION

President Thomas W. Page presiding.

President Page: I declare the annual business meeting of the National Tax Association as being now in session. I shall ask the Secretary of the National Tax Association if he is prepared with his report.

Secretary Holcomb: Mr. President, I had intended to read a brief report to the National Tax Association which was scheduled for tomorrow, but in view of the change in the program, I will merely read a summary of the operations of the year. The balance on June 30, 1924, was $962.25; the receipts were, from dues and contributions, $5,614.50; bulletin subscriptions, $64; sales of volumes, bulletins, etc., $1,129.21; receipts from investments, $1,617.51; total, $8,425.22—making the balance, June 30, 1925, $9,387.47.

Expenses: printing, $5,431.32; expenses of the 1924 conference, which came after the end of our fiscal year, which ends June 30th, $732.86; expenses of the additional inheritance tax conference at Washington, which were exceptional this year, $1,363.99; clerical expenses, $823, and other miscellaneous expenses for postage, etc., $400.65, making total expenses of $8,751.82, leaving a balance on hand of $635.65.

I offer the report, Mr. President.

No changes have been made in other respects, financially, and the membership has remained about the same, between 1300 and 1350. It is difficult to tell how many members you have in such an organization; so far as I can see, we have between 1300 and 1350 members.

President Page: You have heard the report of the secretary on the financial situation of the association; what will you do with it?

Henry F. Long: I move that we accept this very promising report of progress, which has been made by the treasurer and secretary, and congratulate him, in accepting it, that it is not a red-ink balance. I move its adoption.

(Motion duly seconded)

Chairman Page: If there is no objection, the report is adopted. Anything further to report, Mr. Secretary?

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SECRETARY HOLCOMB: Well, another matter that would naturally come before a meeting of the National Tax Association would be the consideration of next year's conference.

Sometimes we have people here who would like to say something about the advantages of their respective cities, and I expect there are those here tonight that are willing to do so. I know Mr. Link is sitting there ready to talk about Colorado Springs. But, I really thought that I would enumerate the different cities that have been writing to me from time to time, so that you would have them in mind.

It is true, the place of the conference is selected by the executive committee, but it is very helpful to have the suggestion of the members as to the place, and if there are any here who would like to emphasize or elaborate upon any particular city, I know that it would be helpful to the executive committee to have their suggestions.

PRESIDENT PAGE: I make the request that those members who are interested will assist the executive committee in reaching a decision, by writing to the secretary of the association, at their convenience, in regard to the place for the next meeting.

FRANKLIN S. EDMONDS (Pennsylvania): Mr. Chairman, I should like to extend an invitation to the association on behalf of the City of Philadelphia, to have its annual meeting there in 1926. I have already delivered to the secretary a written invitation from our governor, Governor Pinchot, and from our mayor, W. Freeland Kendrick, and from the Philadelphia Chamber of Commerce, and when those potent forces unite in requesting any one thing, it means the whole ten million of the state are behind it.

In this particular case, Philadelphia next year will be celebrating the 150th anniversary of the Declaration of Independence. We have never regarded ourselves as holding for ourselves the historic sites that center in our city; we have regarded Philadelphia as the trustee of the Nation, for their maintenance and proper observance of national functions.

In this case we do not expect to hold an international trade exposition of the usual kind, but we do expect to have a series of historical observances that will be extremely interesting. That I know may not be attractive to a working association, such as this is, but added to that, I will hold out the very strong hospitality of the community, that has followed the work of this association with a great deal of interest, and is prepared to give you, not only a real welcome, but a most cordial endorsement of the studies and investigations which you have made.

I hope, Mr. Chairman, that the executive committee will give consideration to the invitation of Philadelphia.
SECRETARY HOLCOMB: Mr. President and Gentlemen; that relieves me of the necessity of elaborating further upon the Philadelphia invitation which is, as Mr. Edmonds says, represented by letters from the governor and the mayor, and so forth.

There are other cities I might mention.

PRESIDENT PAGE: I think it would be well.

SECRETARY HOLCOMB: We have a letter from the City of New York; several letters from Memphis, Tennessee. And we have letters from the mayor of the City of Winnipeg, Canada, and from other organizations in Winnipeg, and a very cordial invitation from Montreal, Canada; several invitations from the City of Austin, Texas. Then, we have an invitation from the City of Cleveland, Ohio, represented by the Chamber of Commerce. The Cincinnati Chamber of Commerce evinces interest in the association; Toronto, Canada; Chicago, through the Edgewater Beach Hotel; the Pittsburgh Hotel Company; Mackinac Island, Michigan; Detroit; Charleston, South Carolina.

MR. BELKNAP: Is there anything from Jacksonville, Florida?

SECRETARY HOLCOMB: Nothing from Florida. I might say that I have here a cordial letter addressed to the National Tax Association from the American Mining Congress, expressing the thought that those members who may be here and may be going back that way, might like to know that at Phoenix, Arizona, on November 16, 17, 18 and 19 that branch of the Western Division of that Congress is holding its convention.

Those are the various invitations we have received, and I would suggest to any one here, if they are prepared to elaborate upon any one of these, it would be a favorable opportunity to do so.

WILLIAM BAILEY (Utah): I rise to extend an invitation to this organization to come to Salt Lake. I believe all that they say, but that is not a patch to what we can do for you if you come to Salt Lake.

SECRETARY HOLCOMB: I am reminded, Mr. President, to say that Colorado Springs has a standing invitation, and that a gentleman should be here now to elaborate upon that, if Mr. Link does not do so.

C. P. LINK (Colorado): I wish to say on behalf of assessor Perkins of Colorado Springs, who is not here, that the latchstring is always out, and the hotel is open, at reasonable rates, and we will take you to the top of Pike's Peak, where we will have a 14,000 foot elevation.
President Page: I heard you say something about fourteen thousand elevation. Were those the rates you were speaking of?

Mr. Link: Their regular rates are from eight to sixteen or eighteen dollars a day. However, they have, as you will remember, for the two past years made a special rate of this great hotel, of nine dollars a day, American plan.

Secretary Holcomb: I think I can substantiate that by letters that I have received, that they would give reasonable rates, as reasonable as you could expect in a city at that elevation!

President Page: Mr. Secretary, is there any unfinished business, or any other matter you would like to bring up before the report of the committee on nominations is heard.

Mr. Tobin (New York): I should like, if it may be in order now, to vote to amend Article 2, Section 1, of the constitution of the association, by adding the following:

"Any individual as such may become a life member of the association by the payment of the sum of one hundred dollars, and such membership shall entitle a person to all the privileges and rights of regular membership."

Under the provisions of the constitution you must give notice at one meeting before it can be voted upon at a subsequent meeting, so I should like to give notice of my proposal to amend the constitution, at this time.

President Page: You have heard the proposal of Mr. Tobin to provide for life memberships in the association; this will come up at the next annual meeting, and I refer the proposal to the secretary.

Mr. Tobin: At a subsequent meeting?

President Page: That would be a year hence.

Mr. Tobin: I thought we might have another before we finished.

President Page: If we do have a further meeting of the National Tax Association, a consideration of this proposal of Mr. Tobin will be in order. Should we not have a meeting of the National Tax Association before we adjourn, it will come before the association at our next annual meeting.

Secretary Holcomb: This is the provision in regard to the amendment of the constitution:

"Article XI, Section 1. This constitution may be amended at any annual or special meeting of this association by a two-thirds vote of all members present; provided, the full text of
the amendment shall have been submitted to the membership by the executive committee or by the member or members proposing the same, at least thirty days before the date of the meeting at which such proposed amendment is acted upon."

President Page: This cannot come up, then, at this meeting, unless we remain in session for thirty days!

The secretary still has the floor, if there are other matters he wishes to bring up.

Secretary Holcomb: There are no other matters that occur to me at this time.

President Page: The report of the committee on nominations of officers for the coming year is now in order. Governor Bliss of Rhode Island.

Zenas W. Bliss (Rhode Island): Mr. President, Ladies and Gentlemen: The offices to be filled, and for which nominations are to be made by the nominating committee, are the offices of president, vice-president, secretary-treasurer, and three members of the executive committee.

The committee begs leave to submit the following nominations:

For president, George Vaughan, Little Rock, Arkansas.
For vice-president, Joseph S. Matthews, Concord, New Hampshire.
For secretary-treasurer, A. E. Holcomb, New York.

For the three members of the executive committee to take the place of the three whose terms expire at this meeting, who are Mr. Eveland of South Dakota, Mr. Gary of Richmond, and Mr. Tobin of New York. The nominations for these three members are: Clarence Smith of Topeka, Kansas; W. G. Query, Columbia, South Carolina; Mark Graves, Albany, New York.

The nominating committee also desires to submit a nomination for an additional honorary member of the executive committee: R. W. Craig, Winnipeg, Province of Manitoba, Canada.

President Page: You have heard the nominations, and I hear no other nominations. The chair will, therefore, entertain a motion that the secretary be requested to cast the vote of the association for the report of the committee.

Mr. Tobin: I make such a motion.

President Page: Motion has been made and seconded that the secretary cast the vote of the association for the acceptance and approval of the report of the committee.

Henry F. Long: Don't you think it would be less embarrassing if the president cast it, because the secretary would not want to cast a vote for himself.
Secretary Holcomb: I think that is a very good amendment.

President Page: In this association, inasmuch as the duties of the secretary are so nearly nominal and light, the association does not feel that it is imposing upon him any serious burden, in requesting him to cast that vote. The motion has been made, and will those in favor of it say aye?

(Ayes and Noes)

President Page: It is carried unanimously.

Secretary Holcomb: The secretary does cast that vote with pleasure, with the exception of the secretary, which he casts with a burden.

President Page: The secretary of this association is the slave of the association. Is there any further business before the meeting this evening?

Mr. Tobin: I should like to ask the secretary his interpretation of that part of Article XI of the constitution which reads, as to amendment of the constitution:

"Provided, the full text of the amendment shall have been submitted to the membership by the executive committee or by the member or members proposing the same, at least thirty days before the date of the meeting at which such proposed amendment is acted upon,"

whether a notice in the bulletin would be sufficient to take care of the language set forth in this Article XI, Section 1, in the submission of an amendment to the constitution.

Secretary Holcomb: That is not a fair question to submit to the secretary, but a question to submit to counsel to the secretary. I am going to choose as counsel Judge Zoller. I think that is a legal question.

Mr. Zoller: Let me see your language.

Secretary Holcomb: I am in the hands of counsel!

Mr. Tobin: I hope this don't cost us too much!

Secretary Holcomb: Every minute counts!

President Page: Gentlemen, in view of the very small surplus that the treasury shows, these appeals for legal counsel may come high to the association!

Secretary Holcomb: Hurry up. Don't make it too long. He is altogether too profound a lawyer. I am going to get another lawyer!
Mr. Zoller: It does not state how it is to be submitted, but it is to be submitted to the membership. I would say, in order to play safe on that proposition—otherwise I should have to reserve decision—that a notice embodying the particular amendment that you have in mind, should be mailed to each member.

Mr. Tobin: Don't you mail the bulletin to him?

Mr. Zoller: He may not get the bulletin. I don't think that would be sufficient.

Mr. Tobin: Let us get new counsel. You picked a poor counsel!

Secretary Holcomb: That is my counsel's decision, and I stick to it.

President Page: Are there other matters to come before us? If not, a motion to adjourn is in order.

(Motion to adjourn)

President Page: The Association stands adjourned.
EIGHTH SESSION

FRIDAY MORNING, NOVEMBER 13, 1925

Chairman Page: Gentlemen, kindly take your seats. The secretary wishes to make some remarks.

Secretary Holcomb: You remember that last year certain committees were provided for, and that one of them was a committee on public education in taxation. No formal report has been made, but I received yesterday, by mail, a one-page report of progress which I should like to have appear in the record, and I will read it, if you wish.

Chairman Page: Kindly read it, if it won't take too long.

REPORT OF COMMITTEE ON PUBLIC INSTRUCTION IN TAXATION

The work of your committee has been done by correspondence and no personal meeting has been had.

A communication to the Chief Executive, and to the Department of Education in each state was sent, and while the consensus of the replies was not as enthusiastic or encouraging as we would have liked, the potential value of the proposal appears to be quite generally recognized.

Nearly all of the Superintendents of Public Instruction are in full sympathy with the suggestion, but there is a diversity of opinion as to a practical method of application in the public school.

In several states "Economics" and "Taxation" is being taught, chiefly in the high schools, and several of the Superintendents indicate that they have been making some efforts along the line suggested by this committee. The Superintendent of Public Instruction of North Dakota writes:

"Replying to your letter of January 24th, I will say I am interested in the boys and girls of North Dakota who are the men and women of tomorrow, being versed in business administration. I realize there is a great lack of knowledge about taxation. This summer I talked with a man who is a tax expert and suggested that he prepare for us information that we could send to our schools along the very line you suggest. . . . If you prepare a text book, we will be very glad indeed to have the opportunity of examining it for use in the schools of this state."

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Some of the Superintendents regard the subject of taxation as too complex, and difficult, to expect public school children to understand, and think it should be taught in the colleges.

However we believe there is sufficient approval and encourage-
ment to justify further effort, and your committee respectfully asks to be continued another year.

Respectfully submitted,

H. S. Van Alstine,
Chairman.

To Eighteenth Annual Conference,
National Tax Association.
New Orleans, Louisiana.

SECRETARY HOLCOMB (after reading report): I expect, Mr. Presi-
dent, that in view of this we ought to submit a resolution from the
floor now.

CHAIRMAN PAGE: The chair will entertain a motion that this
report be received and spread upon the records, and that the sub-
ject raised in this report be referred to the officers of the National
Tax Association, with power to dispose of it as they deem wise. Do I hear such a motion?

MR. EDMONDS: I make such a motion.

(Motion duly seconded and carried)

CHAIRMAN PAGE: Carried. Any other matter?

GEORGE VAUGHAN: The committee on forest taxation wishes to
make a report this morning. This committee was appointed by
President Page, following the adjournment of the last annual con-
ference at St. Louis.

REPORT OF COMMITTEE ON FOREST TAXATION

Your committee on forest taxation was created pursuant to the
following resolution of the 1924 Conference:

"Be it Resolved, That the conference requests the National
Tax Association to appoint a committee to consider and to
report at the next annual conference such methods of refining
and standardizing the assessments of growing forest property
as, pending the adoption of other tax remedies, will permit pri-

cate owners to undertake the development of such property."

As will be observed, this resolution confined the field of the com-
mittee's investigation within rather narrow limits. At the same
time, the United States Senate, through a select committee, has,
within the past year, brought to a conclusion an investigation of
general forest conditions throughout the United States, and, fol-
lowing its report, Congress has enacted the Clark-McNary law, which makes various provisions for the promotion of forestry in the United States. In this law there is contained provision for a far-reaching investigation of the subject of the taxation of forests. Liberal funds are provided for this study, which, under the general direction of the United States Forest Service, will cover thoroughly the practical conditions of forest taxation in all parts of the United States and in certain foreign countries. The work is expected to occupy the time of a staff of experts for as long as three or four years. Professor Fred R. Fairchild has been chosen to direct the investigation and he is at present engaged in building up the research staff and perfecting plans for the work.

This association has throughout its history been an advocate of sound methods of taxation as applied to forests. It has, through previous committees and frequent discussion at its conferences, contributed much toward the establishment of a body of fundamental principles affecting this field of taxation. It now appears that a thorough-going study of the practical conditions of the subject is about to be consummated, which should throw much-needed light upon the whole problem.

Under these circumstances, it has appeared to your committee that there was very little opportunity for it to render useful service, by making any investigation or offering any recommendations at this time. It suggests that this matter be permitted to rest for the time being, until such time as the investigations now being started, bring forth material results.

George Vaughan, Chairman.

Chairman Page: What will you do with the report?

Secretary Holcomb: I move that the report be accepted and that the recommendations made therein be approved by unanimous consent, waiving the rules that it go through the resolutions committee.

Chairman Page: Any objection? If not, so ordered.

If there is no further business, the first paper on our program this morning is a review of tax legislation during the past year in the various states, by William E. Hannan, Legislative Reference Librarian of New York.

Secretary Holcomb: Mr. President, Professor Fairchild has been kind enough to take charge of this matter for us, as you will see from the program, and I suggest that he be now given an opportunity to present the matter as he cares to do, and conduct the general discussion.

Chairman Page: We should be delighted, indeed, to have Professor Fairchild do that. Professor Fairchild.
Fred R. Fairchild (Connecticut): Mr. President, Ladies and Gentlemen: Mr. Hannan not being present, it has fallen to me to present this paper. I am holding a dainty little document of 163 typewritten pages, which, with due diligence, I believe I can read to you in the space of about six hours.

I cannot help thinking of a story I have told many times to some of my friends here. I now resurrect it with the utmost fear and trembling. It has to do with a diminutive newsboy, whom I met one Sunday morning staggering under a heavy load of New York Sunday papers, and on asking him if all those papers did not make him tired, he replied, "Oh, no; you see, I cannot read."

I think this paper should have been assigned to some one who was unable to read. Seriously, however, as you all know, Mr. Hannan prepares every year this review of legislation. In my opinion it is about the most valuable part of our annual published proceedings.

It is the sort of thing that every student—and perhaps I am exhibiting my academic bias here—wants to see gathered together and put where he can use it. All students of taxation are deeply indebted to Mr. Hannan for this annual contribution to our tax material. I repeat that I regard this contribution as one of the most valuable papers of our annual proceedings, but of course it is a thing for reference. It is not the kind of paper that can be read, even if it were within the limits during which you would listen to anybody reading any kind of a paper.

Under the circumstances I have been in a good deal of embarrassment to know just how to present this to you. I have concluded that a very brief suggestion of the mere numerical magnitude of our legislative mill might be of interest, following which I propose to select certain topics upon which there seems to me to have been legislation of some real significance, not with the idea of presenting the subject adequately to you, but rather as a mere means of opening a discussion to which I hope many of you here will feel desirous of contributing, and which I am sure will be helpful to us all.

(Mr. Fairchild thereupon proceeded to read at various points of Mr. Hannan's paper.)

(Interpolations by Mr. Fairchild during the reading of Mr. Hannan's paper):

Mr. Fairchild: The first state on the list is, alphabetically, my own state, and I think that the State of Connecticut at this time may deserve some special attention, on account of two measures at least, which are rather remarkable. I see Mr. Blodgett down the aisle, and I hope before the session is over you will be able to hear something from him on the matter.
As to these two Connecticut laws, so far as the thing looks to me—and I have been in position to give some study to it—these two laws represent the acceptance by the State of Connecticut of responsibility from which I see no way that it could escape.

Our municipalities are creatures of the state, and while a very considerable degree of local autonomy is granted everywhere, and while home rule is a principle in which we doubtless all believe, and is a telling slogan, the ultimate responsibility for fair taxation must be on the state, and I cannot myself see how any state can permit local financial administration to go completely to pieces, as it has done in other states than Connecticut; mind you: cannot permit that to occur without being compelled to accept its responsibility.

In other states, there is evidence of this sort of movement for increased control over local administration and taxation. It is seen in the statutes of Indiana, Iowa, New Mexico, North Carolina, Ohio and Washington. In certain other states there is legislation on this subject of state administration, but from the brief abstracts which Mr. Hannan gives it is not possible for me to judge whether the provisions there contained actually increased state power over local administration or not.

I hope representatives of these following states may perhaps tell us something on that point—Kansas, Michigan, Minnesota, New York, South Dakota, and Virginia.

The State of Massachusetts has long been the leader in the field of state control—perhaps that is too strong a word—state direction, state assistance, and within recent years it has asserted a very considerable degree of real control over local finance.

In the matter of municipal budgets, municipal borrowing and municipal accounting, Connecticut is apparently coming into line. The State of New Hampshire has been a leader in this same field, and the query arises whether conservative New England, the home of the old Town Meeting, and the center of the spirit of local autonomy, is going to beat the rest of you to it. I hope some of you will be inclined to accept that challenge this morning.

The second topic that occurs to me as of some significance, although it perhaps requires only brief mention, is the matter of exemption from taxation.

I suppose all of us realize the dangers fraught in tax exemption, and the continual pressure toward adding to the list of tax-exempt property, a pressure which has tremendous weight back of it, and which sometimes does not produce corresponding opposition.

Such measures, I believe, are very prone to go by default; and, as we build up the body of tax-exempt property, we simply pile up troubles, to plague us in the future. The states have sown the wind, and sooner or later they will reap the whirlwind.
One of the statutes of the past year has been a Connecticut act undertaking to remedy the damage to some extent, and if possible prevent further inroads of this insidious microbe of tax exemption.

My examination of this abstract of the statutes leads me to think that this tendency towards tax exemption is going on all over the country, here and there, by the adding of this organization, and this association, this particular interest, all apparently worthy enterprises, deserving of the best wishes of the people of the state, but adding all the time to this problem of tax-exempt property.

I hope that those who know about conditions on this subject in their own state, or in general, will feel inclined to tell us something of that this morning.

On the income tax, it seems to me significant that there has been so little legislation. A few states have passed laws relating to their income taxes, but apparently no state has added an income tax. There is no new state income tax added to the list by the legislatures of the past year, and there are certain various evident tendencies in the opposite direction.

Oregon, by initiative measure repealed her income tax, adopted in 1923, and the State of Florida has added a constitutional provision forbidding the income tax. While eight states have passed laws dealing with this subject in matters of detail, no state has joined the income tax ranks. Query: Has the tendency toward state income taxation, which appeared very strong only a few years ago, spent its force? Have we reached the climax? Is there a tendency the other way? Has the income tax, federal and state, become so unpopular that the crest of the wave has passed, and we are to see a retirement in this field? I must confess I do not know myself what the answer is.

The inheritance tax has come in for so much discussion already this week that I doubt whether it is diplomatic to revive the battle at this time; but I can hardly pass over this subject, since it is one of the most important of those upon which there has been significant legislation during the past year.

On the one hand there appears a tendency to get away from the inheritance tax. The State of Florida, of great notoriety, already has by constitutional provision done away with an inheritance tax which it never had.

The State of Nevada has by statute repealed its inheritance tax; and there are signs, perfectly evident at the present time, that this is a topic being seriously considered by a considerable number of our states.

On the other hand, there is great encouragement to be taken from the voluntary move on the part of certain of our states toward reciprocity and decent action in this field.

During the year the states of New York, Connecticut, Massachu-
setts and Pennsylvania have adopted reciprocal provisions, relating to the taxation of non-resident intangibles, which is, by the way, the most serious aspect of the duplication and overlapping of our present state inheritance tax laws.

Certain of our states do not tax the intangible property of non-residents at all, and those states of course are standing up so straight that they are leaning backwards on this subject. The hopeful feature is that one by one the states may fall into line with these four, which I have named, and with these others which do not tax intangibles of non-residents.

Thus, in this involuntary way, there may be established sentiment in favor of equity and decent treatment of citizens of other states, with respect to intangibles.

The so-called Matthews flat-rate plan for taxing intangibles has been adopted by New York, with a refinement of a double rate, according to which deductions are permitted or not, to which your attention has already been called at another session.

A desire to take full benefit from the federal 25 per cent exemption is seen in the laws of certain states.

Georgia has a law which may be of some interest. Mr. Hannan writes:

(Reading from paper)

New York and Pennsylvania have within the year enacted statutes with this same purpose in view; to see that their states get the full benefit of the credit against the federal estate tax, up to 25 per cent.

New Hampshire provides for a flat-rate tax upon all estates, of 5 per cent, regardless of relationship or size of the estate or the share. I wish that Mr. Matthews or some one from New Hampshire would tell us something about that statute.

North Carolina increased her inheritance tax rates, also Wyoming, which latter state has made a complete revision of its whole inheritance tax law.

Now, the two other topics which I have chosen for this rambling sort of introduction is the motor vehicle taxes and fees and the gasoline tax. These appear to be about as significant as any of the movements going on now in taxation.

More states have legislated on these subjects than on any others. Twenty-seven states have amended their laws on motor vehicle taxation, and 28 on gasoline taxes. There is legislation for license fees for motor vehicles, for mileage tax, for a ton mile tax, and for a gross receipts tax. These laws have generally, special reference to commercial vehicles carrying either passengers or freight, or both.

There are laws requiring that commercial motor vehicles qualify
as common carriers, that they may operate only after receiving licenses, showing convenience or necessity, and so on and so on in great detail. This movement is, I think, significant. It indicates a groping about for some solution of the present trying problem of the whole system of transportation by steam, electric and motor vehicle.

The competition of the railways and the electric railways with motor vehicles is, of course, becoming a problem of the utmost importance. It is a complicated subject. It is, of course, not a subject that I am competent to discuss here, and I suppose I should be out of order, if I went so far afield as to try to discuss the subject.

But, briefly, this is certainly a tax problem which we must face as tax men. We cannot ignore the seriousness of this problem or the responsibility towards its solution, which rests upon those who deal in the field of taxation.

As the economic problem appears to me, we are concerned here with the rivalry of various types of transportation. It is not a fight between the railroads and motor vehicles—or if it is such a fight, it is not a fight in which we have any particular interest on the one side or the other—it is rather a problem of determining what is the most economical type of transportation under various circumstances.

The public interest will be served, if out of this competition there comes forth the victory of the type that is most economical under each particular circumstance.

There is no economy to the public through subsidized transporta
tion, which through its subsidy, is able to destroy some other form of transportation which does not enjoy the subsidy; and taxation, or its absence, is in danger of acting in just that way.

I have no brief for the railroads, and my interest in this thing is purely from the fundamental standpoint of determination for the public good of those types of transportation which are most economi
cal in their several fields. But, look at the facts. The railroads have to be built out of their resources; of course they had to acquire out of their own resources their rights of way; had to build their roadbeds and tracks, and then on top of all of that, they have had to pay taxes, and fairly heavy taxes, in practically all of our states.

Now, it is argued that the motor vehicle industry—motor vehicle transportation—should pay at least as high taxes, and most certainly I cannot see where there can be any argument on the other side of that. But, obviously, that does not go to the root of the problem.

Is competition between the railroads and the motor vehicles fair and equal, if the state furnishes to the latter free of charge its right of way and roadbed, whereas the railroads have to pay for theirs? Until such time as the motor vehicle transportation enterprise is
called upon fairly to furnish its own right of way and road, there
is not equal competition between these types of transportation; and
if there is not equal competition, it is on the cards that a form of
transportation which may be less economical is nevertheless fostered
and permitted to destroy a more economical type, on account of this
unequal competition.

Now, even the transportation experts could not tell us offhand
at once what the future has in store; and far be it from us as tax
experts to undertake to predict. But, it should be perfectly clear
that the future will bring forth that type, or those types in such
combination, of transportation as will be most economical to the
people as a whole, only if the economic forces of competition are
allowed to operate equally and fairly and without handicap on the
one side or the other.

Now, as I have said, it seems to me that our states are groping
about for this solution; they are groping as they always have to
grope when a new problem confronts them; and they doubtless will
be groping for some time to come.

We are in desperate need of some fundamental analysis of trans-
portation, which shall be able to tell us in an authoritative way how
the problem of taxation should be handled, with respect to motor
vehicles and the other forms of transportation.

The gasoline tax is closely associated with this problem. At the
present time there are only four states in the country which do not
tax gasoline. The states which do not levy such a tax are Illinois,
Massachusetts, New Jersey and New York. Massachusetts, by the
way, by referendum vote, refused to accept such a tax.

I am tempted to say something about the initiative and refer-
endum measures in this connection, and if you will pardon me I
will inject it out of its order at this point.

My examination of the referendum and initiative measures of
the past year indicates, what is probably a matter of opinion to all
of us anyway, that taxation is not very popular, and that you are
going to find it pretty easy to get a good many people to vote
against any kind of a tax measure.

Submitting to popular vote, by referendum, a measure providing
a tax seems to me almost absurd, on the face of it. On the other
hand, a bond measure does not seem to cost anybody anything at
the time, and I note that the bond measures which were put to
referendum in the past year got through, with few casualties.

The states which this year joined the list of taxers of gasoline
were Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio,
Rhode Island and Wisconsin. At that rate the four remaining
won't be able to stay out of the game very long.

Seventeen states this year increased their gasoline tax rates.
Two states made no increase. Rates of tax on gasoline run all the
way from one cent up to four cents. I do not know but what there are some as high as five cents; and when you think of that, you cannot but be impressed with the significance of this tax.

How many other excise taxes are there which would be tolerated going up to rates of 25 per cent, which is what a four or five cent tax on gasoline amounts to—25 per cent or more. And yet, this tax has been introduced in only a remarkably brief period of time throughout practically the entire United States, and, I presume, is accepted with as much cheerfulness, with as little complaint, as any other tax on the statute books, a tax which must add anywhere from 25 per cent up, to the cost of gasoline, one of the commonest articles of consumption throughout the entire country.

Now, how do you explain that situation? The first natural obvious answer is that we are dealing, as we say, with an article of highly inelastic demand. People will have their gasoline, and run their motor vehicles, without much reference to the price. That, of course, is true. It is doubtful if any considerable number of people fail to own motor vehicles or seriously attempt to restrict their operation of them, on account of the tax on gasoline.

But, it seems to me that the matter goes a little deeper than this. I should say that the tax on gasoline is after all really not a tax but a fee. It is a payment for a government service. That explains the almost universal tendency to attach the gasoline tax to the construction and maintenance of the highways. You would not do that with a tax as heavy as this, unless there was some very direct and obvious connection.

Of course, the gasoline tax has been hit upon as the most equitable and most accurate method of apportioning a tax according to the use of the highway, and I think it is for that reason that the tax has become so popular and is being so almost universally availed of to collect from the owners of motor vehicles some contribution towards the construction and maintenance of the public highways, which today are mainly for their service, and for whose destruction, wear and tear, they are mainly responsible.

There may be a limit to this thing. Whether we can go on and tax gasoline six, seven, eight and ten cents a gallon is questionable, but so long as the proceeds are devoted to the maintenance of highways; so long as not more than is required for that purpose is obtained; and so long as the tax is accepted with such apparent equanimity, or, at least, resignation, it would appear that this tax is here to stay and continue and doubtless to develop and increase in severity, as a means of obtaining funds necessary for the construction and maintenance of our highways.

I am ready now, Mr. President, to conclude my extremely rambling introduction of this very important topic, and conclude it with the hope certainly that there are present many gentlemen prepared to jump into this subject and make it lively.
Two classes of laws are considered in this review, namely: constitutional and statutory. For a period of three years, from November 1924 to November 1927, eighty-eight measures on the subject of taxation and state finance will have been before the voters of thirty-three states. The number and character of these measures whether adopted or defeated, or still to be acted upon, are considered herein.

Constitutional Amendments Adopted, 1924

The voters of twelve states approved nineteen amendments on the subject of taxation and finance in 1924.

Arkansas

Arkansas added a new provision to article 12 of its constitution which requires that the fiscal affairs of counties, cities and incorporated towns shall be conducted on a sound financial basis and that no local board shall make any contract or allowance in excess of the revenues for the fiscal year. All local officers are prevented from issuing scrip, warrants or other evidences of indebtedness, or making any allowances in excess of the current revenues.

California

California adopted three amendments. One amending section 12 of article 13 of the constitution, which provides for the levy of a poll tax of not less than $5 on every male inhabitant of the state over 21 years of age and under 50 years of age. The word "alien" is omitted in this amendment and the maximum age limit is reduced from 60 to 50 years. Veterans and persons who pay a real or personal property tax amounting to at least $5 annually are exempt. The proceeds are to be paid into the state school fund. Formerly such taxes were paid into the county school fund in the county where collected.

The second amendment adds section 9a to article 13 of the constitution. This amendment provides that taxes levied on personal property for any current tax year, where such taxes are not secured by real estate, shall be based upon the tax rate levied upon real property for the preceding tax year. The amendment, however, does not prohibit the equalization each year of the assessment of personal property, in the manner now or hereafter provided by law.

The third amendment authorizes the legislature to provide for
the taxation of notes, debentures, shares of stock, bonds, solvent credits or mortgages, not now exempt, in a manner, and at rates, or on a basis of value, different from other property taxed and to be equitably distributed to the county, municipality or district in which such property is taxed. The rate imposed on such securities is not to exceed that on other property in the state. The rates, when fixed by the legislature, can be altered only by a two-thirds vote of each house. Property taxed for state purposes under section 14 of article 13 is to be unaffected by this amendment.

Connecticut

Connecticut, in a new provision of the constitution gives the governor power to disapprove of any distinct item of the appropriation bill, but the legislature may reconsider such item and pass the same over the executive veto. In disapproving any such item the governor shall give his reasons therefor.

Florida

Florida adopted an amendment to that section of the constitution relating to revenue, which provides for a uniform and equal rate of taxation, by introducing the principle of classification as to intangible property, this tax not to exceed 5 mills, and to be exclusive of all other state, county, district and municipal taxes.

Florida also added a new section to the constitution which provides that no tax upon inheritances or upon income of residents or citizens of the state shall be levied by the state or under its authority. The amendment provides that there shall be exempt from taxation to the head of a family, residing in the state, household goods and personal belongings, to the value of $500.

Florida also adopted an amendment to section 17 of article 12 of the constitution, which section authorizes the legislature to provide for an issue of bonds by special tax school districts. The amendment provides that no bonds shall be issued which shall exceed, together with the existing indebtedness of the special tax school districts, 20 per cent of the assessed value of the taxable property of such district. Bonds issued shall become payable within thirty years from date of issue in annual installments, which shall commence not more than three years after the date of issue and each such installment shall be not less than 3 per cent of the whole amount of the issue.

Georgia

Georgia adopted a proposal to add to its list of property exempt from taxation, industries erected after January 1, 1924, especially those erected for the manufacture or processing of cotton, wool, linen, silk, rubber, clay, wood, oil, metallic or non-metallic mineral or combination of the same; milk or cheese plants; or for the pro-
duction or development of electricity, the buildings and equipment to be exempt from all county, town or city *ad valorem* taxes for a period of not to exceed five years from the date of the erection of such buildings. It is provided, however, that such exemption shall be subject to the approval of a majority of the electors voting in the county, incorporated town or city which proposes the exemption.

A further amendment authorizes the legislature to consolidate the duties of tax collector and tax receiver in any or all counties of the state, the official, of the consolidated offices, to be known as the county tax commissioner.

*Kansas*

Kansas approved an amendment for the classification and taxation, uniformly as to class, of mineral products, moneys, mortgages, notes, and other evidence of debt.

*Minnesota*

Minnesota authorized the legislature to levy an excise tax upon gasoline or motor fuel oils, or on the business of dealing in, selling or producing such oils, to be used for propelling motor vehicles on the public highways of the state, the proceeds of such tax to be placed in the trunk highway fund of the state.

Minnesota also added a new article to the constitution which permits the state and its political subdivisions, when authorized by the legislature, to contract debts and pledge the public credit for any work to prevent or abate forest fires, including the compulsory clearing and improving of wild lands, whether belonging to the public or privately owned, and the payment against state lands of the value of all benefits conferred and the payment of damages sustained in excess of such benefits.

*Missouri*

Missouri approved an amendment for an additional bond issue of not to exceed $4,600,000, for completing the payment of the soldiers' bonus.

*North Carolina*

North Carolina adopted three amendments. One provides that loans made for the acquirement of homes, not exceeding $8,000, shall be exempt from taxation on 50% of the value, when the term of the loan is not less than one nor more than thirty-three years, and if the holder of the note resides in the county, where the land lies, when listed for taxation. When the notes are held and taxed in the county where the home is situated, the owner shall be exempt up to 50 per cent of the value of the notes.

The second amendment provides that all acts of the general assembly heretofore passed, providing for payments into any sink-
ing fund for the retirement of bonds, shall be irrepealable after the issuance of such bonds, thus providing for the inviolability of sinking funds.

A third amendment places a limitation upon the state debt, so that no new debt can be contracted, except to supply a casual deficit, or for the suppression of invasion or insurrection, to an amount exceeding in the aggregate, including the present debt, and deducting certain railway stock owned by the state, 7.5% of the assessed valuation of the taxable property in the state.

North Dakota

North Dakota adopted an amendment to section 182 of article 12 of its constitution, authorizing the issue of bonds in excess of $2,000,000. Formerly bonds could not be issued in excess of $200,000. The $2,000,000 issue would be secured by a first mortgage upon real estate in amounts not to exceed one-half of its value, and the joint real and personal property of state-owned utilities, enterprises or industries, in amounts not exceeding its value. The amendment further provides that the state shall not issue or guarantee bonds upon the property of state-owned utilities, enterprises or industries in excess of $10,000,000.

Oregon

Oregon adopted an amendment to section 1 of article 11-c of its constitution which relates to cash bonus or loan for veterans of the world war and other wars. The amendment provides that the credit of the State of Oregon may be loaned and indebtedness be incurred, to an amount not exceeding 3% of the assessed valuation of all the property in the state, for the purpose of creating a fund to be loaned or paid such veterans. They shall be entitled to receive at the rate of $15 per month, for each month's active service, but not to exceed a total of $500, or in lieu thereof, they shall be entitled to borrow from such funds, not to exceed $4000, which loan shall be secured by a mortgage upon real estate in an amount not to exceed 75% of the appraised value of such real estate. The vote on this amendment stood 131,199 for to 92,446 against.

Wisconsin

Wisconsin approved an amendment to section 10 of article 8 of its constitution providing that the state may appropriate moneys for the purpose of acquiring, preserving and developing the forests of the state, but there shall not be appropriated in any one year an amount to exceed two-tenths of one mill of the taxable property of the state, as determined by the last preceding assessment. This particular section of the constitution relates to works of internal improvement. The vote on this amendment was 336,360 for, to 173,563 against.
California defeated five proposed amendments. One to section 134 of article 13 of its constitution, that the bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district, including school, reclamation, irrigation, and public utility districts within the state, should be exempt from taxation. The vote on this amendment was 314,750 for and 511,364 against.

An amendment to section 31 of article 4 of the constitution, adding a proviso requiring a city or county treasurer, having custody of funds of political subdivisions, payable solely through his office, to make in each current fiscal year temporary transfers therefrom, not to exceed 75 per cent of the taxes accruing to such subdivision, to meet obligations incurred by such subdivision for maintenance purposes, and to replace the same from such taxes, before meeting other obligations therefrom. The vote on this amendment was 264,464 for and 564,252 against.

A further amendment would have made exempt from taxation property not to exceed $50,000 in value in any one county, used exclusively as airports or aviation fields, under the control of the United States Government. The vote on this amendment was 297,813 for and 533,775 against.

California defeated a proposed amendment to section 14 of article 13 of the constitution, which sought to exempt from the state tax on insurance companies, county fire insurance companies organized under the act of April 1, 1897. The amendment also provided that the state should reimburse all counties for the net loss in county revenue, occasioned by the withdrawal of property from county taxation, and directed the legislature to provide for reimbursement from county general funds to districts suffering loss from such withdrawals. The vote on this amendment was 287,194 for, to 487,126 against.

California also defeated an initiative measure which would have added a new section 15 to article 13 of the constitution. This measure would require companies operating, as common carriers upon public highways, jitney buses, stages or motor vehicles, to pay an annual state tax upon their operative property of 4 per cent of their gross receipts from operations, in lieu of all other taxes and licenses thereon, except _ad valorem_ tax to meet deficiencies or to pay bonded indebtedness, outstanding November 4, 1924, of political subdivisions. The measure also would have empowered the legislature, by a two-thirds vote, to change such percentage. The vote on this amendment was 457,372 for, to 541,241 against.
Colorado

A proposed bond issue, not to exceed $8,000,000, for the payment of adjusted compensation to resident veterans of either sex, of the wars to which the United States was a party since 1861, the amount of compensation not to exceed $15 for each month of active duty, was defeated.

Minnesota

A proposed new article to the constitution was defeated, which would have authorized the legislature to enact laws for the purpose of encouraging and promoting forestation and reforestation of lands, both public and private, irrevocable provisions to be included, for definite and limited taxation of such lands during a term of years and for a yield tax at the end of such term upon the timber and other forest products.

Mississippi

Mississippi overwhelmingly defeated a proposed amendment which sought to provide that taxes should be levied upon such property as the legislature should prescribe, uniform upon the same class of property within the territorial limits of the authority levying the tax, property to be assessed and exemptions granted by general law. Taxes might also be imposed on privileges, excises, occupations, incomes, legacies or inheritances, which taxes might be graduated and progressive; and reasonable exemptions might be provided. The legislature would be authorized to provide for a special mode of assessment for railroads or other public service corporations, or for other corporate property generally, or for particular species of property belonging to persons, corporations, etc., not situated wholly in one county; but all property was to be assessed at its true value and taxed in proportion thereto.

Montana

An amendment was defeated which would have provided for a bonus to veterans, residents of the state, who served in the world war for a period longer than two months, the maximum payable to each veteran not to exceed $200. The amendment carried a bond issue of $4,500,000. To pay for this bond issue there was to be annually levied a tax not exceeding one mill on all property in the state subject to taxation.

Wyoming

The electors of Wyoming defeated an amendment to the constitution that proposed to add to the taxable minerals, copper, iron ore, petroleum, crude oil, and gas. The amendment further provided that in addition to the taxing of these various minerals, there should be levied a severance license tax, based on the actual value of the gross output.
Initiative Measure Voted Upon, 1924

Oregon

Oregon, by initiative petition, submitted a measure for the repeal of the income tax law which had been adopted in 1923. The vote stood for repeal 123,799, and against repeal 11,055.

Referendum Measures Adopted, 1924

Illinois

The voters of Illinois, at the general election in November, 1924, approved by over a million votes, a bond issue of $100,000,000 for the construction of a state-wide system of durable hard-surface roads, the bonds to be payable within 30 years after date of issue.

New York

The voters approved a bond issue of $15,000,000, for the development, improvement, and extension of state parks, such bonds to be exempt from taxation. The vote on this measure stood 1,542,928 for, to 556,920 against.

Referendum Measures Defeated, 1924

Massachusetts

In Massachusetts the referendum was invoked on a bill providing for a tax of 2 cents on each gallon of gasoline. The voters defeated this proposed tax at the November election.

Referendum on Constitutional Conventions, 1924

Three states defeated questions submitted to them on the subject of providing for a constitutional convention. On this question New Hampshire gave the following vote: 22,520 for and 42,616 against; South Dakota 60,235 for and 117,086 against; Tennessee 59,198 for and 83,121 against.

Constitutional Amendments Adopted, 1925

Maine

Maine, at the September election, authorized an issue of bonds not to exceed $16,000,000, the proceeds of which are to be devoted solely to the building of state highways and interstate, intrastate and international bridges.

A further amendment gave the legislature power to authorize an issue of bonds not to exceed $3,000,000, the proceeds of which are to be devoted solely to the building of a highway or combination highway and railroad bridge across the Kennebec river, between the city of Bath and the town of Woolwich.
CONSTITUTIONAL AMENDMENTS TO BE VOTED UPON, 1925

Maryland

Maryland proposes an amendment to section 34 of article 3 of the constitution which, if adopted, will permit the raising of funds for the payment of a bonus to those citizens of the state who served their country and state with honor in time of war. The amendment provides that legislation seeking to make the amendment effective must be submitted to and approved by a vote of the people.

New York

New York will vote upon three important amendments. One authorizes the creation of a state debt, not to exceed $10,000,000 annually for each of the next ten years, a total, therefore, of $100,000,000. This money is to be issued for the purchase of property and the construction of buildings, works and improvements for the state. The amendment has for its principal purposes the remodelling and enlargement of hospitals and other state institutions.

A second amendment authorizes the creation of a debt, not to exceed $300,000,000, for the elimination of grade crossings. The financial cost of such elimination is to be paid as follows: 25% by the state, 25% by the localities and 50% by the railroads. The state in the first instance advances the money and collects it back in instalments which shall be applied to reducing the debt.

The third amendment provides for the reorganization of the state government. The governor, the lieutenant governor, the comptroller and the attorney general are to be elected. This eliminates the secretary of state, the treasurer and the state engineer, as elective officers, the governor appointing them and others not elected. The comptroller is to exercise no functions except those relating to auditing and accounting. The regents will appoint the commissioner of education. There are to be 20 civil departments, one of which is taxation and finance. The legislature is to determine the form of the departmental organizations.

Ohio

Ohio proposes an amendment to section 2 of article 12 of its constitution which exempts motor vehicles from taxation under the uniform rule, providing that such vehicles shall be taxed as may be provided by law. The amendment further provides that all moneys, credits, bonds, stocks and all other intangible property shall be taxed as may be provided by law. This class of property, under the present constitution, is taxed according to the uniform rule. If the amendment is adopted the uniform rule will apply only to real estate and tangible personal property.

Ohio further proposes a new section to article 8 of its constitution. This amendment would prohibit borrowing on the part of
any local unit of government for current operating expenses or for the acquisition of any property or improvement, having an estimated usefulness of less than five years. Laws, however, may be enacted authorizing borrowing for a period not to exceed six months, in anticipation of the collection of revenue for the fiscal year in which the indebtedness is incurred, or authorizing indebtedness in anticipation of the levy or collection of special assessments or for defraying the expenses of an extraordinary epidemic of disease or emergency expenses made necessary by sudden casualty which could not reasonably have been foreseen, or to provide for the payment of final judgment of personal injuries or non-contractual obligations. The amendment also provides that no bonds or notes issued for the acquisition or construction of property or improvements shall run for longer than the probable period of usefulness of such property or improvements which shall be estimated or determined as provided by the legislature fixing maximum maturities. The proposed amendment further provides that laws shall be passed to fix fiscal years of political subdivisions and taxing districts and to designate the boards or officers by whom and the method by which the estimates as to the period of usefulness of property or improvements shall be made and certified. Within the limitations of the proposed amendment, laws may be passed fixing the maximum maturity of bonds or notes issued for any purpose or class of purposes.

**Pennsylvania**

Pennsylvania proposes an amendment to section 1 of article 9 of its constitution which would, in the case of inheritance taxes, provide exemptions as to place of taxation or as to amount, by general law.

Pennsylvania would also add several new sections to article 9 of its constitution, concerning the issuance of bonds. One amendment proposes an issue of bonds to the amount of $8,000,000, for the erection and equipment at the Pennsylvania State College, of necessary buildings. A second would authorize the issue of bonds, to the amount of $5,000,000, for the purpose of acquiring and erecting buildings and providing the necessary equipment, for the use of the Pennsylvania National Guard. A third amendment would authorize the issue of bonds to the amount of $25,000,000 for the purpose of acquiring land in the state for forest purposes.

**Constitutional Amendments to be Voted Upon, 1926**

Twenty-eight amendments will come before the voters of fourteen states, for consideration in 1926. These amendments are as follows:
Arkansas

Arkansas proposes an amendment that capital invested in a textile mill in the state for the manufacture of cotton and fiber goods is to be exempt from taxation for a period of seven years.

Another amendment provides for an increase in the tax for the support of common schools from 2 mills to 3 mills. The amendment would further authorize local school districts to increase the tax for the maintenance of schools, the erection and equipment of school buildings and the retirement of existing indebtedness for buildings from the present rate of 5 mills to 18 mills, the proceeds to be used not only for the maintenance of schools but also for the erection and equipment of school buildings and the retirement of the existing indebtedness for school buildings.

California

California proposes six amendments. One, a new section to the constitution, would provide for taxing companies engaged in the business of transportation of persons or property as a common carrier for compensation over the public highways in the state by automobile or truck. Companies transporting persons and baggage would pay an annual tax to the state, based upon the franchise, cars and equipment used exclusively in the business, of $1/4\%$ of the gross receipts. Companies engaged in the business of transporting property by trucks would pay an annual tax of $5\%$ of the gross receipts. These taxes will be in lieu of all other taxes and license; state, county and municipal. It is, however, provided that should other state revenues prove insufficient to meet the annual expenditures of the state there may be levied a tax for state purposes on this class of property. The rates of taxation fixed in the amendment will remain in force until changed by the legislature. The proceeds of these taxes are for the exclusive use of the highways; one-half to go to the state and one-half to the counties, in the proportion that motor vehicles registered within each county bears to the total number of motor vehicles registered in the state. Buses used exclusively for the transportation of pupils, when owned or operated by the school or school district, are exempt.

A second amendment provides that separately operated steam railroads not exceeding 250 miles in length and not operated as a part of other railroad systems owing or operating lines of railroad in excess of 250 miles in length shall pay a tax of $5\%$ upon their gross receipts. In the event, however, that the courts hold this classification inconsistent with the United States Constitution, or prejudicial to other steam railroad companies operating longer lines of railways which are taxed at a different and higher rate of tax, it shall be void and the rate of tax shall be $7\%$ as now provided in the constitution.
California, by a new provision would exempt from taxation and local assessment all property used for cemetery purposes except such as is used or held for profit.

A further exemption from taxation is to be extended to any educational institution of secondary grade within the state if not conducted for profit, which shall be accredited to the University of California.

California adds to the class of veterans, whose property to the amount of $1000 is exempt from taxation, a new class receiving an honorable discharge, because of disability resulting from service in the various military services of the United States in time of peace. To the class of exempt property there is added all real property owned by the Ladies of the Grand Army of the Republic and all property owned by the California Soldiers' Widow Home Association.

California would seek to encourage forestation, by exempting from taxation all immature forest trees which have been planted on lands not previously bearing merchantable timber, or planted or of natural growth upon lands from which the merchantable original growth timber stand, to the extent of 70% of all trees over 16 inches in diameter has been removed. Such forest trees shall be considered mature after 40 years from the time of planting. Determination of maturity is placed in the hands of a board consisting of a representative from the state board of forestry, the state board of equalization and the county assessor of the county in which the timber is located.

**Colorado**

An amendment would provide that the general assembly shall have power to enact laws requiring the payment of motor vehicle registration license fees, which shall be in lieu of ad valorem taxation of such motor vehicles.

**Illinois**

An additional section to the revenue article of the constitution is proposed. The general assembly would be authorized to provide, by general law, for the levy and collection of taxes upon persons, property, and income, free from certain limitations contained in other sections of the revenue article. Taxes levied would be uniform upon all persons, property or income of the same class. Real estate would be in one class, except that mineral land and forest land may be in different classes. Exemptions may be established by general law only. Taxes by valuation would be based upon a value, to be ascertained by some person or persons to be elected or appointed as the general assembly may direct. It is further provided that no act imposing a tax or exemption therefrom, shall become a law without the concurrence of two-thirds of the members elected to each house.
Indian

Indiana

Indiana for the second time passed a joint resolution which proposed a new section to the state constitution relating to taxes on income. The amendment provides that the general assembly may levy and collect a tax upon income, from whatever source derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.

Minnesota

The voters of Minnesota, at the general election in 1924, defeated a proposed amendment which sought to encourage and promote forestation of lands and a system of taxation of such lands.

A new amendment proposes to encourage and promote the forestation and reforestation of lands, whether owned by private persons or the public, including the fixing in advance of a definite and limited annual tax on such lands, for a term of years and a yield tax at or after the end of such term, upon the timber and other forest products, but the taxation of mineral deposits is not to be affected by the amendment. This latter clause was not contained in the amendment defeated in 1924.

Montana

An amendment to article 12 of the state constitution would provide for the levy of taxes for the purpose of insuring growing crops against loss or damage or against hail.

A further amendment would provide for an increase in the rate of taxation for state purposes, for a period of twenty years, beginning with 1927. The legislature would be authorized to levy a tax in each year not to exceed $1\frac{1}{2} mills on each dollar of assessed valuation and to appropriate the money derived from 5 mills of such levy for the maintenance of the public elementary and high schools of the state.

Nevada

Nevada proposes to add a new section to article 8 of its constitution which would prohibit any county, city, town, district, or other municipal corporation from issuing bonds, other than for emergency purposes, until such issue shall have been approved by a majority vote of the legally qualified voters residing therein.

An amendment to section 6, article 11 of the constitution would authorize the legislature to provide a special tax on all taxable property in the state in addition to the other means provided for the support and maintenance of the University and common schools. The present constitution provides that not to exceed two mills shall be raised for such purposes. The amendment would remove this limitation.
Ohio

Ohio seeks to amend its constitution to enable municipalities to assess the entire cost of property improvements on property benefited. This amendment is to be voted upon in August, 1926.

Oklahoma

An amendment is proposed to section 9 of article 10 of the constitution to require the state board of equalization to make annually a state levy upon an ad valorem basis, sufficient to produce a fund for apportioning $15, and not to exceed $16, per pupil, in average daily attendance in the public schools, unless the legislature provides for such apportionment from other revenue sources.

Oregon

A new section is proposed to article 9 of the constitution which provides that no tax upon inheritance or upon the income of residents or citizens of the state shall be levied, and that no amendment of this section shall be submitted to the people before the year 1940.

Oregon also proposes to amend section 10 of article 11 of its constitution, relating to creation of debts by counties, by authorizing certain counties to issue bonds in an amount not to exceed 2 per cent of the assessed valuation of the taxable property in the county to fund warrants.

Oregon also proposes an amendment to section 11 of article 11 of its constitution, relating to tax limitations, by increasing the powers of certain school districts. The amendment authorizes all school districts having a population of 100,000 or more inhabitants to levy upon the assessment roll for 1925 a sum not to exceed $900,000 over and above the amount authorized by the former provision of the constitution.

South Carolina

South Carolina would amend section 8 of article 8 of its constitution by providing that in certain counties all cotton or textile enterprises of the value above $100,000 shall be exempt from all county taxes, except for school purposes, for five years from the time of their establishment.

A further amendment proposes that in certain counties all manufactures of the value above $100,000 shall be exempt from all county taxes except, for school purposes, for five years from the time of their establishment.

South Carolina also proposes an amendment to section 5 of article 10 of its constitution by exempting from the provision that the bonded debt of any county, township or municipality shall not exceed 8% of the assessed value of the taxable property, certain counties, when the bonds are to be used for highway and bridge
construction, in which case such limitation shall never exceed 18% of the assessed value of the taxable property; or when the proceeds are used for the construction and maintenance of public buildings and bridges.

*Texas*

Texas proposes an amendment to section 3 of article 7 of its constitution by striking out the word “male”, so that the poll tax will apply to all inhabitants of the state between the ages of 21 and 60 years. The amendment also proposes to increase the school district tax from 50 cents to $1 on the one-hundred-dollar valuation of taxable property. The additional tax is to be for the maintenance of public schools and for the erection and equipment of school buildings.

A further amendment would add a new section to article 7 of the constitution, to provide that all agriculture or grazing school land owned by any county shall be subject to taxation, except for state purposes, to the same extent as lands privately owned. The purpose of this amendment appears to be to permit the county to derive revenue by taxing the school lands in such county. Such lands, however, are not to be taxed by the state.

*West Virginia*

West Virginia proposes an amendment to section 1 of article 10 of its constitution relating to the uniform rule by providing that money, notes, accounts receivable and bonds shall be taxed at a rate not to exceed 50 cents on each 100 dollars of the true and actual value thereof and the revenue derived from this source shall be apportioned by the legislature among the units of the state, in proportion to the levy laid in said units upon real and other personal property.

West Virginia also seeks to amend section 51 of article 6 of its constitution relating to the state budget. The board of public works, of which the Governor is a member, under the present constitutional provision prepares the state budget for submission to the legislature. The proposed amendment eliminates this board of public works, which consists of the governor, secretary of state, auditor, treasurer, attorney general, superintendent of schools and commissioner of agriculture, and provides that the governor alone shall submit such a state budget. In other words, the governor assumes all the duties and powers of the former budget board. The new amendment provides that when the budget bill has been passed by both houses it shall be immediately presented to the governor who may approve, veto as a whole, veto any item therein or decrease any item therein. If the governor makes any such change the bill is returned to the house in which it originated, with a statement by the governor of his reasons for making such a change and
the legislature may, by a majority vote of all the members elected to each branch, override the veto of the governor. Under the present constitution the budget bill, when and as passed by both houses, becomes a law immediately, without further action by the governor.

**Referendum to be Voted Upon, 1926**

**North Carolina**

North Carolina refers a law enacted at the current session to the voters in 1926. This measure proposes to aid veterans of the late world war in obtaining homes. Such veterans would be entitled to borrow money from the fund provided by the act. No loan would be made in excess of $3,000 to any one person nor for a longer period than 20 years. No loan is to exceed 75 per cent of the value of the real property offered as security. The interest on such loans is 6 per cent payable semi-annually. A bond issue of $2,000,000 is provided for and the administration of the law is placed under the direction and control of a board of advisors consisting of the secretary of state as chairman *ex officio*; the commissioner of agriculture, the attorney general, the commissioner of labor and printing, and the treasurer of the state.

**Referendum upon Constitutional Convention, 1926**

**Michigan**

Michigan is to submit to the electors at the general election in the year 1926, the question of a general revision of the constitution and a convention therefor.

**Oklahoma**

Oklahoma provides for the submission to the electors of the state in November, 1926, an act authorizing the calling of a constitutional convention to convene on the first Tuesday of November, 1927.

**Constitutional Amendments to be Submitted to a Second Legislature, 1926**

**Virginia**

The legislature of Virginia must pass a second time, before submission to the voters, the following amendments. One to exempt the wives and widows of veterans of the war between the states from the payment of the state poll tax, as a prerequisite to the right to register or vote, the other to permit the legislature to make appropriations out of the state treasury, payable at any time within two years and six months after the end of the legislative session at which the law authorizing the same is enacted, instead of the present maximum of two years.
Constitutional Amendments to be Submitted to a Second Legislature, 1927

The legislatures of Pennsylvania and Wisconsin must pass a second time, before submission to the voters, the following amendments.

Pennsylvania

A new section to article 9 of the constitution which would provide that taxation laws may grant exemptions or rebates to residents, or estates of residents of other states which grant similar exemptions or rebates to residents or estates of residents of Pennsylvania.

An amendment to section 8 of article 9 which would increase the maximum debt limit. The amendment provides that the debt of any county, except as provided in section 15 of article 9, shall never exceed 10 per cent of the assessed valuation of the taxable realty therein; but the debt of the city of Philadelphia may be increased in such amount that the total debt of such city shall not exceed 14 per cent of the assessed valuation of the taxable realty therein. At present the maximum for Philadelphia is 7%.

A new section to article 9 which provides that the general assembly may authorize the county of Alleghany and the City of Pittsburgh to levy special assessments against property benefited, for the payment of any property improvement whatsoever. Proceeds from such assessments may be used to provide rapid transit railway systems, drainage and sewerage, flood protective works, wharves, piers and quays, highways, tunnels and bridges and subways. The amendment provides for the use and operation of any rapid transit system by private corporations organized for that purpose. Before any such improvements shall be made the question must be submitted to the electors.

A further amendment to article 9 of the constitution to provide that the debt of any city of the second class shall never exceed 10 per cent of the assessed value of the taxable property therein, and that such city shall not incur any new debt or increase its indebtedness to an amount exceeding 2% of the assessed value of property, without the consent of the electors.

A new section to article 3 of the constitution, that the general assembly may, by general law, make appropriations of money assistance to aged indigent residents of the commonwealth.

A number of amendments to article 9 of the constitution relating to the issuance of bonds. One proposes a bond issue of $100,000,000 for the purpose of improving and rebuilding the highways of the commonwealth and an issue of bonds to the amount of $35,000,000, for the payment of a bonus to world war veterans, residents of the state. Another amendment would authorize the state to issue bonds to the amount of $150,000,000 for the purpose of improving and
rebuilding the highways of the state. Another proposes the issuance of bonds to the amount of $50,000,000 for the acquisition of lands and buildings and the construction and improvement of state owned buildings and their equipment, for the care and maintenance of the delinquent and defective classes. Another authorizes a bond issue, not to exceed $100,000,000, for the construction of office buildings and a memorial bridge in Capitol Park and for the acquisition of lands and the construction thereon of state buildings and state institutions and for the enlargement of the existing state buildings and state institutions.

**Wisconsin**

An amendment to section 1 of article 8 of the constitution, for classification of taxes as to forests and minerals.

**Special Tax Investigating Commissions**

**New Jersey**

New Jersey authorizes by joint resolution the appointment of a commission of seven persons, two to be appointed by the governor, two senators, two assemblymen, and the present chairman of the port authority. This commission is directed to investigate the relationship between the port authority and the respective municipalities wherein is situate property of the port authority and particularly the subject of taxing such property and whether such property shall be taxed and, if so, to what extent. Such commission is to confer with a commission of the state of New York. The sum of $5000 is appropriated for these purposes.

**New York**

New York continues the joint legislative committee on taxation for the purpose of making further investigations. It is to prepare a comprehensive report, accompanied by proposed legislation to make effective its recommendations and report to the legislature on or before March 1, 1926. $15,000 is appropriated.

**Pennsylvania**

Pennsylvania continues the commission authorized in 1923 for the purpose of examining the tax laws of the Commonwealth and other states and countries relating to taxation. $45,000 is appropriated for this work.

**Oregon**

Oregon authorizes a commission to make an investigation and study of the present unsatisfactory and unequal assessment of property throughout the state. It is hoped that some plan may be devised whereby all the requirements of the state government may be met by so-called indirect methods of taxation, so that it will not be
necessary to make any direct levies on property for state purposes. The commission is to consist of the state tax commission, the attorney general of the state, one member of the senate, one member of the house, and one citizen of the state, appointed by the president of the senate and one citizen by the speaker.

Oregon also provides for the creation of a commission of five members, two to be chosen by the president of the senate and three by the speaker of the house, to make a study of forestation conditions in the state and to prepare a bill which shall provide for a state forestry policy which shall take into consideration both better fire protection and better methods of taxation. The commission shall make its report to the next legislative assembly.

Oregon establishes a commission to study and report upon a possible simplification of local government in the county of Multnomah, in which is located the city of Portland. The act recites that in such county there are now five separate and individual authorities of considerable magnitude, and 68 lesser authorities having power to levy taxes and exercise other governmental powers, and, in addition, a tax supervising and conservation commission, having limited power over budgets and tax levies.

West Virginia

West Virginia recommends the appointment by the governor of a tax investigation commission of seven citizens, not more than four of whom shall be members of any one political party. A report and recommendations, in the form of legislation, is to be made to the legislature in 1927. This commission is recommended, because the state has no fixed program of taxation, which has resulted in unsettled economic conditions, tending to discourage the proper development of industry in the state.

State Tax Administration

Arkansas

Arkansas abolishes the office of insurance commissioner and state fire marshal and in lieu thereof creates the office of commissioner of insurance and revenues. All tax activities of the state are centered in such commission. The office of inheritance tax attorney is abolished.

Connecticut

The state tax commissioner is authorized to investigate what the assessors, boards of relief, collectors and treasurers are doing in the various towns of the state. In case he finds that any local officer or board is failing to discharge his duties, he shall call such fact to their attention in writing and, if any such official fails to comply with the order of the commissioner, the latter may apply to the proper court which, upon proper presentation of the facts, shall
issue an order requiring compliance with the provisions of the law to which the tax commissioner has called attention. For failure to comply with the order of the court the official shall be held in contempt and be punished accordingly. The right of appeal to the supreme court is granted. This amendment is intended to place emphasis upon the need of centralized control over local tax administration.

**Indiana**

It is provided, by Indiana, that, with the adjournment of the county board of review, no change is to be made in the tax duplicate, without the authorization of the state board of tax commissioners. The state board may not only correct errors in the tax duplicate but it may also direct the issuance of orders to refund taxes wrongly charged and collected and it may also direct the cancellation of unpaid taxes which have been charged in error. The state board of tax commissioners is given full authority to inquire into the grounds of complaint of erroneous assessment and collection of taxes in any of the counties.

**Iowa**

A new provision authorizes the state executive council to assess property which has been omitted from the lists for each of the omitted years, not exceeding five. Notice of their intention to do so is to be served on the owners of the property. The executive council is required to add 10% to each yearly value, as a penalty, and if they find that the property has been fraudulently withheld from assessment, an additional penalty, not to exceed 50%, may be added.

**Kansas**

The state of Kansas abolished the state tax commission and the inheritance tax commissioner and provided for the creation of a public service commission, composed of five members, appointed by the governor for a term of four years, salary $4,500. The new public service commission is clothed with the jurisdiction, powers, authority and duties formerly exercised by the state tax commission and the inheritance tax commissioner.

**Michigan**

Michigan creates a state tax department and provides for the transfer to such department of the powers and duties now vested, by law in the board of state tax commissioners. The existing board is abolished and the governor is authorized to appoint three persons as commissioners to administer the affairs of the new department. The term of each commissioner is to be four years and each is to receive an annual salary of $5,000. Each commissioner is to devote all of his time to the duties of the office. The new state tax
department is to have general supervision over the administration of the tax laws of the state and to give advice, counsel and assistance to the assessing officers of the state.

**Minnesota**

Minnesota, in the act for the reorganization of the state government, provides that the department of taxation, created under the title of the Minnesota Tax Commission, is to be continued in charge of such commission, which shall exercise the rights and powers and perform the duties now prescribed for it by law. This same act provides for a department of administration and finance to be under the supervision and control of the commission of administration and finance. The commission is given power to supervise and control the accounts and expenditures of the agencies of the state government.

**New Mexico**

The regular meetings of the state tax commission are to be on the first Monday of March, June, July and September. Formerly such meetings were held on the third Monday of February, July and September. It is also made the duty of the state tax commission to determine the value of pipe line companies. A new provision requires the state tax commission to annually, on the third Monday of November, determine and fix the minimum value at which all live stock and grazing lands are to be assessed. These, when duly certified to the tax assessors, are to be used as the basis of value for assessment purposes.

New Mexico requires all local government units, upon a proposal to issue bonds, to forward to the state tax commission a notice of such proposal in writing. It is made the duty of the state tax commission to furnish the local authorities with information as to the value, present outstanding bonded indebtedness, limitations as to tax rates, debt-contracting power and such other information as may be useful to such local authorities. Upon the adoption of the bond issue, three transcripts of the proceedings had in connection with such bond issue shall be prepared, one copy to be filed with the state tax commission, one with the local governing authorities and one with the officer or commission approving the bond issue as to its legality.

New Mexico amends the law relating to public moneys, by revising the composition of the state board of finance. This board, under the amendment, is to be composed of the governor, the state auditor and three additional members, to be appointed by the governor. The attorney general, who was a member of the former board, is omitted. Not more than two of the appointed members are to belong to the same political party and their term of office is six years. This board is authorized to make all necessary investigations into the conduct of the fiscal affairs of the state.
New Mexico, further, provides that no moneys of the state, belonging to any sinking fund or other fund, except school funds, shall be invested by the state treasurer in any form of security, unless the state board of finance has given their prior approval to such investment. It is made the duty of the state board of finance to thoroughly investigate the validity of all securities under consideration for investment. Any official, having the authority to invest any permanent land, grant or school fund of the state, may request the state board of finance to investigate securities in which it is proposed to invest such funds.

**New York**

New York authorizes the president of the tax commission to fix the salaries of assistants and clerks in the surrogate’s office in certain counties, within the amounts appropriated for that purpose. Formerly these salaries were fixed by the legislature. A further amendment provides that there shall be a salaried appraiser for each of certain counties and the president of the state tax commission is authorized to designate one or more deputy appraisers for such counties. The amendment repealed that provision which required the number and salaries of appraisers for such counties appointed for the fiscal year beginning 1921 to be approved by the governor, the chairmen of the senate finance and assembly ways and means committees.

**North Carolina**

North Carolina enacts a new measure which consolidates the tax-collecting forces of the state. The taxes formerly collected by the department of the secretary of state and the department of insurance are to be collected by the department of revenue.

North Carolina also, in its new law establishing an executive budget system, provides that the director, with the advice of the “Advisory Budget Commission”, shall prepare the budget revenue bill, which shall provide an amount of revenue sufficient to meet the appropriations proposed in the budget appropriation bill.

**Ohio**

Ohio provides for restoring control of employees in the state tax department to the state tax commission.

Boards of taxation are required to obtain the consent of the state tax commission, before submitting to popular vote bonds which will make their net indebtedness exceed 4% of the tax valuation. It is also provided that with the approval of the state tax commission, bonds may be refunded, if no other method of payment exists.
South Dakota

South Dakota enacts a new civil administrative act, which provides for the organization and consolidation of its state departments. A department of finance is created, in which department a taxation division is established. The state tax commission in its present form is abolished and in the future the tax laws of the state will be administered by a director of taxation. The board of equalization is to be composed of the secretary of finance, the director of taxation and the assistant director of taxation, if one is appointed, if not the director of audits and accounts shall serve in his place. This new law makes the governor the chief budget official of the state.

South Dakota also creates a commission on hail insurance rates, to consist of the governor, the commissioner of insurance and the chairman of the state tax commission. Such commission is given full authority to revise the rates of the state hail insurance fund.

Vermont

Vermont requires the commissioner of taxes to certify to the chairman of the board of listers and the town clerk of each town on or before April 15th, the names of all owners in such town who are shareholders in any bank or banking institution in the state, the number of shares owned and the appraised value of each share, and to certify the same information with respect to non-resident shareholders.

Washington

Washington abolishes the department of taxation and examination and the state equalization committee, and enacts a new and very comprehensive measure creating a state tax commission. Such commission is composed of three members, possessing special knowledge of the subject of taxation, and is appointed by the governor, with the consent of the senate, term 6 years, salary $6,000 a year. The commission is to exercise general supervision and control over the administration of the assessment and tax laws of the state, over township and county assessors, county and township boards of equalization, and over boards of county commissioners in the performance of their duties relating to taxation. They may give any order or direction to such local officials concerning the valuation of any property or class of property for purposes of taxes. They may also examine and test the work of county and township assessors at any time and shall have and possess all the rights and powers of such assessors for the examination of persons and property, and for the discovery of property subject to taxation.
Local Administration

Arkansas

Arkansas repeals acts creating township boards of assessors for certain counties and provides that their duties are to be performed by the county tax assessor. There is also created a county board of equalization for certain counties.

Connecticut

Because of certain conditions in the city of Bridgeport the general assembly of the state enacted a law authorizing the governor to appoint a board of apportionment and taxation composed of seven members. At the expiration of their term the mayor is authorized to make such appointments. This board has been given considerable power. It is authorized to appoint the tax attorney and assessor, also a collector of taxes and a clerk. The assessor is to have full charge of the assessment and is removable only for cause, by the supreme court. The act also provides that an equitable system for ascertaining the just values of lands and buildings within the city shall be installed and that tax maps and land maps shall be provided. It is interesting to note that arguments against the bill were directed to the question of home rule, no attempt being made to refute the charges of careless administration of the city's finances.

An amendment to the charter of the City of New Britain provides an innovation in that state. Formerly each owner of taxable property listed such property, both real and personal, with the local assessor. By the amendment, the assessors of the city will themselves make up the assessment list of each taxpayer, in so far as real estate and certain personal property are concerned, the taxpayer only being required to file at the regular time a list showing his other personal property. This particular city is considered an ideal one in which to start this experiment, as its assessment methods are considered among the best in the state.

For the town of West Haven it is provided that one assessor shall perform the duties of assessment, in place of three assessors formerly required. This single assessor is appointed by the board of selectmen and is removable only for cause, after a hearing. The consolidated town and city of Middletown and Bridgeport have enacted similar laws. This legislation indicates a tendency in the state for the appointment of a single assessor and to hold such officer responsible for the efficient performance of his duties.

In the town of Norwich the term of the assessor is increased from four years to six years.

Idaho

Idaho requires the preparation of four certified copies of the record of all levies authorized and fixed by the boards of county
commissioners, one to be filed with the state board of equalization. A certified list of tax levies made by the governing authorities of cities, towns, villages and school districts shall be filed by the county auditor in the office of the state board of equalization. The statements furnished the state board of equalization by the foregoing county and municipal authorities are to be carefully examined by the state board, in order to ascertain if such local authorities have fixed a levy for any purpose not authorized by law or in excess of the maximum provided by law for any purpose. If such excess levy has been so fixed the state board is required to notify the county attorney who is at once to bring suit against the board of county commissioners or governing authorities of any city, town, village, or school district, to set aside the levy as being illegal.

Kansas

Kansas, in counties having a population of more than 100,000 and less than 120,000 creates a board for the approval of plats and maps of land for taxation purposes. No map or plat of any tract of land shall be entitled to be recorded in such counties or have any validity whatsoever, except those which have been approved for taxation purposes by the board. Such plat board shall consist of the county clerk, the county treasurer and the county surveyor.

Nebraska

Nebraska provides for a quadrennial assessment, formerly biennial. A further important change authorizes the board of county commissioners or supervisors of each county having a population of less than 50,000 inhabitants, at their discretion, to appoint three people of mature judgment as a real estate classification board. Such board is to examine and classify land lying outside of cities and villages, into units of 40 acres, unless the unit owned is less than 40 acres. Improvements are not to be included in such classification. The county assessor is to value and assess such land based on the classification made by the board and in accordance with rules and regulations of the state tax commissioner. Such board is not to classify land owned by themselves or any relative within the third degree, or of any partnership or firm of which such board member shall be a member. Their compensation is not to exceed $8 per day. It is further provided that after the first general classification of such lands by the board, the county equalization board is to make reclassification or additional listings from year to year. In counties having a population of more than 175,000, the county assessor is authorized to employ once every 10 years competent experts on the value of real estate and buildings, to aid him in the valuation of the same for assessment purposes.
Nevada

Nevada repealed certain sections of the revenue law which required the assessor to prepare printed lists of taxpayers and property and mail such to each and every taxpayer in the county. Nevada also repealed the provision relating to boards of county commissioners acting as a board of equalization, as well as certain other sections, having to do with the duties of other local tax officials, in connection with the board of equalization.

New Jersey

New Jersey authorizes any town in the state, which elects so to do, to appoint three assessors, the term of such officials to be three years. It repeals the provision for a term of three years for assessors in municipalities governed by an improvement commission. Such assessors are not to be removed from office, except upon a majority vote of the improvement commission, or upon complaint of the state board of taxes and assessments.

New Mexico

New Mexico authorizes the treasurers and assessors of counties of the 3rd, 4th and 5th classes to appoint a deputy or an additional deputy, when needed, with the approval of the board of county commissioners, but such deputies are not to be employed for a longer period than six months in any one year.

New Mexico, in a new measure, provides that if the assessor or treasurer or his deputies be resisted or impeded in the execution of their offices they may require any suitable person to assist them therein, and if such person refuses the aid requested, he shall forfeit a sum not to exceed $25, to be recovered by civil action and the person resisting shall be criminally liable, as in the case of resisting the sheriff in the execution of process. This provision is for the purpose of the enforcement of the collection of delinquent taxes.

New Mexico requires all boards of finance, whether state, county, city or town to invest all sinking funds or moneys remaining unexpended from the proceeds of any issue of bonds or other negotiable securities, and all moneys not immediately necessary for public uses, in bonds or negotiable securities of the United States, the State of New Mexico or any county or city of the state, if such county or city has a taxable value of real property of at least $3,000,000 and shall not have defaulted in the payment of any interest or failed to meet any bonds at maturity, within the prior period of five years.

New York

New York by an amendment to the village law abolishes the fee system and requires the payment of a salary to the village tax col-
lector. New York also authorizes the town board of any town in the counties of Erie, Broome and Schenectady to fix the compensa-
tion of the assessors at an annual amount, instead of a per diem.
New York further provides for a change in the election of asses-
sors in towns and counties having a population of over 50,000 and
less than 54,000 inhabitants. Two assessors, at the first biennial
town meeting after the law becomes effective, are to be elected, to
hold office for two years, and one for four years. Of the two
assessors subsequently chosen, one is to be elected for two years
and one for four years.

New York adds a new section to the town law, which provides
for the appointment of one assessor and the establishment of a
board of review. The law provides that the town board of a town
having a population of more than 5000 may, by a unanimous vote,
provide for the appointment of one assessor or may submit such a
proposition to the electors of the town for their approval. The new
act creates a board of review for such town, to consist of the asses-
or, the supervisor and one justice of the peace, to be designated
by the town board. This board of review is to possess all the
powers and perform all the duties of the town assessors, in hearing
and determining complaints and correcting the assessment roll.
Any town having adopted the one-assessor plan may, by a unan-
imous vote of the town board, or by the approval of the electors,
restore the former board of three assessors.

North Dakota

North Dakota repeals the provision requiring the local assessors
to take the military enrollment.

Ohio

Ohio abolishes the office of township assessor and at the same
time makes the county a unit for purposes of taxation, and provides
that the county auditor, in addition to his other duties, shall be the
assessor, and shall list and value for taxation all property within
his county. In order to aid him in this matter, he is authorized to
employ all necessary experts and such other employees.

Pennsylvania

Pennsylvania provides for an additional system for the collection
of state and county taxes in cities of the third class. The amend-
ment authorizes the county commissioners, in place of the present
system for the collection of state and county taxes in such cities, to
appoint one person as collector, who must be a resident of the state.

Rhode Island

Rhode Island amends the law relating to a board of assessors for
the city of Providence, by authorizing the board to appoint one or
more deputy assessors. Under the former law such board was required to appoint three deputies.

**Texas**

Texas provides for an increase in the compensation payable to assessors, the increase to be based on the amount of the total valuation of the property assessed by each assessor.

**Washington**

Washington provides that the county board of equalization shall equalize all property outside the corporate limits of any city or town, members to receive a salary of $5 per day, for each day of actual attendance. The time of meeting of the board is changed to the first Monday in July instead of the first Monday in August.

**Wyoming**

Wyoming makes it the duty of each county assessor and his deputies, at the time of making the annual assessment of property, to collect agricultural statistics. It is also provided that in counties having an assessed valuation of $34,000,000 or more, the county assessor, with the consent of the county board, may appoint deputy county assessors.

**Exemption from Taxation**

**Connecticut**

In 1923 a commission was appointed to study the tax-exempt problem of Connecticut. This commission made a report to the general assembly of the state during the 1925 legislative session. As a result of the commission's work the general assembly passed a law codifying the provisions relating to property exempt from taxation. It is stated that the main provisions were copied almost wholly from the State of Massachusetts. Two provisions are of interest. First, only such scientific, educational, literary or benevolent institutions as are incorporated under the laws of the state are entitled to have their property exempt, provided the members of such corporation may not receive any financial profit from their membership, and that the real estate exempt from taxes is used for one or more of the purposes of the institution. Second; in order that such institution may enjoy exemption, it is necessary for it to file with the assessor, each year, on forms furnished by the state tax commissioner a statement showing the value, purpose, income, and expenditures of its property.

Provision is also made for the reimbursement of towns for loss of taxes on property owned by the state. The state tax commissioner is required, once every five years, to value all land owned by the state and used for state purposes. The state is required to pay on such valuation, to the town wherein such land is situated a
certain sum, as a grant in lieu of taxes. Each class of land is to be treated separately, the assessed value to be the average of similar land taxable in the town.

**Georgia**

Georgia empowers counties and municipal corporations of the state to put into effect the provisions of the constitution which exempt certain industries from taxation for a period of five years. The question of exempting such industries is to be submitted to the qualified voters of the county or municipal corporation and, if a majority approve, such industries shall be exempt from taxation.

**Indiana**

Indiana exempts from taxation the real and personal property owned by any Camp of the United Spanish War Veterans, or any Chapter or Post of the American Disabled Veterans of the World War, or the veterans of foreign wars or the American Legion, if the property occupied is used exclusively for the purposes of such organization.

Indiana also exempts from taxation agreements, in the form of land contracts, options to purchase real estate, and leases that do not by their terms constitute an enforceable promise to buy and pay the purchase price.

**Iowa**

There is added to the list of military service organizations, whose property is exempt from taxation, the property of certain organizations serving in the War of the Rebellion and the Indian Wars.

**Michigan**

Michigan exempts the memorial homes of world war veterans from taxation and increases the value of real estate exempt from taxation to $2,000, formerly $1,000, if owned as a homestead by any soldier or sailor, or the wife or widow of such soldier or sailor, such persons however shall not enjoy such exemptions if they are the owners of taxable property of a greater value than $5,000, formerly $3,000. A further amendment provides that no real estate owned by a library, benevolent, charitable, educational or scientific institution, or charitable home of a fraternal or secret society, used for agricultural, industrial, or commercial purposes shall be exempt from taxation, unless such institution or charitable home or fraternal or secret society shall claim exemption and file a petition with the Board of State Tax Commissioners, setting forth a reason for exemption, together with a description of the property, the purpose for which used, and such financial statement or other information as the Board may require. The Board is required to investigate such claims and determine whether or not the exemption shall be allowed and make report of their decision to the local assessing
officer, who shall exempt or assess such property in accordance with the commissioners' findings.

*Minnesota*

Minnesota allows a personal exemption to the value of $100 to every household. Formerly the phrase "the head of a family" was used. It is further provided that in case there is an assessment against more than one member of the household, the $100 exemption is to be divided among the members assessed, in the proportion that the assessed value of the personal property of each bears to the total assessed value of the personal property of all the members.

Minnesota also provides for the valuation and assessment of real property exempt from taxation. It is made the duty of the county auditor, beginning with the year 1926 and in every sixth year thereafter, to enter in a separate place in the real estate assessment list a description of each tract of real property exempt by law from taxation, with the name of the owner, if known. It is made the duty of the assessor to value and assess such property, the same as other real property, and to designate the purpose for which the property is used.

*Nebraska*

Nebraska repeals the provision relating to exemption of public lands and property from taxation, which required that when any such property was used for any other than public purposes and a rent or valuable consideration was received for its use, the same should be taxed. Nebraska also adds to property exempt from taxation all real property owned and used by any post or unit of any national organization of ex-service men or women.

Nebraska further permits the operation of community theaters without tax, provided that the proceeds of such theaters, after deducting the necessary expenses, are devoted to community purposes. The same provision is extended to an entertainment, recreation, or school of art, when conducted exclusively for community purposes.

*New Hampshire*

New Hampshire exempts from local and state license fees on hawkers and peddlers, any citizen of the state over 70 years of age. There is also exempt poultry of every description, over two months old, in excess of the aggregate value of $50.

*New Jersey*

New Jersey makes an addition to property exempt from taxation, by providing that all personal property stored in a warehouse of any person, copartnership or corporation, engaged in the business of storing goods for hire, shall be exempt from taxation.
New Mexico

New Mexico provides that the person claiming the $200 personal property exemption for each head of a family shall make oath that he or she is head of such family, is a resident of the state, and has not and will not claim such exemption in any other county for the current year. Such exemption is to be construed as extending to property, the title to which is held by the wife, as well as to property the title of which is held by the husband, but not so as to give two exemptions to one family. Under this new amendment it would appear that such exemption, in order to be enjoyed, must be claimed by the head of a family. Under the old law such exemption of $200 was given, whether claimed or not.

New York

New York amends the law in relation to buildings for dwelling purposes which are exempt from taxation, by defining the term "ground floor" to mean the floor, the ground of which is nearest to the grade of the main thoroughfare on which the building fronts.

North Carolina

North Carolina enacts enabling legislation making effective the constitutional amendment adopted at the general election in 1924, providing that loans made for the acquirement of homes, not exceeding $8,000, shall be exempt from taxation on 50 per cent of the value, when the term of the loan is not less than one nor more than 33 years and if the holder of the note resides in the county where the land lies, when listed for taxation. When the notes are held and taxed in the county where the home is situated, the owner shall be exempt up to 50 per cent of the value of the notes.

Oregon

Oregon adds to public property exempt from taxation, parks, tunnel districts, water districts, and all other municipal corporations.

Pennsylvania

Pennsylvania adds to property exempt from taxation, public parks, when owned and held by trustees for the benefit of the public and used for amusements, recreation, sports, and other public purposes.

Rhode Island

Rhode Island passed a number of special acts exempting certain companies or corporations from a tax on their real and personal property. The Old Colony Railroad Company and the New England Steamship Company, located within the city of Newport, may have their real and personal property exempt from taxation for a term of one year, if agreed to by the city council. The Jamestown and Newport Ferry Company is also declared to be exempt from
certain taxes, but the state retains all state taxes assessed upon the gross earnings of such company for the years 1923 and 1924. The Old Slater Mill Association is authorized to hold exempt from taxation, real and personal property, to an amount not exceeding $150,000 in value, so long as such property is held and used exclusively for public and educational purposes. The Rhode Island Boy Scouts, located in the City of Providence is declared exempt, to an amount not exceeding $20,000, so long as the property is held for charitable and educational purposes. The Young Men's Christian Association of Woonsocket shall be exempt from taxation, to an amount not exceeding $250,000.

**South Carolina**

South Carolina exempts from taxation all property, real and personal, owned by any organized religious society or denomination and used exclusively for the publication of a religious newspaper or other religious publications. There is further declared exempt all lands and buildings, including the contents, that may be owned and used exclusively for the activities of any religious society or denomination.

**South Dakota**

South Dakota enacts a new provision exempting new railroad lines or new extensions of railroads that may be constructed within the period of 10 years from the passage of the new law, from assessment and taxation for a period of 10 years from and after the construction of such lines.

South Dakota also provides that any combination bridge, for railroad and vehicular use, completed since July 11, 1924, erected by private capital, in whole or in part, across the Missouri River and not upon the line of any railroad, shall be exempt from taxation, for a period of ten years from the date of its completion.

**Tennessee**

Tennessee provides that whenever any institution of learning, incorporated for the general welfare and not having a capital stock, shall issue any bonds, neither the principal nor the interest of such bonds shall be taxed by the state or by any of its political subdivisions.

**Texas**

Texas exempts from taxation the property owned by the Boy Scouts of America.

**Wisconsin**

Wisconsin adds to the list of property exempt from taxation, property owned and used exclusively by any labor organization, or by any corporation or association organized under the laws of the state whose members consist of workmen associated according to
craft, trade, or occupation, provided no profit results to any individual member. Wisconsin further exempts from taxation property owned and used exclusively for the exhibition and sale of agricultural and dairy stock, products and property.

Wisconsin also repealed that provision of the revenue law which relates to the exemption from taxation of all property and improvements upon any parcel of land owned or used as a homestead.

**Wyoming**

Wyoming exempts from taxation lots, with the buildings thereon, used exclusively for community buildings, and lots or tracts of land, with the buildings thereon, owned and used by the Boy Scouts of America and the Girl Scouts of America. Wyoming further provides that the $2000 exemption on the property of veterans shall not be allowed, unless the claim for such exemption is filed in the office of the county assessor on or before the fourth Monday of June. Wyoming also repeals the law which provided for the exemption of beet sugar factories.

**Income Tax**

**Arkansas**

Arkansas repealed the so-called Riggs' gross income tax law.

**Delaware**

An amendment makes more definite the term losses, by defining them as capital losses. Deduction is allowed for such losses incurred in the sale, exchange or other disposition of real or personal property. A new provision requires all persons, whether private, business or corporate, employers and fiduciaries, making payment to other persons of $1000 or more in any taxable year, to report to the tax department all such amounts paid to residents of the state, together with their names and addresses. If the state or any political subdivision makes any such payment the same returns are required. A further amendment defines the word "corporation" to include joint stock companies, but not simple partnerships.

**Massachusetts**

Massachusetts enacts an important measure in relation to the tax returns of foreign and domestic business. In the future the net income to be taxed in Massachusetts will be the net income as returned to the Federal Government, to which is added any net loss that had been deducted for loss in previous years. A further important amendment restores to the original income tax law the provision that the business income of a deceased person is taxable. It is stated that this provision was removed some years before the courts of Massachusetts had decided that the income tax was a property tax. As the law now stands the business income for 1925
of a person who dies in 1925 will be taxed in 1926, just the same as interest and dividends have always been taxed.

Missouri

Missouri is to keep all income tax returns on file for a period of two years, at the end of which time, if the tax has been paid, such returns are to be destroyed. Formerly the income tax returns were destroyed within six months after the income tax became due. Missouri authorizes the state auditor, his agent or inspector to examine any income tax return on file in the office of any county or township assessor, county collector, country treasurer, or the assessor, auditor, or comptroller of the City of St. Louis. A further change provides that all fiscal year corporations shall make a return of their income and pay the tax thereon within sixty days after the close of the fiscal year, with a penalty accruing for failure to pay the tax due.

New York

New York again this year authorizes a 25% rebate on the personal income tax. A similar measure was enacted in 1924.

North Carolina

North Carolina provides for an increase in the income tax rates. The words "tangible personal property" are defined; foreign insurance companies doing business in the state and paying the tax upon the premium receipts are to be exempt from the income tax.

North Dakota

North Dakota defines the term "tangible property". It is further provided that every partnership having a place of business in the state shall make a return, giving the specific items of its gross income and the deductions allowed. Such partnership shall also give the names and addresses of the individuals who would be entitled to share in the net income, if distributed, and the amount of the distributive shares. A change is also made in the apportionment of net income to the state, in the case of certain interstate public utilities. Donations actually made may be deducted as an item of expense, in an amount not to exceed 15 per cent of the net income.

Oregon

Oregon, in spite of the fact that the voters of the state repealed the income tax law of 1923 at the November election in 1924, provides for the collection of delinquent 1923 income taxes. In order to do this the legislature revives and reenacts the income tax law of 1923.
REVIEW OF TAX LEGISLATION

South Carolina

South Carolina exempts from the income tax all income earned by domestic corporations from property and business owned and operated outside the state. Exemption is allowed only if the state tax commission is given access to the books of the non-resident plant or office of such corporation.

Wisconsin

Wisconsin exempts from the income tax income received by husband and wife or head of a family, to the amount of $1,600; formerly $1,200. There is also exempt for each child under the age of 18 years $300, formerly $200; and for each additional dependent $300, formerly $200. Certain deductions are allowed for contributions made to the state or to any political subdivision, for exclusively public purposes, or to any community chest or foundation.

An amendment provides for computing profit or loss on the sale of property acquired by descent or by will since January 1st, 1911. A formula is established for apportioning income received by persons engaged in business within and without the state and, under certain circumstances, the ratio thus established may be omitted, at the discretion of the state tax commission. Inventories are required to be taken, if necessary, in order to clearly reflect the income subject to tax. Liability to taxation on income, by those who move into or out of the state within the year shall be determined for such year by the ratio of time which the residence of such taxpayer in the state bears to the entire calendar or fiscal year, and the exemptions from the income tax shall be prorated on the basis of the time of residence within and without the state.

Married persons living together as husband and wife may make separate or joint returns. In either case the tax is to be computed on the aggregate income, less deductions and credits. The exemptions are to be counted but once and divided equally and the amount of tax due is to be paid by each, in the proportion that the net income of each bears to the aggregate. Certain new provisions are enacted relating to returns to be made and taxes to be paid by executors, administrators, guardians and trustees.

Wisconsin further provides that when any corporation, liable to the income tax, conducts its business in such a manner as either directly or indirectly to benefit the stockholders or any person interested in such business, by selling its products at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned directly or indirectly by other corporations, acquires and disposes of the products of the corporation so owning a substantial portion of its stock, in such a manner as to create a loss or improper net income, the state tax commission may determine the amount of taxable in-
come of any such corporation, having regard to the reasonable profits which, but for such arrangement or understanding, might have been obtained from dealing in such products.

**Inheritance Tax**

**Connecticut**

An amendment to the law concerning the succession tax on non-resident estates provides for a reciprocal exemption of the succession tax of 2% on personal property and stock or registered obligations of any national bank or corporation of the State of Connecticut, owned by the non-resident decedent, if a like exemption is made by the state of domicile of decedent on like property held in such state by residents of Connecticut at their decease. A further amendment provides for the payment of the succession tax on jointly owned property and a rule is laid down as to what shall be done in such case.

A new law broadens the scope of exemptions to the inheritance tax. All property bequeathed exclusively for religious, educational or missionary purposes to or in trust for any religious, educational or missionary corporation, wherever situated, shall be exempt from all inheritance tax.

**Georgia**

Georgia repeals its inheritance tax law and provides for the collection of such a tax upon the basis of the federal estate tax act. The law makes it the duty of the legal representative of the estate of any resident decedent, which is subject to a federal estate tax, to file a duplicate of the return to the federal authorities, with the state tax commissioner. This official computes the amount that would be due upon such return as a federal estate tax and assesses against the estate, as a state inheritance tax, 25 per cent of such amount. The amount due is a charge against the estate and not against the distributive shares. Any estate failing to make a report within one year from the qualification of the administrator or executor may be appraised and assessed for such inheritance tax by the state tax commissioner. The law further provides that there shall be no other inheritance tax assessed or collected.

**Iowa**

A new provision exempts from the inheritance tax property devised for purposes of public charity or for fraternal charitable institutions not maintained or operated for profit.

**Massachusetts**

Massachusetts provides for reciprocity in imposing inheritance taxes on the personal property of non-resident decedents. This reciprocal law provides that nothing except real estate will be
taxed, if the state of domicile of the non-resident decedent treats Massachusetts citizens the same way. This reciprocity feature goes into effect December 1, 1925.

**Michigan**

Michigan increases the exemption on the transfer of property to lineal descendants, from $3,000 to $5,000. In the case of the transfer to a husband or wife, the property to the value of $30,000 shall be exempt. The amendment further provides that in the event no property is transferred to any minor child or children, the widow shall be entitled to an additional exemption of $5,000 for each child to whom no property is transferred. A new paragraph is added dealing with property passing to lineal descendants and the tax is 8 per cent upon all such property in excess of $750,000. If the property consists of real estate it shall be taxable at three-fourths the rates specified. In determining the tax payable, the property subject to tax shall be deemed to consist of real and personal property, in the proportions that the value of the real property bears to the value of the whole property.

**Nevada**

Nevada repealed its inheritance tax law.

**New Hampshire**

New Hampshire provides for a tax of 5% of the value of property which shall pass by will to any person. Administrators, executors and others are to be held liable for such taxes with interest until paid. Direct heirs and certain charitable and educational associations are exempt from the tax. The new method therefore appears to reduce the tax on all property passing by will to collateral heirs which under the old law was 6% and also upon property passing to other parties the tax upon which under the former law was 10% of its value. Real estate belonging to non-residents and passing by will is subject to the tax of 5%.

**New Jersey**

New Jersey provides that in addition to the property now exempt from taxation under the inheritance tax law, there shall be also exempted property passing by devise or bequest since July 1, 1924, to, or for the use of, any educational institution for whose benefit the legislature has made appropriations.

**New York**

New York enacted a very important measure known as the estate tax law. This is a new impost, in addition to the present transfer tax. The state will allow as a credit, inheritance taxes paid to any other state or territory, including this state. The net estates of resident decedents in excess of $1,000,000, are affected by this act.
There is provided a graduated scale of rates on such estates in excess of $1,000,000. These graded rates are one-fourth of the federal rates. It is also provided that this estate tax, in no event shall exceed, with all other state inheritance taxes, 25% of the federal estate tax.

New York amended the inheritance tax law, so that its provisions apply only to estates of decedents who were residents of the state. The rates are not changed, but an amendment provides that no deduction shall be allowed for taxes paid to the United States or to any state or territory or foreign jurisdiction, or for, or on account of any tax paid under the provisions of the estate tax law, upon any estate or property transferred.

New York also in a new addition to the transfer tax law, provides for the taxation of property of non-resident decedents. Money and securities merely kept on deposit in the state and not forming part of the business property which is taxable, are exempt. The kinds of property taxable are real estate or tangible personal property in the state, stock in New York corporations or national banks, partnership interests and capital invested in business in the state, including good will. No exemptions are allowed.

One of the most important changes was the placing of a flat rate inheritance tax upon non-resident decedents, instead of the progressive rates which are retained upon residents. This flat-rate tax is at the rate of 3% upon the clear market value of the property, if deductions for debts and expenses are claimed, or 2% if the executors waive all deductions other than incumbrances on real property which are allowed. Another feature of the transfer tax on non-residents is a provision for reciprocity, under which this state agrees not to tax the personal property of non-resident decedents if the state of residence does not impose a death tax on the personal property of decedent New Yorkers.

New York also made certain amendments to those sections of the transfer tax law dealing with contingent remainders. The amendment provides that the tax on such transfers is to be computed on the full and undiminished value of such property at the time of the transfer, without deduction for or on account of any intervening estate or interest. If the tax is not paid, a certain increase is added thereto, additional to that provided for in the case of the non-payment of the transfer tax. The amendment further provides that in case the personal property included in the transfer is less than the amount of the tax on the transfer dependent on a contingency, the executor or trustees may elect to file in the office of the tax commission a bond. Formerly such bond was filed with the surrogate. The tax commission, formerly the surrogate, may increase or decrease the amount of the bond.
North Carolina

North Carolina amended the inheritance tax law by increasing the rate of tax on all classes of beneficiaries. A new provision is that where the real property is held by husband and wife, as tenants by the entirety, the surviving tenant shall be taxable only on one-half of the value of the property so transferred, unless it shall appear that either of such parties supplied the entire purchase moneys, in which case the tax is due on the total value of the property.

Ohio

Ohio amends the inheritance tax law by providing rules relating to its administration.

Oregon

Oregon amends the inheritance tax law by prohibiting safe-deposit companies, trust companies, and banks from renting any safe-deposit box, without first requiring an agreement in writing that the person renting such box shall notify the company or bank of the death of any person having the right of access thereto. Such companies shall not permit any one to have access to such safe-deposit box, after knowledge or notice of such death, unless notice shall have been served on the state treasurer at least five days prior to the time such access is permitted.

Oregon also prohibits any executor or others from transferring the stock of any corporation of the state or of any national banking association located in the state, which stands in the name or in trust for a decedent and is subject to an inheritance tax, until the tax has been paid. The state treasurer may however permit such transfer before payment of tax.

Oregon amends the inheritance tax law by providing that when real or personal property, other than estates by the entirety, is held in the joint names of two or more persons, or is deposited in banks or other depositories in the joint names of two or more persons and is payable to either or the survivor, in case of the death of either, the right of the surviving joint tenant or person to the immediate ownership or possession of such property is to be deemed a taxable transfer, as though the whole of such property belonged absolutely to the deceased.

Pennsylvania

Pennsylvania provides for reciprocity with other states in the taxation of the transfer of property of non-resident decedents. The amendment provides that the personal property of a non-resident decedent shall not be subject to the inheritance tax, if a like exemption is made by the laws of the state of the decedent’s residence, in favor of the residents of Pennsylvania.
Pennsylvania also adopts the federal estate tax provision. The amendment provides that the tax shall, on each estate, be equal to 25 per cent of the estate tax imposed upon the net estate of such decedent under the provisions of the federal law. If the federal law is repealed, or if no tax is imposed on such estate by federal law, or if 25 per cent of the tax imposed by the federal provision amounts to less than certain rates in the state law, the tax is imposed by the state law at the state rates.

South Carolina

South Carolina exempts from inheritance tax bonds held or owned by any non-resident, if such bonds are those of the state or any of its subdivisions or bonds issued under the federal farm loan or agricultural credits act.

Tennessee

Tennessee exempts from the inheritance tax an amount equal to the value of any property forming a part of the gross estate of any person who died within five years prior to the death of the decedent or was transferred to the decedent by gift, within five years prior to his death, when such property can be identified as having been received by the decedent from such donor by gift or inheritance or which can be identified as having been acquired in exchange for property so received. Such exemption shall be allowed only when an inheritance tax was paid by the estate of such prior decedent. The amendment further provides that where there is both a direct and collateral inheritance tax on the same estate, there shall be exempt on collaterals $1,000 and on direct inheritors $10,000.

Vermont

Vermont provides that before an executor or an administrator enters upon the execution of his trust he shall give a bond to pay to the state treasurer all inheritance taxes required to be paid by him and further to perform all other duties required by the inheritance tax law. Such executor shall not be discharged or relieved from his bond until he has paid the amount of the inheritance taxes imposed and made a part of the final decree of distribution.

Wisconsin

Wisconsin adds a new provision to the inheritance tax law that no such tax shall exceed 15% of the property transferred to any beneficiary. Wisconsin adds a further new provision relating to tax due upon the transfer of any property partly within and partly without the state. The beneficiary is entitled to deduct only such proportion of the debts, expenses of administration and Wisconsin exemptions which his interest in the property within the state bears to his entire interest in such estate. Wisconsin exempts from any
inheritance tax bequests for the care and maintenance of the burial lot of the deceased or his family, and bequests not to exceed $1000, for the performance of a religious purpose or religious service for the deceased.

**Wyoming**

Wyoming makes a complete revision of its inheritance tax law. The former graduated and progressive tax on amounts passing to various beneficiaries is changed to a flat rate on all amounts over the exemption. A new provision prohibits securities or assets belonging to a decedent and held in safe keeping by banks or others, from being delivered or transferred to any executor or administrator, without the consent of the inheritance tax commissioner.

**Corporations**

**Arkansas**

Arkansas in a general revision of the corporation tax law bases the tax to be paid by foreign corporations on the maximum amount of that proportion of issued and outstanding capital stock represented by property owned and business transacted in the state. Such corporations are also required to make a report of their gross and net receipts, not only for the state of Arkansas but for all other states in which business is done. Mutual corporations, not having a capital stock and not organized strictly for benevolent or charitable purposes are to pay an annual tax of $50, and certain mutual insurance companies a tax of $50 to $200, based on the amount of assets. Building and loan associations are to pay an annual tax of $50 in place of the former tax which was based on the capital stock.

In an act to provide for the erection of armories for the use of the national guard a tax is levied on domestic corporations of 11/100 of 1% upon the subscribed capital stock employed in the state. Part of the proceeds of this stock are to go into the military fund and the balance into the general fund.

All foreign and domestic corporations which do not have more than $10,000 of capital stock employed in the state shall pay an annual tax of $11.

**Connecticut**

A new provision apports among the counties a part of the tax received from unincorporated mercantile and manufacturing concerns. The counties are allowed 50% of the revenue received from the tax. This act was passed in order to reimburse the counties for what they were losing under the admission to theatres tax.

**Kansas**

Kansas makes a substantial increase in the fees required of foreign building and loan associations.
Maine

Maine amends its corporation act by providing that for every change of purpose, the corporation shall pay to the secretary of state for the use of the state the sum of $20.

Massachusetts

Massachusetts, in an amendment to the law affecting business corporations, allows a lessee corporation, where it has a lease of land for a period and by the terms of the lease the property located on the land is to be the property of and subject to removal by the lessee, a deduction from their tax under the "real estate" deduction of the statute.

Michigan

Michigan adds a new section to its corporation law which provides that the value placed upon each share of stock of no par value by a corporation, for the purpose of sale or for exchange for property, or other stock, shall be considered as the basis for the imposition of the franchise tax. The value shall be at least $1. In case any of such shares, after incorporation, be exchanged for property or other stock, at a price in excess of that stated in the articles of incorporation, a sworn statement of such fact shall be filed with the secretary of state and an additional franchise fee paid, to be computed at the same rate as in the case of the original incorporation. If the value placed upon such shares is based upon the earnings of the corporation, no additional franchise fee is required.

Michigan exempts church corporations and Sunday school societies from the filing fee of $10 required of other corporations at the time of making annual reports.

Minnesota

The state tax commission is to notify each person subject to the mineral tax of the amount of the tax determined by the commission to be due. Hearings are to be held by the tax commission and persons or corporations subject to the mineral tax may appear at such hearings. The tax commission, after the hearings, is to make its order as to the amount of the tax due, which order shall be final and conclusive. Such determination of the tax commission may be made the subject of review by the supreme court.

Nebraska

Nebraska amends the law relating to foreign corporations by providing that if any foreign corporation is taxed in the state upon any tangible or intangible property, the value of the corporation's gross shares of stock shall be ascertained by deducting from the actual value of the paid-up capital stock, surplus and undivided profits, the assessed value of the property which is taxed in the
state. It is made the duty of the taxing officials of the various counties, in which any such foreign corporation's stock may be owned, to determine the value of any such individual shares.

Nevada

Nevada, in a complete revision of the law relating to corporations, provides for changes in the filing fees. Formerly the fee was based on the whole amount of capital stock authorized. The new fee is based on the par value of stock authorized, at graduated rates.

New Mexico

New Mexico amends the law which provides for an annual state franchise tax, by making such tax payable on the issued capital stock. Formerly such tax was payable upon the authorized capital stock. Provision is also made for the collection by the state treasurer of any delinquent tax owed by any corporation.

New York

New York, by an amendment, provides that in case any corporation is not subject to a franchise tax based on net income and is incorporated and issues capital stock or makes any increase of its capital stock after the 30th day of June and prior to the first day of November it shall at once report such fact to the tax commission and shall be taxed as though such stock had been increased or issued prior to the first day of July. Certain requirements are also made in the case of merger or consolidation of one business corporation with another.

An amendment also provides that any corporation owned or controlled directly or indirectly by another corporation, may be required to make a consolidated report with the owning company showing the combined net income, assets, and such other information as the tax commission may require. The tax commission is authorized, in case it feels that a true representation is not set forth as to the business done, or the amount of segregable assets, or the entire net income earned from business done in the state, to equitably adjust the tax and to eliminate any assets.

A further amendment provides that if it shall appear to the tax commission that the segregation of assets shown by the report does not properly reflect the corporate activity or business done, or the income earned, or business done in the state, because of the character of the corporation's business and the character and location of its assets, the tax commission is authorized to equitably adjust the tax upon the basis of the corporate activity of the business done within and without the state, rather than upon capital or assets employed.
Ohio

Ohio enacts legislation providing for the collection of a corporation franchise tax for the privilege of doing business in the state. There is levied a fee of \( \frac{1}{2} \) of 1\% upon the fair value, on an asset basis, of the capital stock of domestic corporations and, in the case of foreign corporations, on the proportionate amount of the fair value, on an asset basis, of the capital stock represented by the sum of all the property owned or used and business done by it within the state; in each case such fee to be not less than $15. Ohio also permits foreign corporations, whether owning property in Ohio or not, to pay a franchise tax as prescribed for domestic corporations and exempts from taxation the shares of corporations so doing.

Rhode Island

Rhode Island amends the flat-rate tax levied on corporations by providing for a graduated tax. In no case is the fee to be less than $25 and stock without par value shall be treated as if it had a par value of $100 per share.

Utah

Utah adds a new provision which requires both domestic and foreign corporations, at the time of filing their articles, to pay to the secretary of state a fee of 25 cents on each $1,000. If there is any increase in the amount of the capital stock at the time of filing its annual report a further fee of 25 cents on each $1,000 shall be paid to the secretary of state. Insurance companies are exempt from the provisions of this amendment.

Vermont

Vermont increases the fees payable for the issue of an original certificate of authority to foreign corporations or unincorporated associations to do business in this state, from the former rate of $10 to $25. Charitable organizations, without capital stock, are exempt from such fee. Vermont also provides that for the purpose of determining the annual license tax and organization fees, capital stock without par value shall be construed as of the par value of $100 per share.

Banks

Kansas

In the assessment and taxation of the stock of banks, loan and trust companies, Kansas provides that one-half, formerly one-third, of the combined capital and surplus invested in a banking home shall be deducted from the original gross valuation of the shares of stock, and the real estate shall be assessed as other real estate. It is further provided that there shall be deducted the assessed value
of real estate owned by the institution, other than the banking home, to the extent of one-half of the combined capital and surplus, unless it shall have been owned more than five years, in which event it shall not be deducted.

Massachusetts

An amendment continues the so-called "gentleman's agreement" as to national bank and trust company taxation for 1925. There was also enacted a very important measure concerning national banks and trust companies, effective January, 1926. In substance, the new law cancels the present law, which permits a bank, by electing to so do, to be taxed upon its net income, or failing to so elect, to be taxed upon its shares locally or by the commonwealth upon its franchise. Under the new law national banks and trust companies will be taxed on their net income as returned to the Federal Government, adding thereto any net loss of previous years which may have been deducted and also adding any income received from sources not required to be returned to the Federal Government, other than dividends on the stock of Massachusetts corporations and dividends paid in liquidation. The rate of tax is to be the same as that laid upon other financial corporations. It is thought that this rate will approximate 6 per cent. In order to increase the chances of this law being sustained by the courts, foreign and domestic corporations are obliged to return net income for taxation on exactly the same basis as the banks.

Michigan

Michigan permits the deduction of the assessed value of real property leased by a bank and the value of any building upon leased lands, used for banking purposes, when the value of such real property is also assessed to the bank. Michigan, in a new act providing for the organization of credit unions, deems such institutions for savings and not to be made subject to taxation, except as to real estate owned. The shares of a credit union are not subject to stock transfer tax.

Minnesota

Minnesota provides for the assessment of an annual tax equal to 5 mills on each dollar of the fair cash value of the shares of stock of joint stock land banks organized under the laws of the United States. Such land banks are to be exempt from all other taxation. The shares are to be assessed in the town, city or village where the bank is located. In arriving at the value of the shares, the assessor is to deduct the amount of all legally authorized investments in real estate from the aggregate amount of capital, surplus, undivided profit, and other funds, and the remainder is to be taken as a basis for the valuation. The tax is to be paid by the banks, which deduct
from the annual earnings, before any dividend is declared, such amount as may be necessary to pay the taxes due. The amount of the tax is to be distributed, one-sixth to the general fund of the state, one-sixth to the county revenue fund and the balance equally between the school district and the city, village or town in which the bank is located.

Minnesota also requires all trust companies, which pay a tax of 5% on their gross earnings in lieu of taxes and assessments upon capital stock and personal property, to file with the state tax commission reports of their earnings for the preceding calendar year, together with other information which the commission may demand. The commission is to determine the amount of the tax due from such company and certify the amount to the county treasurer of the county in which the trust company has its principal place of business. A penalty of 10% of the tax imposed is added, for failure of any company to make report and a like penalty for non-payment of tax.

Missouri

Missouri validates all assessments and levies made upon the shares of stock and the real estate of national banking associations during the years 1923 and 1924, and ratifies the acts of the state tax commission in exempting national banking associations from the income tax law. Certain assessments made against such banks are declared invalid and the owners of the shares and the banking associations are released and exempted from the payment of the void assessments and levies.

New Hampshire

New Hampshire amends the sections of the law relating to the basis upon which national and other banks are taxed, by repealing that part of the law which permitted the deduction from the par value of the capital stock the value of real estate owned by the corporation. The rate of tax on national banks is to be 1% of the par value of the capital stock, with no deduction of the value of real estate, and on other banks and trust companies 1% upon the special deposits, or capital stock, with no deduction for the value of real estate.

New Hampshire formerly levied an excise tax of 3/4 of 1% upon the amount of the saving deposits, on which savings banks paid interest, for the privilege of conducting business. An amendment changes the rates and allows certain deductions for the value of real estate, loans, and investments.

New Mexico

New Mexico changes the basis of the franchise tax on purely mutual building and loan associations. The tax is to be paid upon
each $100,000 of the total assets. Formerly the tax was on the authorized capital stock. The rate of the tax is the same as formerly, namely, $10 upon each $100,000.

Oklahoma

Oklahoma provides that the capital stock set aside for a commercial banking and savings department of a trust company shall be assessed and taxed upon the actual value of such capital so set aside.

Pennsylvania

Pennsylvania repealed the optional provision for the taxation of bank stock at 10 mills on the dollar upon the par value of the shares.

South Carolina

South Carolina provides that state banks shall be subjected only to such taxes and licenses as are chargeable against national banks. The same provision is also to apply to private banking institutions capitalized at not less than $20,000.

Utah

Utah amends the provisions of the revenue law relating to the assessment of the shares of stock in banking corporations, by providing that the whole value of the shares shall be ascertained by adding together the capital, surplus and undivided profits. The amendment further permits the deduction from the value of the shares of a proportion of the value of the stock owned by the bank in any corporation owning the building in which the bank does its business or the land on which it stands.

Insurance Companies

Connecticut

The tax on mutual domestic insurance companies is reduced from 3½% to 3%, after an adjustment period during 1926 and 1927.

The tax on domestic stock insurance companies is reduced in two particulars. First, the state franchise tax is reduced from 5 mills to 2 mills; second, the ad valorem stock tax which, since 1901, has been 10 mills was reduced to 4 mills for the year 1928 and thereafter.

Georgia

Georgia by an amendment provides for the collection of the tax on insurance agents by the state insurance commissioner, instead of the county tax collectors.

New Mexico

New Mexico, in a recodification of its laws relating to insurance companies, provides that every domestic insurance company shall
pay a fee of $100 for filing articles of incorporation; $50 for filing a copy of its by-laws; and $5 for filing any amendment to its articles of incorporation or changing the amount of its capital stock or its par value.

North Carolina

North Carolina increases the tax on the gross premium receipts of life, health, accident and title insurance companies from \( \frac{1}{4} \) of 1% to \( \frac{3}{4} \) of 1%. The same increase applies to fraternal orders or associations. Such increased tax applies in case the companies were chartered in the state, maintain their main offices therein, and if the amount invested is equal to the total reserve on business derived in the state.

Rhode Island

Rhode Island limits the taxable tangible property of a mutual insurance company to the surplus of such property above the amount of unearned premiums, premium deposits and outstanding claims.

Vermont

Vermont repeals the 3% tax on gross premiums received from placing insurance in companies not authorized to do business in the state.

West Virginia

West Virginia changes the date for the annual return of the amount of business done by insurance companies, to March 1st.

Wisconsin

Wisconsin provides that unauthorized insurance companies transacting business in the state shall pay a tax computed upon the same basis as is prescribed for authorized insurance companies.

Public Utilities

Connecticut

Electric street railroads were granted relief from the payment of interest on taxes due by them to the state, provided that the amount of all back taxes be paid by July 25, 1927.

Maine

Maine provides that the excise tax on railroads is to be paid, one-third on June 15th, one-third on September 15th, and one-third on December 15th.

Minnesota

Personal property of electric light and power companies having a fixed situs outside of the corporate limits of any village or municipality shall be assessed by the state tax commission in the county where situated.

Minnesota amends the act relating to the taxation of freight line
companies, by providing that every railroad company using or
leasing the cars of any freight line company shall withhold from
the payment due such company, for the use or lease, 6% of the
amount which constitutes gross earnings of such freight line com-
pany. The railroad company is also to file with the tax commission
a statement showing the amount of such payment for the preceding
six months and the amount withheld by it. For failure to so do
the railroad company is not to be entitled to deduct from its gross
earnings the amounts so paid by it to freight line companies.

**Montana**

Montana changes the period for which gross earnings of freight
line companies are to be reported to the calendar year, instead of
the year preceding the first day of April.

**North Carolina**

North Carolina provides for a privilege tax of 1 per cent based
upon the gross revenue derived from business done within the state
by electric light, power, street railroad, gas, water and other public
service companies, not otherwise taxed. Such companies are to be
exempt from the payment of the franchise tax on corporations.
The law further provides that no county shall impose any tax,
license, or fee upon such corporations except the *ad valorem* tax.

An increase is also made in the privilege tax on chair and sleep-
ing cars from 3 per cent to 4 per cent on the gross earnings of the
previous year.

Express companies are required to pay increased taxes on mileage.
Telephone companies are required to pay a license tax of $7.50,
formerly $5 per mile; telephone companies an annual tax of 3½
per cent, formerly 3 per cent upon gross receipts.

**Oregon**

Oregon requires all public utilities to pay, in addition to all other
taxes or license fees, at the time of filing their annual reports with
the public service commission, fees based on their gross operating
revenue.

**South Dakota**

South Dakota enacts a new law for the taxation of express com-
panies. Such companies are taxed at 5 per cent of their gross
earnings, after deducting payments to railroads.

South Dakota also enacts a new law concerning the taxation of
power companies. It is made the duty of the state tax commission
to annually value and assess such property, and after equalizing the
assessments, to certify the values to the county auditor of each
county in which the company assessed owns property. Such values
shall be entered on the county tax lists and taxes paid thereon at
the local rates.
Vermont

Vermont changes the date for the filing of franchise tax statements by car companies to the first day of October.

Wisconsin

Wisconsin provides, in counties having a population of 50,000 or less, for the division of taxes received from any street railway, light, heat, power or conservation company. Fifty per cent is to be retained by the treasurer for village or town purposes and 50% is to be equitably apportioned to the various school districts. Wisconsin, further, makes provision for the apportionment, in any town or in any county having a population of 250,000 or more, of the amount of the taxes received from the state treasurer on account of any public utility, if the town board shall by resolution so determine. Eighty per cent is to be retained by the state treasurer and the remaining 20% is apportioned to the various school districts.

Motor Vehicles

California

There is imposed a license fee of 4% of the gross receipts received from motor vehicles engaged in the transportation of persons or property for hire upon the public streets and highways of the state. A deduction is allowed from this 4% of any payment made to any county or municipality for a license and for any taxes paid to any city, county or city and county. The amount received from this gross receipts tax is paid to the state comptroller, to be deposited to the credit of the motor vehicle fuel fund. In the distribution of the tax, one-half goes to the state for the maintenance and repair of public highways and the other half is apportioned to the various counties of the state in the proportion that the number of motor vehicles registered within such county bears to the total number of motor vehicles registered in the state, to be used for the maintenance and repair of the public highways in the county. There is exempt from the tax, hotel buses, taxi cabs, drays and other like city motor vehicles. Vehicles operating between incorporated cities or towns, where no portion of any state or county highway is traversed, are also exempt. The administration of the act is placed under the state board of equalization.

Connecticut

The commissioner of motor vehicles is authorized to determine the weight of each tractor equipped with rubber tires and collect increased registration fees based on the capacity or weight.

For the purpose of obtaining additional revenue there is laid an excise tax on public motor buses. The act is divided into two parts; the first part concerns motor vehicle bus companies operating
entirely within the state, which are subject to an excise tax of 3% of their gross receipts. The second part concerns companies which operate in part without the state and the tax is one cent for each mile operated during the preceding year. In the case of the 3% tax, deductions are allowed for taxes paid to any town on the real estate and tangible personal property of the company. It is also provided that this excise tax shall be in lieu of all other taxes upon the intangible personal property of such company. The proceeds are to be expended for the maintenance and reconstruction of trunk line highways. The administration of the law is placed with the state tax commissioner. Only motor bus companies maintaining a regular service are subject to the tax.

**Delaware**

A registration fee of $5 is required of self-propelled traction engines or tractors equipped with metal-tired wheels. The registration fee for dealers in such tractors is $5 and $2 for each additional certificate and number tag.

**Florida**

Florida amends the law relating to license fees for motor vehicles, by requiring automobiles, for private use only, with a seating capacity of seven or less to pay a fee of 50 cents per 100 pounds. The same fee is fixed for automobiles rented or leased, where no driver is furnished and in addition to such fee the sum of $10 per automobile. The fees are also increased on passenger automobiles or buses having a seating capacity over seven. The fees are from $1.50 to $3 per 100 pounds weight and in addition ten to fifteen dollars each per passenger. Motor trucks are graduated in weight and the fee increased.

**Idaho**

Idaho, by a new law, requires every auto transportation company to file with the department of law enforcement a monthly report, showing the gross earnings for all freight and passengers transported, and pay a fee of 5% on such gross earnings.

Idaho amends its registration fees for motor vehicles and a new apportionment of such fees is provided. Ten per cent of the fees collected in any county is to be paid to the state treasurer, for the use of the state highway fund. Formerly the apportionment was 25%. It is also provided that 90% of the license fees shall accrue to the county in which collected. Formerly the amount was 75%.

**Indiana**

While Indiana increased the gasoline tax one cent a gallon, it made substantial reductions in the registration fees for motor vehicles. The reduction ranges from 20% to as much as 52%, and applies both to passenger cars and trucks.
Iowa

The law relating to motor carriers transporting passengers or freight over a regular route for hire, provides for increased taxes. The railroad commission administers the act and receives the tax monthly from the various carriers. The tax is distributed, one-fifth to the railroad commission for purposes of administration and enforcement, and the balance to the various counties to be used for the maintenance and support of the highway over which such motor carriers operate. The amount allocated to the counties is in the proportion that the number of ton miles of travel in such county bears to the total number of ton miles of travel within the state.

Kansas

Kansas provides for a new classification for motor trucks of 800 pounds or less and applies a registration fee of $8 thereon. A further new class is made for trailers.

Kansas also provides that 25% of the motor vehicle registration fees remaining after the 50 cent fee for registration has been forwarded to the secretary of state, shall remain in the county where it originates and be placed in the township road fund, 75 per cent to be transmitted to the state treasurer and placed in the state highway fund.

Kansas requires motor carriers engaged in the business of transporting passengers or property for hire between fixed termini or over a regular route to pay, in addition to the regular license fee and the personal property tax, further license fees. A trailer used by any such carrier is to be taxed at a rate equal to 20 per cent of that levied upon the vehicle by which it is drawn. Twenty per cent of the license fees received by the county treasurers is to be paid to the state treasurer, for administration purposes. The remaining 80 per cent is to be distributed to the counties in which the owner of such vehicle operates.

Massachusetts

Massachusetts provides for a registration fee, based on weight, on every motor vehicle, trailer and semi-trailer unit used for the transportation of goods, wares or merchandise. The fee is 50 cents for each 100 pounds of the weight of such vehicle and 25 cents per 100 pounds weight, in case of an electric motor truck or an electric commercial vehicle. In no event shall the fee be less than $20. The fee for registration of a taxi-cab is $15. Further classification is made for the registration fees of motor buses used in carrying passengers for hire and having a seating capacity of seven persons or less.

Michigan

Michigan changes the base upon which tax is charged against motor vehicles from a horsepower and weight basis to a weight
base alone. The new measure provides that each motor vehicle, except motorcycles and commercial vehicles, shall pay a specific tax at the time of registering, of 55 cents per 100 pounds weight. The former rate was 35 cents per 100 pounds weight and 25 cents per horsepower. A graduated schedule is provided for commercial vehicles based on the weight of such vehicle. The specific tax and fees received from motor vehicles are distributed under the new law as follows: $6,000,000 to the several counties of the state, in proportion to the amounts received from the owners of registered motor vehicles within the several counties, to be used for highway purpose; the balance is payable into the state highway fund. Under the former law 50 per cent of the amount collected in the counties was returned to the county, to be used for road purposes.

**Minnesota**

Minnesota provides that trucks used in the transportation of property shall be classified and taxed at somewhat lower rates than formerly.

**Missouri**

Missouri, in the initiative measure which provided for a gasoline tax of two cents per gallon, took occasion to make an increase of 50% in the registration fees, both for non-commercial and commercial motor vehicles. The law also provides that the license tax levied by municipalities shall not exceed one-third of the aggregate amount of the state registration fee, as increased. The funds are distributed, 49.8% to the primary system of state roads and 51.2% to the secondary system.

**Montana**

Montana makes no change in the amount of the license fees for motor vehicles but provides that the warden of the state penitentiary shall be the registrar of motor vehicles, instead of the secretary of state. The act becomes effective December 1, 1925.

**Nebraska**

Nebraska provides that the county treasurer of each county is to transmit to the state treasurer 2½ per cent, formerly 3½ per cent, of all funds collected on the registration of automobiles. Nebraska also made a change in the registration fees. The fees are to be paid to the county treasurer, for the use of the highway fund.

**Nevada**

Nevada makes a complete revision of its motor vehicle law relating to licensing and registration. The county assessor is given prominence in the new law. This official receives and files in his office the applications for registration, and the owner of the motor vehicle is required to pay to the county assessor the personal prop-
erty tax fee. It is made the duty of the secretary of state, who administers the motor vehicle department of the state, to furnish the county assessor with number plates and certificates and other necessary material. The license fees in each case are to be paid to the county assessor of the county in which the owner of the motor vehicle resides. A reduction is made in the motor vehicle license fees, beginning with the year 1926. The distribution of the proceeds is as follows: first, to meet the requirements of the "Nevada Highway Bond Redemption Fund"; second, a certain amount for administration expenses; third, any balance remaining is to be transferred to the state motor vehicle license fund.

Nevada levies a special license fee on passenger and property carriers running over an established route. The fee is 4% of the gross earnings. The license is payable semi-annually to the Public Service Commission. The 30 cent per 100 lb. registration fee is deductible from the 4% of gross earnings. The proceeds go to the counties, for road funds.

New Hampshire

New Hampshire amends that section of the law relating to the registration of motor vehicles, which authorizes municipal permits, by reducing the fees. New Hampshire also reduces the license fees on motor vehicles for state purposes.

New Mexico

New Mexico provides that each motor vehicle operated with gasoline, steam, or otherwise than by electricity, shall pay a fee of $7, plus 50 cents for each 100 lbs. or fraction thereof above 2000 lbs. Commercial cars, in addition to the regular fee, are to pay $3 for each passenger-carrying capacity. The proceeds from all fees are to be credited, two-thirds to the state road fund and the remaining one-third to the several counties, in proportion to the registration fees paid for motor vehicles owned in each county, to be used for the maintenance and improvement of county roads.

New Mexico, in a new measure, requires owners of motor vehicles to make an annual return to the county assessor stating the manufacturer's name, motor number, the weight and carrying capacity, and the model and type of the motor vehicle. The county assessor is to prepare an assessment roll of motor vehicles, fix the assessed valuation, in accordance with a schedule of valuation prepared by the state tax commission, extend the taxes and deliver the assessment roll to the county treasurer. The taxes are to be at the same rates as those upon other property and be paid by the owner, before making application for a registration or license plate. The registrar of motor vehicles, before issuing registration or license plates, is required to compel the owner to show by tax receipt that the property tax upon such vehicle has been paid.
North Carolina

North Carolina enacted a new law which requires motor vehicles used for transporting persons or property for hire, to pay a tax of 6 per cent on the gross earnings. The proceeds are to be paid into the state general fund, to be used as are other general funds of the state. It is further provided that no county, city or town shall impose any tax upon such carriers but may impose an *ad valorem* tax upon the property at the principal office of the carrier.

North Dakota

North Dakota amends the motor vehicle registration law by increasing the rate, based on the factory selling price, from 5 mills per dollar of selling price to 10 mills per dollar. In the case of motor trucks, not used for commercial freighting, there is a general increase in the motor vehicle license fee.

Motor trucks used for commercial freighting pay new fees in addition to the fee of 10 mills per dollar on the selling price.

In the case of commercial passenger vehicles, in addition to the basic fee of 10 mills per dollar of the selling price, there is an additional fee of $10 per passenger based on the seating capacity of the vehicle.

Ohio

Ohio provides for a reduction in the license fees on motor vehicles for the year 1926 and thereafter. The reduction is about 50% in case of passenger cars. Commercial cars, in addition to the flat-rate fee based on horse-power, are required to pay from thirty cents to eighty cents for each 100 lbs. of gross weight. Ohio further amends the motor vehicle law, by creating in the office of the secretary of state a bureau of motor vehicles, to be administered by a commissioner of motor vehicles, who shall be appointed by the secretary of state and serve at his pleasure.

Oklahoma

Oklahoma increases the registration fees on automobiles, motorcycles and motor trucks from $10 to $12.50, the fee being based on the manufacturer's list price. The fee is also increased when the manufacturer's list price is in excess of $500. The fees on motor trucks are also increased.

A change is also made in the distribution of the proceeds of the registration fees.

Oregon

Oregon imposes a charge upon motor carriers engaged in transportation for compensation, for the use of the highways of the state. Such motor carriers are divided into six classes. The fees paid by all classes are based on a fixed method of computation, with certain deductions to each of the classes.
South Carolina

South Carolina reduces the fees on automobiles and on trucks using pneumatic tires. A new provision allows a reduction of 50% of the license fee on trailers using pneumatic tires.

South Dakota

South Dakota enacts a new law relating to the fees on transportation by motor carriers of persons or property for hire. The board of railroad commissioners administers the provisions of the law. All fees are to be paid into the state treasury, to the credit of the state highway fund, to be used for the maintenance of state highways.

South Dakota also provides for a new distribution of the proceeds from motor vehicle license fees.

Utah

Utah increases the fees payable by motor trucks.

Vermont

Vermont makes a complete revision of its motor vehicle law. There is created a motor vehicle bureau in the department of secretary of state, who is given complete authority to administer the motor vehicle law. The fees for trucks which were formerly based on a tonnage capacity and at a flat rate are changed to a graduated rate, based upon weight.

Wyoming

Wyoming provides for an additional fee of $1 for each passenger seating capacity in excess of seven; and for trucks of a rated capacity of not more than \( \frac{1}{2} \) ton the same fees as paid by passenger cars, which are based on horsepower.

Gasoline Tax

Every state but four levies a gasoline tax. The states which do not levy such a tax are Illinois, Massachusetts, New Jersey and New York. The states which this year joined the list are Iowa, Kansas, Michigan, Minnesota, Missouri (by an initiative measure approved Nov. 1924), Nebraska, Ohio, Rhode Island and Wisconsin. Seventeen states this year increased the gasoline tax rate and two, Montana and Pennsylvania, made no increase. The following indicates the legislation this year.

Connecticut

The tax was increased from one cent to two cents, the increase becoming effective from July 1st.
Florida

Florida increases its license tax from three to four cents per gallon. The increase of one cent goes to the state road department, for the construction and maintenance of state roads.

Georgia

Georgia increases the license tax on fuel distributors to 3½ cents per gallon, the former tax being 3 cents per gallon. Georgia also provides for a like tax of 3½ cents per gallon on each distributor bringing motor-fuel into the state for the purpose of distributing from tank-cars or other original packages for use within the state. The carriers are to make a daily report to the comptroller general of the state showing all deliveries made by them of gasoline or other motor fuel. The proceeds of this tax are to be distributed in the same manner as the 3½ cent tax on distributors selling motor fuel in the state.

Idaho

Idaho increases the rate of its tax to three cents per gallon, the former rate being two cents. Certain exemptions are allowed.

Indiana

Indiana increases the rate of the tax to three cents, formerly two cents. A change was also made in the distribution of this tax. Two-thirds is to go to the state highway fund, one-third is to go to the general fund of the state to be known as the county, cities, and town council fund.

Iowa

Iowa imposes a license fee of two cents per gallon on sales by the distributor. Exemption from payment of license fee is allowed for agricultural purposes, and to the state or a municipality and for certain commercial purposes. In the distribution of the tax one-third goes to the so-called primary road fund, one-third to the county road fund and one-third to the township road fund.

Kansas

Kansas provides for the levy of a two-cent tax on each gallon. The tax is to be used for the construction and maintenance of highways. The distribution of the tax is in the hands of the state treasurer, who pays back to each county that portion of the gasoline tax collected from such county, the moneys to be devoted by the counties to the improvement of roads.

Maine

Maine amends the law by increasing the tax to three cents; the former tax was one cent. Gasoline, for exclusive use in motor boats, tractors used for agricultural purposes or for use in station-
ary engines or in the mechanical or industrial arts shall have a refund of two cents on each gallon so used. In the distribution, 16½ per cent is to go for the maintenance of state and state-aid highways, interstate, intrastate and international bridges; 16½ per cent to be added to the fund for the construction of third-class highways; 33½ per cent to go to the construction of state-aid highways; 33½ per cent to be used for the construction or reconstruction of state highways.

**Michigan**

Michigan provides for a tax of two cents per gallon, to be paid by the dealers. Those purchasing gasoline, to be used other than in the operation of motor vehicles on the streets and highways of the state and municipalities or by the federal government, are to be given a refund of the amount of the tax paid. The proceeds are to be paid into the state treasury, to the credit of the state highway fund, a certain amount to be paid to the several counties of the state. A further amount goes to the payment of principal and interest on state highway bonds and the balance for the construction and improvement of the public highways of the state. The secretary of state administers the act.

**Minnesota**

Minnesota imposes an excise tax of two cents per gallon on sales by a distributor. Persons using kerosene in generating power for propeller motor vehicles on the public highways are to report to the chief oil inspector the quantity of kerosene so used and pay an excise tax of two cents per gallon. Gasoline purchased for any purpose other than use in motor vehicles shall have a rebate to the amount of the tax paid. Gasoline used by the United States or any of its instrumentalities is not subject to the tax. The act is not to apply to interstate commerce. The proceeds of the tax is placed in a special fund known as the gasoline tax fund and is to be credited to the trunk highway fund.

**Missouri**

Missouri, through an initiative measure, approved at the general election in 1924, provided a license tax of two cents per gallon on motor vehicle fuels. The vote on this measure was 742,836 for, and 348,007 against. A tax is laid on every distributor and dealer, the tax, however, to be paid but once. Rebates are allowed those purchasing gasoline for agricultural or commercial purposes or for use in stationary engines or in motor boats. The tax is paid into the state treasury, to the credit of the state road fund.

**Montana**

Montana makes a change in the distribution of the proceeds of the gasoline tax.
Nebraska

Nebraska provides for a tax of two cents per gallon upon all motor vehicle fuels. The tax is to be paid by the dealers to the secretary of the department of agriculture who administers the law. A rebate is allowed on gasoline purchased for strictly agricultural purposes. The proceeds of the tax are to be paid into the gasoline highway fund, and be apportioned to the several counties of the state for improving the state and federal highway system.

Nevada

Nevada amends its gasoline tax law, by increasing the excise tax from two cents a gallon to four cents a gallon.

New Mexico

New Mexico increases its excise tax on gasoline to three cents per gallon, formerly one cent. The proceeds of the tax are to be paid into the state treasury for the use of the state road fund for the maintenance of state highways. Formerly $15,000 of the proceeds of the gasoline tax was given annually to the state fish hatchery.

North Carolina

North Carolina increases the tax from three to four cents per gallon.

Ohio

In Ohio the rate of tax is two cents on each gallon of motor vehicle fuel. Certain specific exemptions are allowed from the tax. The state tax commission, the state auditor and the state treasurer have certain administration powers in connection with this tax.

Oklahoma

Oklahoma increases the excise tax on each gallon from $2.5 cents to 3 cents.

Pennsylvania

Pennsylvania continues the gasoline tax of one cent per gallon for two or more years, or until June 30, 1927. It is further provided that 25 per cent of the fees obtained from the registration of motor vehicles and the whole amount of the emergency state tax on liquid fuel shall be paid into the motor license fund in the state treasury, for the use of the department of highways.

Rhode Island

In Rhode Island the gasoline tax is to be assessed by the state board of public roads at the rate of one cent per gallon. The tax is to be paid by the distributor in each case. The proceeds are to be paid into the state treasury, to be expended by the state board of public roads for the construction of roads and bridges.
South Carolina

South Carolina increases the tax from three cents to five cents per gallon. A new distribution of such tax is also provided for.

South Dakota

South Dakota increases its license tax from two to three cents a gallon. Dealers in motor vehicle fuels are also required to pay an annual tax of $5 for each place of business.

Tennessee

Tennessee increased the tax on each gallon of gasoline from two to three cents.

Utah

Utah increases the tax on each gallon from 2½ cents to 3½ cents.

Vermont

Vermont increases the tax on each gallon from 1 cent to 2 cents.

West Virginia

West Virginia increases the tax on each gallon from 2 cents to 3½ cents. In addition to such tax, every distributor is required to pay an annual license tax of $25 for each distributing station or place of business or agency located in the state from which gasoline is sold, and every retail dealer is required to pay an annual license tax of $5 for each filling station or place of business in the state, at which gasoline is sold.

Wisconsin

Wisconsin provides for a tax of two cents on each gallon of motor fuel. Certain exemptions are allowed in the case of gasoline used for agricultural purposes, motor boats, aircraft or for commercial uses. The administration of the law is with the state treasurer. The proceeds of the tax are to be appropriated, with the exception of not to exceed $5,000 for administration, to the state highway commission, to meet the state’s proportion of federal aid construction.

Wyoming

Wyoming increases its license tax on each gallon from the former rate of one cent to 2½ cents.

Assessment

Indiana

By an amendment, Indiana provides that real estate, for purposes of taxation, shall be assessed at its actual cash value, exclusive of any growing crops, vegetables or fruit trees which may be found growing thereon at the time of assessment.
Massachusetts

Massachusetts requires, in the taxation of tangible personal property of partnerships, that the tax shall be laid upon the property wherever located, irrespective of the partners' domicile, and that each partner shall be liable for the whole tax.

Michigan

Michigan makes provision for the taxation of state game reserves and state game farms. The director of conservation is required to furnish the state tax commissioners with a list of such lands and the commissioners will fix the valuations for taxation purposes. The local assessing officer is to enter such lands upon the assessment rolls and assess the same at the same rate as other real property.

Minnesota

Minnesota requires that all personal property used for personal and domestic purposes or for the furnishing or equipment of the family residence shall be listed and assessed in the district where usually kept.

Nebraska

Nebraska provides for a quadrennial assessment of property; formerly the assessment was made biennially.

New York

New York amends the law relative to the taxation of property by providing that the interest of an individual or corporation having the use or possession of real property, of which the legal title is vested in the United States or the state, is made taxable in the same manner as other real property. The interest, however, of the United States or of the state is exempt.

New York also amends the conservation law in relation to the taxation of real estate acquired by the state for river regulation, by providing that such real estate shall be assessed and taxed in the same manner as wild and forest land, within the forest preserve.

North Dakota

North Dakota amends the law which deals with the biennial assessment of real estate. The amendment provides that real property assessed in odd numbered years shall not be re-assessed by the assessors in the following year, but that the valuation in an odd numbered year shall be the valuation in the following year. If real property becomes taxable in an intervening year, it is required to be assessed as of that year. The state tax commissioner may, however, order a reassessment, as also may the county board of equalization, in an even numbered year.

North Dakota, in a general revision of the sections relating to
the assessment of property, prescribes a definite procedure for the correction of assessment errors and for the assessment of property which has escaped taxation in the current and prior years. County auditors are given all the powers and duties of an assessor in discharging the new duties laid upon them by the new law. The new act repeals seventeen sections of the revenue code and brings together in one place all of the provisions of the revenue law which affect the duties of county auditors and county boards, in connection with assessment of property and the taxation of property which has previously escaped.

North Dakota also amends the provisions dealing with the taxation of personal property. The new law clarifies the present law relating to the manner and place of listing personal property. A penalty of 25 per cent in excess of the true value of such property is provided for in case of refusal to list such property. True and full value is defined and the state tax commissioner is substituted for the state auditor as the official who decides where personal property shall be listed, in case of doubt.

Ohio

Ohio amends the section relative to the assessment of property, by providing that the county auditor shall assess real estate once every six years, beginning with 1925. In this connection the county auditor is given authority to employ such expert assistants as may be necessary, with the approval of the state tax commission.

Oregon

Oregon, in an amendment to the revenue code regulating the assessment and taxation of transient live stock, provides for a classification, as to the place where such live stock may be, into home county and grazing county. Such stock is to be listed and assessed for taxation in both the home county and the grazing county. The taxes are to be apportioned, 60% to the home county and 40% to the grazing county.

Oregon in a new measure provides that all ocean-going vessels, whether sail, steam or motor driven, whose home ports for registration or enrollment are in the State of Oregon shall be taxed at only one-fiftieth of the rate of the state tax on buildings and improvements on real estate.

Texas

Texas amends the law relating to the time property shall be valued for taxation purposes, by providing that the tax list shall be sworn to as showing the value of taxable property as of January 1st of each year. This amendment is in the interest of uniformity, as it appears that property was being valued at various dates.
Vermont

Vermont provides that all public lands held by the state as game refuges shall be appraised at a sum not to exceed $3 per acre and be listed to the state in the grand list of the town where located and taxes thereon paid by the state.

West Virginia

West Virginia provides that whenever any person becomes the owner of any undivided interest in lands, or in the surface, coal, gas, ore, lime-stone, fire-clay, timber or other estate therein, such owner may, on request to the assessor, have such undivided interest assessed to him independently.

Rates and Levies

Idaho

An amendment authorizes the board of county commissioners to levy a general tax not to exceed 25 cents on each $100 for state highway purposes, to be paid into the county treasury and apportioned to a fund to be designated as the state highway fund and to be used exclusively for the purpose of meeting state and federal aid funds.

Idaho also authorizes the levy of ¼ mill on the dollar of the valuation of horses, mules and asses in the state, in order to create a special glanders indemnity fund. Idaho further requires municipal corporations to purchase lands outside of the corporate limits for cemetery purposes and to levy a tax of not more than one mill on the dollar for the purchase and maintenance of such cemetery.

Illinois

Illinois fixes the levy for park purposes and other public improvements at 27½ cents on each $100, formerly 30 cents. The rate of levy is not to be reduced below the amount fixed.

Kansas

Kansas authorizes cities and counties to increase levies for various purposes.

Kansas also amends a former law which authorized cities of the first class containing a population of 20,000 or less to levy a tax of not to exceed ½ of 1 mill for the purpose of creating a fund to be used in securing manufacturing institutions.

Michigan

Michigan establishes port districts and authorizes each port commission to levy an annual tax on all taxable property within such district.

Michigan authorizes any city or village to levy a special tax at not to exceed 4 mills on the dollar for promoting industrial, com-
mmercial, educational, or recreational advantages and to establish recreational and educational projects, for the purpose of encouraging immigration and increasing trade, business and industries.

Minnesot

In certain counties Minnesota authorizes a tax levy for fair grounds and buildings, not to exceed one-fourth of one mill.

Montana

Montana provides a tax-levy limit of 15 mills instead of 10 mills for cities and towns. The levy for cities of the first class, with a population of more than 35,000, remains at 12 mills.

Nevada

Nevada authorizes the boards of county commissioners to levy, for the fiscal years 1925 and 1926, not to exceed 5 cents on each $100 of taxable property in the various counties, this tax to be for the use of the 1926 Nevada Transcontinental Highways Exposition.

New Jersey

New Jersey continues the state institutional tax for the year 1926. This tax has been in force for 1924 and 1925. The proceeds are to be devoted to the reconstruction, development, extension and equipment of state charitable, hospital and correctional institutions.

New Mexico

New Mexico authorizes any municipality to levy a special tax not to exceed one mill, which shall be known as the "publicity tax." The proceeds are to be used for the purpose of advertising the resources of such municipality. New Mexico also requires the various counties to levy a special tax, for the years 1925 and 1926, of not to exceed one-half mill, as may be determined by the state highway commission, the proceeds to be paid into the state treasury and credited to the state road fund.

New York

New York again this year fixes the state direct tax at $1\(\frac{1}{2}\) mills, the same as last year. This tax was formerly 2 mills.

Ohio

Ohio authorizes tax districts to levy a tax in excess of the limitations by a majority of those voting on such question at a November election. The period of such levy shall not be over five years, except for debt levies, which may be for the full period of the debt.

Ohio exempts from the statutory tax limitations municipalities which provide by charter for a complete budget system and for a limitation on the local tax rate which may be levied for all purposes or for current operating expenses.
Oklahoma

Oklahoma makes provision for cities having a population of 50,000, to make an annual tax levy of not to exceed one mill upon the dollar of taxable valuation for the purpose of acquiring and maintaining public parks. The law relating to the state hail insurance fund is repealed and the state hail insurance department abolished.

Oregon

Oregon increases the special tax in each district for school maintenance from 5 mills to 10 mills, and authorizes counties of not less than 75,000 population to levy a tax for the purpose of erecting buildings upon agricultural fair grounds. The state levy for the purpose of the soldiers' bonus and loan is reduced from 1 mill to \( \frac{1}{2} \) mill. Oregon also authorizes the county clerk and assessor, in the event that any tax levy reported to them is in excess of the legal limit, not to enter such excessive levy upon the tax rolls. The county assessor, upon the advice of the state tax commission, is to reduce the levy to the legal rate.

Pennsylvania

Pennsylvania repeals the state tax on the fees of notaries public.

South Dakota

South Dakota authorizes each city of the first class adopting the municipal pension act to levy an annual tax for the purpose of establishing a pension fund.

The county commissioners of a county to which an unorganized county is attached are required to levy a tax for the purpose of paying mothers' pensions.

Washington

Washington authorizes any port district, having a population between 45,000 and 80,000, to levy an annual tax for dredging purposes.

Wyoming

The county commissioners are empowered to levy a tax to be used for the care and maintenance of the poor and for the payment of mothers' pensions; also a tax for the purpose of destroying injurious rodents and magpies; also for the creation of a fund for the use of experimental farms.

Special Taxes or Licenses on Cigarettes, Cigars, and Tobacco

Arkansas

Arkansas provides that wholesale dealers in cigars and cigarettes shall pay an annual fee of $25, formerly $50, for a permit to engage in such business. Retail dealers in cigars and cigarettes are required to secure a permit from the commissioner of insurance.
and revenue and pay annual fees. In addition to such permit fees, there is levied an excise or privilege tax on cigars and cigarettes, based on price or quantity.

**North Carolina**

North Carolina makes a considerable change in the law placing a tax on the annual output of cigarettes. An increase is also made in the tax on the annual output of cigars. A new tax on retailers in certain incorporated towns of $10 is imposed.

**North Dakota**

North Dakota provides a tax on cigarettes, cigarette papers, or wrappers and tubes. For issuance of a permit for the sale of cigarettes or cigarette papers there must be paid to the attorney general a mulct tax of $100. A license fee and a further tax must be paid to the state treasurer. The proceeds go to the general fund of the state.

**Oregon**

Oregon imposes an excise tax on cigarettes. Every retail dealer engaged in the sale of cigarettes, cigarette papers, wrappers, tubes, smoking tobacco and snuff, is to make application to the county clerk for license to engage in such business and pay a fee of $2.00; $1.00 of which is to be paid into the county treasury and the other to be paid into the state treasury, for the use of the general fund of the state. In addition to the license fee a graduated excise tax based on the retail sale price of the packages must be paid. The tax is paid upon delivering the product to the consumer, by obtaining stamps from the county clerk which are furnished by the state treasurer.

**South Dakota**

South Dakota amends the law providing for a license tax on cigarettes. The state food and drug commissioner is authorized to grant licenses to sell cigarettes and cigarette papers on railway passenger trains and collect a license tax of $10 therefor. Such commissioner may also grant temporary licenses for the sale of such products in any place, upon receipt of a license tax of $5, such license to be in force not to exceed 30 days. The tax on cigarettes is also increased.

**Tennessee**

Tennessee lays a special privilege tax, in addition to all other taxes, of ten per centum of the intended retail sale price of each cigar, package of cigarettes or manufactured tobacco and snuff. It is provided that this special privilege tax is not to be included as a part of the retail sale price.
MISCELLANEOUS LICENSE FEES AND TAXES

Connecticut

A new source of revenue is provided by the imposition of a tax on motion picture films. The law provides that the state shall charge the distributors a registration fee of $10 for the first 1000 feet of film and 50 cents for each additional 100 feet. Such tax is not required to be paid on news reels or those which portray current events. There are also exempt from the tax, reels of films scientific in character and intended for the use of the learned professions, and reels for the exhibition of pictures for the promotion of educational, charitable, religious and patriotic purposes and for the instruction of employees by employers of labor. The administration of the film tax law is placed in the hands of the state tax commissioner. The commissioner is authorized to revoke the registration of any film which he may find to be immoral or of a character to offend the racial or religious sensibilities of any element of society. The constitutionality of the law has been upheld by the federal district court. The motion picture interests have made appeal to the supreme court of the United States.

Connecticut repealed section 12 of chapter 324 of the laws of 1921, which provided for a state tax on tickets of admission to theatres. By the repeal the entire revenue from this tax will be paid into the state treasury, for the use of the state.

Idaho

Idaho by a new law requires each applicant for a license to conduct a public pool or billiard hall, dance hall, or amusement resort, outside of an incorporated city or village, to pay the sum of $10.

Kansas

Kansas confers power upon cities of second and third classes to license certain trades, occupations and businesses, for purposes of regulation or revenue, provided that none is reserved exclusively to the state or county as objects of taxation or regulation.

Montana

Montana amends the license tax on cement manufacturers and dealers, by reducing the tax on cement, plaster and gypsum from 20 cents to 5 cents per ton.

North Carolina

North Carolina increases the marriage license fee payable to the state from $1 to $3. The counties are to continue the levy of $1 upon each marriage license.
Oklahoma

Oklahoma declares the manufacture, sale and distribution of ice to be a public business, and not permitted unless a license is obtained from the corporation commission of the state. The license fee is 50 cents per ton per annum of the daily capacity of ice manufactured, sold or delivered and the minimum fee is $5.

Oregon

Oregon requires the payment into the state general fund of ten per centum of all fees, licenses and taxes collected by certain state officers, boards and commissions.

Pennsylvania

Pennsylvania amends the mercantile license tax on vendors, by providing that in the case of each retail vendor the rate shall be $2 and, in addition, one mill on each dollar of the gross volume of business transacted during the first month such vendor has been in business, multiplied by the number of months of the license year for which the license shall be issued. In the case of wholesale vendors the fee shall be $3 and, in addition, ½ mill on each dollar of the gross volume of business, computed as in the case of the retail vendor.

South Carolina

South Carolina provides for supplementary taxes on soft drinks, certain cosmetics and chewing tobacco and snuff. The license tax is graduated and based on the sales of such products.

Certain additional taxes are laid upon bonds, debentures, certificates of stock and of indebtedness, sales and transfers of capital stock, promissory notes and documents, proxies, powers of attorney and other instruments.

An additional license fee is also placed on all public utilities, and upon each corporation for profit other than public utilities. Foreign corporations are required to pay an additional annual license fee.

South Dakota

South Dakota enacts a new law licensing the breeding of fur-bearing animals. Breeders' permits are issued by the state game warden upon the receipt of the fee which is to be in lieu of all other tax on such property.

Tennessee

Tennessee enacts a new measure providing for a privilege tax to be paid by those who use the public sidewalks, streets or highways of the state for the purpose of engaging in the business of soliciting orders for merchandise or for making contracts for the future delivery of such merchandise. Manufacturers, if they have paid all other privilege taxes, are only required to pay a further
privilege tax to the state of $1.50, and the same to the county and municipality. Licensed insurance agents, hucksters or peddlers and those engaged in selling religious literature are exempt from these taxes.

Tennessee also requires wholesale dealers in coal oil, gasoline and other illumination oil to pay to the state, as a special privilege tax in addition to all other such taxes, a tax of $\frac{1}{2}$ of 1 cent on each gallon of such oils sold in the state. Such tax is considered a special privilege tax for state purposes and no county or municipality may levy such tax.

**Vermont**

Vermont requires peddlers conveying goods in a motor vehicle to pay a license fee.

**West Virginia**

West Virginia, at the extra session in June, provided for the raising of additional public revenue by levying, in addition to all other licenses and taxes provided by law, taxes on various businesses and occupations.

**Wisconsin**

Wisconsin provides that wholesale produce dealers shall pay a license fee and increases the license fee on transient merchants conducting business in any city or village.

**Poll Tax**

**Indiana**

Indiana provides for an annual levy of $1 on each taxable poll in the state, the proceeds to be paid into the general fund of the state.

**Maine**

Maine amends the law relating to a poll tax by making women registered as voters subject thereto.

**New Hampshire**

New Hampshire reduces the poll tax to $2. Such tax was formerly $3.

**New Mexico**

New Mexico repeals all laws relating to the collection of poll taxes, and no such tax is to be assessed or collected after April 25, 1925.

**Vermont**

Vermont reduces its poll tax from $2 to $1.
Forestry Tax

Michigan

Michigan, in a very comprehensive law, provides for the establishment of commercial forest reserves and for their administration and taxation. The administration of such reserves is placed with the state department of conservation.

A commercial forest reserve after being certified as such by the state department of conservation to the supervisor of the township in which located, shall not thereafter be subject to the ad valorem general property tax but shall be subject to an annual specific tax of 5 cents per acre on pine lands and 10 cents per acre on hard-wood lands. When anyone cuts and removes merchantable forest products he is required to pay to the state department of conservation a stumpage or yield tax of 25 per cent of the whole stumpage value. One-half of the stumpage tax goes to the general fund of the state and one-half to the county in which the lands are situated. The specific tax of 5 and 10 cents an acre is collected by the township treasurer.

The state pays to the county treasurer in each county in which such commercial forest reserve lands are situated an amount equal to 5 cents per acre of such forest lands. The owner of commercial forest reserve lands may withdraw his land, by making application to the state department of conservation and the payment of a fee of 5 cents per acre for each year the land has been registered as a commercial forest reserve. If such land has been listed as forest reserve land for more than 15 years, an additional fee of 10 cents per acre for each year in excess of 15 years shall be paid, as well as the fee of 5 cents per acre. Land listed for more than 25 years is required to pay, in case of withdrawal, a fee equivalent to 30 per cent of the full stumpage value of the forest products upon the land. All withdrawal fees are to be distributed, one-half to the state for the general fund and one-half to the county in which the lands are situated.

New Hampshire

New Hampshire, in a new measure, seeks to encourage the planting and perpetuation of forests. This law provides that the owner of land, not exceeding $25 per acre in value, and which shall be planted with soft-wood trees, not less than 700 to the acre, shall, upon application to the assessors, receive a rebate of taxes as follows; for the first ten years after the land has been planted with such trees, 90% of all the taxes assessed; for the second ten years 80%; and for the third and final ten years 50%. The rebate is allowed only on the condition that the trees are maintained in a satisfactory growing condition. The assessors are to verify any statement as to the condition of such growing timber. It is also
provided that where an area contains 300 or less naturally seeded soft-wood trees per acre, not over 5 feet in height, such trees may be considered part of the necessary 700.

New Hampshire also amends certain sections relating to the taxation of growing timber on wood lots, by providing that before the first of April in any year, any owner of forest land, on which the value of the growth, exclusive of fuel wood does not exceed in value $25 per acre, may apply in writing to the assessors or to the tax commission to have not more than 100 acres, formerly 50 acres, listed as classified forest land.

New Hampshire further provides for an abatement of the state tax in any town in which national or state forest reserve lands are situated, whether such lands were acquired by gift, purchase or in any other manner.

Ohio

Ohio requires that forest land declared by the present owner to be devoted exclusively to timber growing, shall be taxed upon the actual value of the land, and assessed as for similar land in the vicinity, the value of the timber to be included. Timber removed and not used on land belonging to the owner, or used by him in the same district, for domestic uses or domestic improvements shall be taxed at the rate of 5% per annum of the gross stumpage value of the products removed. Half of the tax is to be paid to the county and half to the state agricultural experiment station, for forestry purposes.

Severance Tax

Arkansas

At a special session in 1924 the severance tax on bauxite was reduced from twenty-five cents a ton to two and one-half per cent of the gross cash market value at the point of severance.

Minnesota

Minnesota provides that if the tax on royalties received by the owner of any right, title or interest in land situated in the state, for permission to mine and remove ore from such land, is not paid before June 1st of the year when due, a penalty of 10% shall immediately accrue and 1% per month is to be added to such tax until paid.

Minnesota further provides that in the case of the conveyance by the United States to the state or to any governmental subdivision of lands for national or state parks or other purposes and the owner reserves any right or interest in the timber upon or minerals in such land, such timber interest and any structure erected on such land by the owner is to be assessed and taxed as real estate and the mineral interest is to be assessed and taxed as minerals, separately
from the surface of the land. Such interest may be sold for taxes as other interest in real estate is sold.

Montana

Montana, by an initiative measure adopted at the general election in 1924 provides for a license tax on all persons engaged in the mining business. This law requires all engaged in the business of operating a mine in the state, from which gold, silver, copper, lead or any other metal or precious or semi-precious gems or stones of any kind shall be mined, to pay to the state treasurer an annual license tax for the purpose of engaging in such business of one dollar. In addition to such license tax there is to be paid a percentage of the gross value of the products which may have been derived from such mining business during the year.

This tax is to be computed by the state board of equalization and collected by the state treasurer. The proceeds go 50% to the state general fund and 50% to the common school fund.

New Mexico

New Mexico requires owners or operators of oil or gas wells to make report to the state tax commission every three months of the quantities produced and on hand, the market value of such products and the royalty paid. The state tax commission is to determine the net value, which shall be the market value at the place produced, less royalties paid or owing, and a further deduction is allowed of 50% for production costs and amortization. Such net value is to be taken as the taxable valuation of the output of such well. The local assessor thereupon enters such valuation upon a special tax roll and assesses and extends the taxes at the same rate as that levied upon other property in the county and district in which such well is located. Such tax is to be in lieu of all other taxes on such oil and gas wells or on their production.

Intangibles, Money, Credits

California

A new provision classifies intangible securities for taxation and makes them assessable at 7% of their value, at the local tax rates. This in effect levies approximately a three mill rate on intangible property, such as notes, debentures, shares of capital stock, bonds, solvent credits and mortgages or deeds of trust. It is provided that in determining the full cash value of such intangible property, the assessor shall not take into account the existence of any custom or common method of assessing any other class or classes of property at less than the full cash value thereof.
Kansas

Kansas defines the terms moneys and credits and requires that they shall be listed at their true and fair value in money. On such, an annual tax of 25 cents per annum on each $100 of the fair cash value is laid, in lieu of all other taxation. Money or credits belonging to persons or to corporations, the taxation of which is otherwise provided for by law, or to any national banking association, and the stock of such association shall not be deemed as coming within this act. The amount collected from the tax upon moneys and credits is to be apportioned, one-sixth to the state general fund, one-sixth to the county general fund, one-third to the general fund of the city or township, and one-third to the general fund of the school district in which such property is assessed.

Kansas also requires that before any mortgage on real property or renewal of extension thereto shall be recorded, there shall be paid, to the county register of deeds, a registration fee of 25 cents for each $100 and major fraction thereof. Such mortgage shall not otherwise be taxable.

Nebraska

Nebraska amended the intangible tax law in a number of particulars. Such property is divided into two classes. Class A is to consist of money, legal tender notes and other securities of the United States, savings accounts, bank deposits, bills of exchange, checks and drafts. Such intangible property is to be taxed where assessed at 2½ mills on the dollar of the actual value. Class B is to include all other kinds of intangible property and is to be taxed where such property is assessed at the rate of 5 mills on the dollar of the actual value. The former rate on such property was on the basis of 25 per cent of the local rate upon tangible property where such tangible property was assessed. The new amendment provides that the value of the shares of stock of domestic corporations is to be determined by deducting from the actual value of the paid-up capital stock, surplus and undivided profits, the assessed value, formerly the actual value, of the property of the corporation, both tangible and intangible. The 2½ mill tax and the 5 mill tax is to be in lieu of all other taxes upon such intangible property. It is further provided that the capital stock of banks is to be listed and assessed as intangible property, at 70 per cent of the mill rate at which tangible property is assessed. Formerly bank stock was listed and assessed at the same rate as that of tangible property. The county assessor and the county clerk or other local assessing officer are given increased authority to uncover and place on the tax list all intangibles. There is also repealed the one-mill tax on state and local government bonds and warrants.
Oklahoma

Oklahoma enacts a new law which provides that money shall not be subject to an ad valorem or other tax as personal property. A tax at the rate of one-tenth of one per cent on all moneys, and certificates of deposit is levied. This provision is not to apply to moneyed capital in the state coming into competition with state and national banks or to certificates of stock or evidence of deposit issued by building and loan associations.

Vermont

Vermont makes a new classification of intangibles. The first includes money on hand and in the hands of others, other than deposits in banks; money on deposit in banks located outside the state, and in banks located in the state, except money in national banks drawing interest exceeding 2%; money loaned at interest, and money due or to become due; bonds, notes and securities of a state or any political subdivision, except United States bonds and such other bonds, notes or securities as are exempt from taxation in the state; money, bonds, notes or other securities held by a person or corporation acting as trustee, except such as are exempt; and all other moneyed securities. The property in this class is to be listed to the owner on the first day of April at 1% of its appraised valuation, and be subject to tax at 40 cents on the dollar, payable to the town.

A second classification comprises shares of stock in national banks, trust companies and savings banks; in certain corporations, other than public utilities and insurance and surety guarantee companies; in foreign corporations doing business in the state; all moneyed capital in the hands of individual citizens of the state coming into competition with the business of national banks. This class shall be listed to the owner on the first day of April, at 1% of its appraised valuation and be subject to an annual tax of $2 on the dollar, payable to the town. The taxes assessed on the foregoing two classifications shall be in lieu of all other taxes on such property.

The above provisions do not include money deposited in saving banks, trust companies, or saving banks and trust companies located in the state, on account of which such banks pay a tax to the state. Each domestic bank or banking institution owning shares of stock in other bank or banking institutions shall be subject to the annual tax of $2 on the dollar of such shares of stock, less seven-tenths of one per cent of each dollar of the appraised valuation of such shares of stock.

Deductions on account of debts owing shall not be made from the appraised valuation of any personal property noted in the first two classes.
DISCUSSION ON TAX LEGISLATION

CHAIRMAN PAGE: The floor is open for discussion, gentlemen.

FRANKLIN S. EDMONDS (Pennsylvania): May I ask Mr. Fairchild a question: Has not the Georgia act with reference to the operation of the 25 per cent feature of the federal inheritance tax been declared unconstitutional, and if so, on what ground?

MR. FAIRCHILD: Mr. President, this is just what I was afraid of; that questions would be asked of me. I did not write this paper, and it has 163 pages, and it is only by dint of strenuous labor, since arriving at this conference, that I have been able to make myself superficially acquainted with it.

MR. EDMONDS: If there is a Georgia representative here, he may be able to answer.

GEORGIA REPRESENTATIVE: The attorney general has written an opinion of it, but it is not reported. It is generally thought to be bad.

MR. EDMONDS: The attorney general's opinion is against the act or in favor of it?

GEORGIA REPRESENTATIVE: Against the act.

MR. COLE (New York): For the information of the gentleman, I should like to state my understanding of the present situation in Georgia.

At the time this act was passed, which repealed the former inheritance tax law, the question arose as to the constitutionality of the estate tax act, and it was submitted to the attorney general of Georgia. An assistant attorney general held that the estate tax act was invalid and unconstitutional. Shortly thereafter the question was reconsidered, and the attorney general reversed the assistant attorney general and held the estate tax act to be constitutional, and that is the last word on the subject.

MR. EDMONDS: I should like to ask a second question: I should like to ask if Mr. Blodgett of Connecticut will explain what this Connecticut act is with reference to exemptions of real estate.

In Pennsylvania that is a very serious problem with us. We find that of our total assessed value, of over nine billions, a billion and a quarter is exempt from local taxation, and in certain districts the exemption of realty is mounting up much more rapidly than taxable realty. That has been due to the tremendous expansion of welfare institutions in the period since the war; and it is becoming a question in some localities as to whether the tax on the remaining taxable realty will be sufficient to maintain governmental functions. If there is any solution of that problem, we should like to know.
Mr. Blodgett (Connecticut): I did not know that I should be called upon to discuss this subject. I will outline the plan of approach, however, to you as briefly as I can.

The subject of tax exemption of real estate, as every one knows, is of long growth, and insidious. There are in every state those societies which the general assembly and people generally assume to be of such great worth that the state can do something toward fostering.

There is an historical background for the exemption of church property, educational property and many other kinds of property. This dates back to the dawn of civilization, I guess, and is generally admitted.

As a tax man, I do not see the justification for the exemption of any real estate or buildings, for any purpose whatever, except such as are owned and used by the public and for the public benefit as such. But that is a proposition with respect to which tax people will disagree; more so will clergymen, as a rule, I think.

This growth is becoming quite serious with us, and I observe that there is no unanimity of understanding among the local taxing officials with respect to it, and that it is increasing in amount year by year.

It is very easy for people who have an appeal for some society, well named, as a rule, for being a charitable or a quasi-charitable organization, to approach the assessors and insist that their property should be exempt from taxation.

The assessing officials treat such an appeal with great kindness, as a rule, where societies are involved, particularly if they are participating in politics more than in problems of taxation.

In violation of the law in Connecticut, they, in many instances, went ahead and granted these exemptions, without authority of the statute. In 1923 I caused to be introduced a resolution asking for an investigation of this subject. A commission was appointed, consisting of three members, and they were given an appropriation for carrying on this work.

The commission itself, and as such, I do not believe gave it as much detailed thought as did the clerk of the commission, who was not a tax man. I think perhaps there was some misfortune in that. However, fortunate or unfortunate, the results are as yet undetermined because the act itself does not take effect until October, 1926.

We have now many private charters for organizations and societies of various sorts and kinds which contain exemption provisions. The attempt of this commission was first to be rid of those special exemption provisions.

Take a society like the Y. M. C. A.; everybody approves of the Y. M. C. A., no one more enthusiastically than I, but I could not find any logical reason why a Y. M. C. A. organized in one com-
munity under a special charter should be authorized to have a complete exemption, while in another community it should have an exemption of $50,000, and in another community no exemption at all.

So that the commission, in studying the situation I presented with respect to the Y. M. C. A.—and the same condition obtained with respect to other societies—began to study these charters, and they arrived at the conclusion that all these special exceptions should be done away with, and the act passed does that thing.

It further requires that to obtain any exception of property from taxation the owners of it must put in a list and describe the property and make their claim before the local assessing authorities, and if they do not list the same as precisely as is taxable property, it is set into the list to be taxed.

Prior to this time, in all of the towns but one or two, a church property was made exempt, not by any act of the assessors, but per se, as the result of the language of the law, so that the assessors had no records in their offices with respect to the property which was being exempted from year to year.

That, I think, is a correct method of procedure. In other words, persons claiming an exemption for such property should be required to come forward to the assessor's office, and say what it is, where it is and why they claim it to be exempt under the law, and cite the law that they base such claim upon.

Now, how this 1926 statute is going to work, we don't know. We have attempted to write in general terms and specifically the policy of the state with respect to this subject, and to have it broad enough so that it will admit of the exemption of such property of any society that the state as a whole wants to agree is good enough to hold exempt property.

I am a little apprehensive as to how this statute is going to work out. Of course, it will need detailed study in relation to each particular case. I fancy it will thrust a tremendous amount of work on the tax commissioner's office when we get to going with it.

A good many, notwithstanding the long discussion that has been gone through in the state, do not realize what it is going to mean to them. It means on their part that they have to come forward and put in a list and show us why the property ought to be exempt. That of itself is going to bring about an awakening in respect to it in all corners of the state. How we are coming out I don't know.

If you wish to have a report of our special commission, if you will mail a letter to me asking for it, or if you would be good enough to hand me your names, if it is of interest in your particular states, I shall be more than pleased, when I get home, to send you copies of the results of the investigation of the law.

I believe that is all I can say to you now. Perhaps it is sufficient.
Mr. Saxe (New York): This subject of exemption from taxation is to my mind one of the most vital branches of the broad subject of taxation itself.

In New York we have very complete information with respect to exempt property. There is no trouble with our system as to that, but I want to point out to the commissioner from Connecticut that notwithstanding this complete information, it has never aroused the people of the state to the true meaning, or an appreciation of the extent of exemption from taxation.

We sometimes think that publicity of facts will help to bring about reform, but it has had no such effect in regard to exemption.

During my incumbency in the office of president of the State Tax Commission, and when chairman of the committee on taxation of the constitutional convention in New York in 1915, I tried to arouse interest in this subject of exemption, but I always found that in a very short time I was up against a very stiff stone wall.

The amount of exempt property keeps on growing and growing, and will continue to grow, unless there is some real effort made to arouse the people generally. Notwithstanding that a great many tax officials are entirely in sympathy with what Commissioner Blodgett has said, the fact does remain that it is very difficult to get any support for a change of policy.

Let me point out an interesting incident in the State of New York. Bringing this matter up at this time brings it back to my recollection, because I called it to the attention of the constitutional convention in 1915.

Shortly after the Civil War it was found that the National Guard was depleted, and it was very desirable to recruit the National Guard; so in order to interest young men in that branch of good citizenship, the legislature passed a law that if a citizen served five years in the National Guard, he would receive an exemption from taxation on his personal property. That was on the statute books for some years, and then the legislature repealed it. Presumably it had had its effect.

The question then arose whether it was not a contract with the state. Some taxpayers who had been honorably discharged from the National Guard had enjoyed the exemption from personal property taxation and felt that they were aggrieved by reason of this legislation which took away their exemption. They said they had served the state faithfully for five years, they had been honorably discharged, and they were entitled to this exemption; that the legislature could not take it away, that they had in effect made a contract with the state.

Now, of course we all know that where there is a contractual exemption the legislature cannot repeal it. That is one reason why there will always exist a class of property enjoying exemption
which cannot be affected by any change of the law. But our Court of Appeals took the view—I think it is very interesting to us here—that that was not a contractual arrangement; they said that every citizen of the state is under duty to perform military service, and therefore, although he performed military service for five years, pursuant to a legislative act which gave him something in return for it, he was only performing a duty which the state had a right to impose upon him, and therefore there was no consideration beyond his ordinary duty of citizenship to the state, and they held it was not a contract and that the repeal was good.

That is of great interest, for this reason: There isn't any higher duty of citizenship than the payment of taxes. Just as every citizen is under duty to perform military service, certainly every citizen is under duty to contribute to the support of the state.

As I pointed out in our constitutional convention, many of these low-rate plans can be repealed at any time, even though taxes have been paid under them, because something has moved from the state to the citizen and nothing from the citizen to the state.

Let me see if you get my idea: Take a class of property which under a general property tax is paying taxes at full rate, but under a classification system, some of that property is taken out from under the general property tax and taxed at a low rate, much lower than the general property tax rate; you see that the citizen is enjoying the benefit of lower taxation; something has come to him from the state; he has given nothing to the state, so that at any time that law could be changed. There is no contract.

If that principle is kept in mind, and I think it is a sound legal doctrine, it could be applied to many instances of exemption from taxation, but the great trouble is the exemption of real property, as Mr. Blodgett has pointed out.

Here is the situation that developed in New York. As some of the eleemosynary institutions have found their property growing more valuable, they have sold it, and with the proceeds have moved to a new part or other part of the city where land values are less, and have been able, with the profit which they made from their old buildings, to develop their new property.

That is all right in the case of churches, where they put up an architectural edifice that is attractive, and is a good thing for the community, even from an architectural standpoint, but a tendency arose to move into an adjoining county, and this county adjacent to New York has been made to suffer, because of eleemosynary institutions moving up there, and it becomes quite a burden on growing communities which the older communities could much better sustain.

They tried to meet the situation in New York, and they have stopped that tendency, but only to a slight degree.
The thing that we ought to confront ourselves with in this association, gentlemen, is to study the subject of exemption from taxation, particularly of real estate, so as to start some general movement throughout the country. I don’t think you can get very far in any particular state, because conditions are quite similar. I think there has got to be a general awakening, and the tearing-down process will have to be very gradual; it cannot be done at one fell swoop, and I see no reason why, after an investigation has been made of the situation generally in the state, material could not be very readily gathered by the commission, and I believe that the idea could be advanced, at least to the extent that tax-exempt institutions should be taxed to a certain extent, that they might pay more taxes on the land, and perhaps have the exemption, so far as the buildings are concerned.

That might be a starting point, but nothing can be done along that line unless it is in the nature of a national movement; and I think it is a question that might be considered seriously by this association.

Mr. Tobin (New York): I do not doubt but what Senator Saxe intended to state the facts; but in describing the situation in Westchester county, he should have said that another agency of the state was compelling these institutions to move out of the crowded sections of New York City, for the benefit of the inmates of those institutions; that they were actually forced by a state agency to move out. They did not go out of their own free will; so that while they did profit by the transaction, they profited because they were compelled to go somewhere else.

Chairman Page: Before we continue this discussion, there is one matter I should like to bring to your attention. It has been suggested to me, from numerous sources, that in postponing the discussion of the resolutions until this afternoon, many men will be unable to participate who are much interested in these resolutions; and I have been asked to get your opinion as to whether it would not be better, perhaps, to let you have an opportunity to vote on these resolutions this morning, and to continue this discussion this afternoon. I have no preference, of course, in the matter one way or another, but I should like to know what the preference of this gathering is.

Would you rather postpone further discussion of this exceedingly interesting and important subject and take up your resolutions, or would you rather continue the discussion now and postpone the resolutions until this afternoon?

Mr. Tobin (New York): I move that the report of the committee on resolutions be received at this time.
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(Motion duly seconded)

(Ayes and Noes)

Chairman Page: The motion is carried, although pretty evenly balanced.

Will the chairman of the committee on resolutions take the floor?

Mr. Sneed: The first resolution which your committee reports to the conference is as follows: (Reading)

Resolved, That this conference recommends to the officers of the National Tax Association,—(a) that during the 19th annual conference a session be devoted to the consideration of public expenditures;—(b) that an effort be made to secure speakers who will present as a basis for discussion at that session, first, a survey of the activities of other organizations in promoting an understanding of and in devising checks upon public expenditures and, second, a tentative program, indicating the nature, the scope, and the methods of work suitable and practicable for the National Tax Association to undertake in this field.

Chairman Page: What will you do with the resolution?

Mr. Zoercher (Indiana): I move its adoption.

(Motion duly seconded)

Chairman Page: Any discussion?

(Ayes and Noes)

Chairman Page: It is carried unanimously.

Mr. Sneed: Resolution No. 2: (Reading)

Resolved, That the National Tax Association be requested to appoint a committee of seven to represent said association and confer with similar committees of such other organizations as may be interested, for the purpose of investigating the present dividend and income alternatives of Section 5219 of the United States Revised Statutes in the taxation of national banking associations, to the end that suitable amendments may be made to said alternative provisions so as to carry out the purposes of said section and to obtain the consideration of the results of such investigation by the Congress of the United States; said committee to report at the next conference.

Chairman Page: You have heard the resolution; what is your pleasure?

(Motion to adopt resolution)

(Motion duly seconded)
Chairman Page: Any discussion?

(Ayes and Noes)

Chairman Page: The motion is carried. The resolution is adopted.

Mr. Sneed: Resolution No. 3: (Reading)

Whereas, All authorities on taxation are agreed that, other things being equal, the broader the base upon which taxes are levied the better; and,

Whereas, The income taxes of this country—state and federal— are now levied upon only a very small part of the population; and.

Whereas, The principal hope of maintaining a public policy of proper economy in governmental expenditures is to be found in the active interest of the taxpayers; and,

Whereas, Nothing is so potent in maintaining this interest in a broad way as the payment of direct taxes by as many different citizens as possible,

Be it Resolved, That the eighteenth annual conference of the National Tax Association recommends that the exemptions granted in the levying of income taxes be small and that where relief is needed the rates of these taxes be lowered rather than the exemptions raised.

Mr. Sneed: I move the adoption of that resolution.

(Motion duly seconded)

Chairman Page: Any discussion?

(No response)

(Ayes and Noes)

Chairman Page: The motion seems to be carried, gentlemen. Do you wish a rising vote?

(No response)

Chairman Page: If not, the motion is carried.

Mr. Sneed: Resolution No. 4: (Reading)

Resolved, That this conference considers the taxation of inheritances or estates a proper and legitimate means of obtaining revenue by the state governments.

Mr. Sneed: I move the adoption of this resolution.

(Motion duly seconded)

Chairman Page: You have heard the resolution. It has been moved that it be approved. Is there any discussion?

(No response)
Chairman Page: Are you ready to vote?
(Calls for the question)

(Ayes and Noes)

Chairman Page: The ayes appear to have it; the ayes have it, and the motion is carried.

Mr. Sneed: The next resolution: (Reading)

Whereas, This conference is convinced that a substantial share of the dissatisfaction with and criticism of existing taxes on business concerns arises from the mere variation in the laws as among the various states in which a single business unit may be transacting business and owning property, or to varying interpretations of such laws;

Resolved, That the National Tax Association be requested to investigate this subject, through committees or otherwise, to the end that appropriate remedies for interstate or inter-county complications in the taxation of business organizations, whether corporate or individual, may be devised and suggested to the various states at a future conference.

Mr. Sneed: I move the adoption.

Chairman Page: You have heard the resolution and the motion to adopt. Do you wish to discuss it?

(No response)

(Ayes and Noes)

Chairman Page: The ayes have it; the resolution is adopted.

Mr. Sneed: Resolution No. 6: (Reading)

Whereas, Taxation and public expenditures are two of the most vital problems of the federal and state governments; and,

Whereas, There is an evident need of the establishment of a central agency for the collection of literature, for the purpose of research, and to serve as a clearing house for the state governments and others, on the questions of taxation and finance; and,

Whereas, Because of its well known non-partisan character, the National Tax Association would appear to be the proper body to establish and supervise such a work;

Now, therefore, be it Resolved, That the National Tax Association be and it is hereby requested to appoint a committee to consider the necessity and practicability of the establishment of a permanent research agency by the association, or the advisability of arranging with some established agency, for the giving of service to, and acting as a clearing house for the officials administering the tax laws of the various states and the members of the National Tax Association, and for other like purposes.
Mr. Sneed: I move the adoption.

(Motion duly seconded)

Chairman Page: Just a moment. I did not quite catch in that resolution what it is that the National Tax Association is to do in the premises. Does it resolve that the Tax Association shall establish such an organization?

Mr. Sneed: No.

Secretary Holcomb: Appoint a committee.

Mr. Sneed: As to the feasibility of such a proposition.

Chairman Page: You have heard the resolution and the motion to adopt. Is there any discussion? Are you ready now to vote?

(Ayes and Noes)

Chairman Page: The motion is carried and the resolution is adopted.

Mr. Sneed: (Reading)

Resolved, That this conference requests the National Tax Association to appoint a committee to consider the amendment or revision of those provisions of its constitution dealing with the appointment, credentials and voting privileges of delegates to future conferences; said committee to report at a future conference.

Mr. Sneed: I move the adoption of that resolution.

(Motion seconded)

Chairman Page: You have heard the resolution and the motion to adopt. Are you ready to vote?

Mr. Millbank Johnson (California): I want to say something before this conference at this time; I want to say that I have come to this conference and it has been one of the most instructive meetings that I have ever attended. I want to say that I recognize in the National Tax Association one of the greatest factors or forums for the discussion of these questions that are so valuable and of inestimable necessity to the whole United States.

But, our United States is a very large country, and we have a great many problems affecting one portion of this country rather than another; and I note by the first resolution that you passed here today, that you are about to undertake a discussion of governmental expenditures in an official way, for the first time. There are many people in the United States who believe that the tax-gathering proposition, and the finding of new ways of taxation are almost exhausted. That is to say, there have been so many ways found to tax the people that there are few other ways left, and
some groups of people believe that one of the most important ways
to attack this subject in the future will be a study of governmental
expenditures, and to reduce these expenditures through a wise edu-
cation of the people to what they are actually doing, in voting these
extravagant measures, over which our official family has no control,
in that they are mandatory and must be followed.

I heard a speaker say that the bonds that have been proposed
throughout the United States almost universally went over, while
other measures that were proposed, of a different character, through
the initiative and referendum, did not go over.

Now, some of you of the older states here, who haven’t the initia-
tive and referendum to contend with, have no conception of, let me
say, the thoughtlessness—that is the mildest term I can use—of the
people in voting on these intricate measures of taxation.

If a little town wants to build a city hall, and the town next to
it has a big one, the other town wants a bigger one. They don’t
care who pays for it, but they have to have it.

Along with this movement there has grown up a group of people
who have designated themselves taxpayers. They may not be very
essential to this question of taxation, but after all, if they pay the
price, it seems to me that they have some right in being, and they
are knocking at the door of this convention, with an idea to get in
and deliberate with you upon these questions of governmental ex-
penditure.

I realize that many so-called taxpayers’ organizations are organ-
zied to put across a certain question, and when that question is won
or lost, they dissolve into ether, and there is nothing left of them.
Still, in some of our states, there has grown a very serious and a
very continuous effort on the part of the taxpayers to regulate these
expenditures in the name of efficiency, without disturbing the func-
tions of government; and I therefore hope that your committee will
consider this resolution most carefully, with an idea of permitting
these well organized and serious taxpayers’ organizations admission
into your midst, upon an equal ground with other delegates that
may come to this convention, for the purposes of studying these
problems.

Now, of course it is very well to say that you will only receive
the authority of a governor of a state, but it really is easy to con-
ceive of the many times when a taxpayers’ organization has to
necessarily oppose, as it were, an extravagant or an unwise gov-
ernor, who happens to slip in, and under these circumstances it may
be impossible for a taxpayers’ association to get any representation
from their governor.

I know in this conference that there have been several instances
of that very thing. While I myself was authorized to come here
by our own governor, I have no personal axe to grind. I simply
rise to speak for this motion and to go on record as stating that the taxpayers, gentlemen, are knocking at your doors and asking for admission.

There is another side to this question, which I am a little loath to mention, and yet I feel it my duty, and that is, these taxpayers' organizations are beginning to organize in larger groups. As some of you may know, the Western States Taxpayers' Association represents twelve western states; there is a movement in the south to organize another regional taxpayers' association; and another one in the central states; and the question of a national taxpayers' association is going to be a very pressing one, and I should like to go on record now as representing the largest already formed taxpayers' association, as being absolutely opposed to two national tax organizations in the United States. I believe that the greatest benefit will be derived if we all come together in a common group and discuss our troubles and our questions, and I think through that means we shall get the greatest possible profit out of this national tax organization.

While I am not offering this as a threat, because I am absolutely opposed to the formation of another national association, I am simply calling your attention to the inevitable results of the formation of large groups interested in the same things, and taking on a regional character, such as these taxpayers' associations are beginning to assume.

This question will be brought before the Western States Taxpayers' Conference in Los Angeles, which is to be held next October, and I should like to go before that conference to meet any effort to organize a national conference, with the assurance to those people, who are just as serious and as much interested in these questions as the tax collectors or the tax officials could possibly be, that there is every reason to believe that the taxpayer will receive the same consideration in the National Tax Association as the tax collector or the tax spender, and if I can go before our conference with that message, I feel that it will have the effect of stopping, at least for the present, the formation of a dual organization. Mr. Chairman, I thank you.

Mr. Sneed: I want to announce for the benefit of the conference that this resolution originated with the resolutions committee and was a substitute for several other resolutions presented along the same line.

The reason for the substitution is this, that the National Tax Association and the National Tax Conference have never been precipitate in action. The force and effect of the work is largely because of the care and consideration given to matters, before they are finally carried out.
This resolution provides for the appointment of a committee to consider fully the feasibility of changing the rules of admission of delegates to the conference, and the committee submits that it is a very wise thing to proceed with this matter as cautiously as we proceed with other matters of equal dignity and importance.

CHAIRMAN PAGE: May I ask the chairman of the resolutions committee to read that resolution once more? There are two points on which very briefly I want to call attention.

MR. SNEED: (Reads resolution)

(C. J. TOBIN assumes the Chair.)

MR. PAGE: I think the substance of that resolution and the subject of what Dr. Johnson urges upon us are practically identical.

There has never been any inclination on the part of the National Tax Association, to my knowledge, to exclude from participation in our conferences any citizen who is interested in the subject of taxation and of public expenditures.

It has been necessary, when it comes to taking a vote on matters which are presumed to express the opinion of thoughtful men on these subjects, to do what could be done to assure the conference and the public that it is the opinion of genuinely thoughtful men.

We all know that in taxation, as in religion, there are many freaks, many fanatics, many people with panaceas, and so on; and if you throw your voting privileges open, it is easy enough sometimes for a local community, where you happen to meet, or where sometimes there is some organization with considerable membership, to pack your body, and to get certain resolutions adopted, which do not genuinely express the opinion and judgment of thoughtful men.

This association is the product of a kind of an evolution. It has grown gradually, and the extension of the voting privilege has been a matter of gradual development, guided by caution.

Personally I want to say that I think the voting privilege might well be extended to wider groups. I think that the chambers of commerce which have been in operation for a considerable length of time and have proved their sanity and their business instincts and capacity, should, if they so desire, be entitled to have a representative to express the views of their members when these votes are taken.

I see no objection to extending the representation and the privilege of voting to delegates appointed by state chambers of commerce, which usually are exceedingly thoughtful and able groups. In the matter of taxpayers' unions or associations, some of them are exceptionally useful and active and public-spirited groups. There are some that are mere mushroom organizations, as you all know,
some who take the title of taxpayers' associations whose real purpose is to induce the taxpayers to pay more taxes, rather than to show them how their taxes may be reduced; and I think that if you will adopt this resolution, with the understanding that you are inclined to believe that the committee to which this matter is referred shall be liberal in its interpretation of the mandate you give them, but at the same time shall use reasonable discretion and caution in their extension of the suffrage, that you will amply fulfill Dr. John-
son's very sensible request and at the same time you will add a very desirable element to the membership of your conference. So much for that.

The other point on which I wanted to take this opportunity to speak just a moment is a decidedly more painful one to me, because it involves a confession of failure to carry out instructions which were laid upon the officers of the association during the last meeting, with reference to that resolution adopted with regard to public expenditures.

You are aware that this subject has been under consideration in this body for several years; in fact we have always given great attention to it; but it was a sort of a culmination of thought at the meeting at White Sulphur Springs two years ago, and a motion was there made and adopted, that there should be a national committee created, to take up this matter of public expenditures, make a careful study of the whole situation and assemble information which would lead to conclusions as to what practical steps could be taken that might reduce expenditures and might add greater intelligence to the making or to the carrying out of the expenditures that actually are made.

Governor Lowden of Illinois accepted appointment as chairman of the committee that you then created, but Governor Lowden indicated that before beginning action in this matter he would like to have some guidance as to what it was proposed that he and his committee should do.

Well, there was no official body to express the opinion of this association on this matter, so a little informal committee got together to discuss the question of the scope and methods that should be applied by this Lowden committee, so-called, and the members of the committee gave a great deal of thought to it and talked the thing over a number of times, but there was considerable disagreement among the members of the committee. They had no official standing in the association, or anywhere else, and the committee, being composed of very busy men, unable to stay together and to continue its meetings long enough really to devise a workable system, the result was that Governor Lowden was not able to do anything, and nothing was done.

Therefore, at your last meeting in St. Louis you once more reso-
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luted on this same subject. I don't remember the exact wording of your resolution, but it was to the effect that a committee should be appointed by the president of the association to do what this informal, unofficial steering committee had vainly attempted to do; in other words, to outline the field and to determine just what Governor Lowden had been asked to do.

Your president undertook to appoint that committee, and he requested Mr. Benjamin Loring Young, the speaker of the Massachusetts House, to accept the chairmanship of it. He had read a paper at St. Louis, with which we were all very much impressed, and I had a tentative agreement with him in regard to the rest of the personnel of the committee. Amongst others I may say that Mr. Zoercher, who is sitting here before me, and who likewise had read an exceedingly impressive paper there, on the subject of controlling local bond issues, was to be a member; and there were others. But I did not hear from Mr. Young for months after that, so I never sent out the invitations to other members.

I then wrote to him and got no reply, and then I got Mr. Holcomb to approach our good friend Mr. Long to see whether he could get in touch with Mr. Young and find out whether there was any trouble.

Well, finally, about the end of June, I got a letter from Mr. Young saying that he had changed his plans a great deal; that he had left politics altogether and had gone back into the practice of the law, and by reason of this change he would be unable to act as chairman of the committee.

It was impossible at that date, of course, for me to get a committee to do what you had directed me to do.

This is a confession of faith. I mention it for two reasons. The first is this: To pass resolutions in the glibtest way; to appoint committees to do thus and so looks easy enough, but when you remember that some couple of generations ago enforced servitude, except as a penalty for crime, was abolished in this country, you ought to realize that you cannot compel men to serve on these committees. We are not in a position to give them any sort of remuneration, except what comes to them through expressions of gratitude and appreciation on our part, which is sometimes abundant. The work on a committee of that kind means a great deal of time and a great deal of labor and, sometimes, unfortunately, it means incurring a good deal of actual—shall I say—hostility or ill-will, on the part of those of our friends who are not finally in accord with the conclusions to which the committee comes.

All this is not only costly, sometimes in money, very laborious and exceedingly painful in some of its results, but it means really that while we are compelled, by reason of lack of resources and the character of our organization, to rely upon voluntary service, it
means also that this conference ought to be a little bit careful in
directing that committees be appointed; they ought to consider the
possibility of getting a committee to serve, and be a little lenient
with the officers of the National Tax Association when, as in this
instance that I mention, they are unable to carry out your directions.

I want to bring that matter to your attention partially as an ex-
planation of the failure of the officers of the association to carry
out your directions, and partly as a caution to be somewhat on your
guard in appointing committees and expecting them to do a great
deal of difficult work for nothing.

(Calls for the question)

CHAIRMAN TOBIN: You have heard the resolution which has
been duly moved and seconded.

(Ayes and Noes)

CHAIRMAN TOBIN: The resolution seems to be, and is, carried.

MR. SNEED: I want to explain to the conference that the follow-
ing resolution was not presented to the resolutions committee as a
whole at one time, because of the impracticability of getting that
committee to assemble. Perhaps some of you gentlemen know that
at times it is exceedingly difficult. It was however circulated among
that committee and no objections have been made to it. It was
read last night and will be read again now. (Reading):

Resolved, That the eighteenth national tax conference hereby
endorses the plan of reciprocal legislation, with reference to taxes
on the intangible personal property of non-resident decedents and
commends to the various state legislatures of those states which
impose such taxes, the consideration of this plan as a feasible
method of ultimately attaining the abolition of what has been found
to be an inequitable and wasteful method of taxation.

MR. SNEED: I move that it be adopted.

(Motion duly seconded)

C. P. LINK: For the sake of the record and the technicalities of
the situation, I would suggest that we suspend the rules and have
unanimous adoption.

(THOMAS W. PAGE resumed the Chair)

CHAIRMAN PAGE: I am not sure that I get your request.

MR. LINK: Mr. Sneed explained as chairman that while under
the rules that all resolutions should be submitted to the resolutions
committee, it was physically impossible to present this at one time
to all the members of the committee, and therefore, as a matter of
safeguard I suggested that the rules be suspended.
Chairman Page: It is moved that the rules be suspended momentarily for the consideration of this resolution. Is there any objection?

(No response)

Chairman Page: If not, we will decide that the rules are suspended and proceed.

You have heard the resolution and the motion to adopt; are you ready to vote?

(Question called for)

(Ayes and Noes)

Chairman Page: The resolution is adopted.

Mr. Sneed: I am very certain that the members of this conference will not accuse me of a very large amount of modesty or timidity, but in order to convince them that those qualities are connected with me, I am going to ask the secretary to read the resolution of thanks which has been prepared and which mentions my name.

Secretary Holcomb: I do so with great pleasure. I expect I am perhaps in a position to appreciate more than any of you can imagine, the amount of work required to hold one of our conferences, and this has been no exception to the usual rule.

We owe a very deep debt of gratitude to our friend Mr. Sneed for his arduous work in giving us the splendid conference we have had, in addition to the others who will be mentioned as I read the following resolutions.

Resolved, That the thanks of this conference are extended to:

Hon. Henry L. Fuqua, Governor of Louisiana.
The Mississippi Tax Commission—Hon. C. E. Inman, Chairman, and Hon. A. S. Coody, Secretary.
The Louisiana Tax Commission — Hon. Robert W. Riordan, Chairman, and Hon. F. C. Colbert and Hon. Z. B. Broussard, Members.

Hon. Martin Behrman, Mayor of the City of New Orleans.
Mr. Harry Gamble, Mr. T. Semmes Walmsley, Mr. W. O. Hart.
Miss B. R. Locke and Mr. Win. J. Kearney, Jr., of the staff of the Louisiana Tax Commission, who have cooperated so kindly in connection with the conference details.
The Roosevelt Hotel and particularly assistant manager Carl Cost, for the splendid facilities afforded.
The Western Union Telegraph Company, the Press, and all others to whose efforts, exerted in too many ways to record, the success of the conference and the pleasure of the delegates and their friends are attributable.
Resolved, That this conference hereby expresses especial appreciation of the exceptional and sustained labors exerted in behalf of the success of the conference and the comfort and enjoyment of the delegates, by Mr. and Mrs. Harry P. Sneed of New Orleans, to whom thanks are most emphatically due and are hereby extended.

Resolved, That the ladies of the conference hereby express their sincere appreciation for the many courtesies extended by the ladies of New Orleans. While such a resolution might be considered perfunctory, this is by no means the case, but is a sincere recognition of gracious hospitality.

Chairman Page: You have heard the resolutions. What is your pleasure?

(Motion to adopt)

(Motion duly seconded)

Chairman Page: You have heard the motion.

(Ayes and Noes)

(Motion carried)

Chairman Page: Gentlemen, I believe as far as the resolutions committee is concerned, that completes your report.

Mr. Sneed: That completes the report.

Chairman Page: There is one matter which I hoped to be able to participate with you in enjoying, and that was the inauguration of our new president. I thought we should have our inaugural proceedings this morning, but when I approached our new president with that in view, and claimed the proud privilege of escorting him to the Chair and presenting him to you in his official capacity, he demurred, on the ground that it would take him at least thirty days to get ready.

In view of this demurrer, all I can do, gentlemen, is to bespeak at your hands the same courtesy and consideration and helpfulness that you have shown to the president who is now retiring.

Henry F. Long: It seems to me that before we depart to our respective homes, because I take it this will be our last session, we ought at least to have the privilege, even though we do not hear them speak, of viewing in their splendor our new president and vice-president; therefore I suggest you appoint a suitable committee, physically able to escort these gentlemen to the platform.

Chairman Page: I do hereby appoint for that purpose Mr. Long and Mr. Edmonds.

(Committee escorts the new president and vice-president to the platform.)
Chairman Page: Gentlemen, I have the great pleasure, and deem it a great honor, to be able to congratulate this association upon the distinguished pair that now stands before you. I ask that the new president assume his seat, and Mr. President, will you now take charge of the proceedings.

(President George Vaughan presiding)

President Vaughan: Gentlemen, is there any further business before the meeting?

Mr. Sneed: Aren't you going to make a speech?

President Vaughan: I will just say this: I appreciate thoroughly the responsibility that you place upon me. I think I have some idea of what it means. I have been deeply devoted to the association during the twelve years that I have been connected with it, and I feel that my interest is greater at this moment than it has ever been before, but I don't want you to have your expectations too high as to what I shall be able to accomplish. I can only do as my good friend Link tells about the man who sold a milch cow. This man sold the cow to another man, and after he got the money the other man said, "I didn't ask you this, is this cow a good milker?" "Well," he says, "she is a darn good-natured cow, and she will do the best she can."

I think Mr. Matthews probably has something up his sleeve.

Vice-President J. S. Matthews: No, I haven't anything up my sleeve at all. My remarks are brief.

I have been a member of the association for a long time. There are no particular duties which fall on the vice-president, so I need no time to prepare myself for them. However, in order to rise to the occasion, I have already appointed as secretary, my secretary Mr. George Mathews, my associate. He writes his name with one t instead of two. I can only say that if in the course of your proceedings next year it should fall to the vice-president to have any business to perform, I shall, like the president, endeavor to do the best I can.

President Vaughan: If there is no further business—

Mr. Saxe (New York): I think we should not adjourn without saying a few words with respect to the administration of Dr. Page.

I have been interested in this association for a number of years, and have been a regular attendant at our conferences. It has been a great joy to me, as it must have been to all the members, to have seen the course of the administration and the work of the tax association steered with intelligence and discrimination. Dr. Page has very ably kept us out of any unwise entanglements, including
the League of Nations. I think we owe him specially a debt of thanks for the very wise counsel that he has given this association during the past year, and I hope others will join me in giving expression to their views.

Governor Bliss (Rhode Island): I am very glad to join in very heartily with my friend Saxe. I seldom have the pleasure of agreeing with him so heartily as I can on this occasion.

I am sure we are all very grateful to Dr. Page for the manner in which he has conducted the affairs of this association. I think everybody here is quite well aware that he has had many difficult problems to face, and he has faced them with such skill and tact that many times they have not appeared anywhere near as difficult as they really were. In the hands of a less skillful presiding officer and president, we should have been in difficulties of considerable magnitude, and I am very glad indeed to express my appreciation for the very excellent work that Dr. Page has done for us. (Applause)

President Vaughan: Mr. Secretary, is there anything further?

Secretary Holcomb: Not unless we go back to the discussion of Mr. Hannan's paper.

Governor Bliss: We never go back.

Philip Zoercher (Indiana): Mr. Chairman, I move we adjourn sine die.

(Motion duly seconded)

President Vaughan: It is moved and seconded that we do now adjourn.

(Ayes and Noes)

President Vaughan: The conference stands adjourned, sine die.

(Final Adjournment)
ATTENDANCE AT EIGHTEENTH ANNUAL CONFERENCE

ALABAMA
Marquis, F. C.
Pitts, F. T.

ARIZONA
Hughes, E. A.

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Brown, E. W.
Earhart, H.
Garner, W. H.
McKinney, H. C.
Vaughan, G.
Vaughan, Mrs. G.

CALIFORNIA
Cattell, H. G.
Evans, V. H.
Johnson, M.
Lutz, H. L.
Plehn, C. C.
Riley, R. L.
Vandegrift, R. A.

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Correy, J.
Correy, Mrs. J.
Lea, C. S.
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Perkins, F. A.
Perkins, Mrs. F. A.
Spalding, G.
Spalding, Mrs. G.
Wallinzer, E. J.
Walpole, N. S.
Wood, A. H.

CONNECTICUT
Blodgett, W. H.
Blodgett, Mrs. W. H.
Fairchild, F. R.

Knapp, F.
Williamson, K. M.

DELAWARE
McHugh, F. A.
McHugh, M. W.

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MacLeod, D. R.
Moore, B. F.
Newton, R. W.
Page, T. W.

GEORGIA
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Lyle, E.
McPherson, J. H. T.

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Bogg, Mrs. H. B., Jr.
Cushing, R. B.
Cushing, Mrs. R. B.
Hall, F. H.
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Lewis, E. R.
Miller, R. A.
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Osgood, R. C.
Paddock, H. W.
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Sayler, J. L.
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Sutherland, D.
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Telford, J. D.
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Wicklund, J. V.

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Grace, F. J.
Hamilton, J. C.
Hart, W. O.
Hartwig, N. F.
Heath, E. M.
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Kearney, W. J.
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Lyons, E. P.
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McGraw, J.
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Bjornson, G. B.
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Goodrich, R. M.
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Hagee, G. M.
Naylor, J. C.
Rowe, W. G.
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Smith, F.
Whissell, G. B.
White, J W.
White, Mrs. J. W.
Wood, Miss M. B.

Montana

Walker, J. W.

Nebraska

Buckingham, W. H.
Buckingham, Mrs. W. H.
Grace, J.
Williams, T. E.

New Hampshire

Matthews, J. S.

New Jersey

Atwood, A. W.
Goldingay, T.
Hyland, J. E.
Leighton, W. M.
Mungle, J. A.
Shoenthal, I.

New Mexico

Asplund, R. F.
Hunsaker, D.
Owens, J. E.

New York

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Atterbury, J. F.
Bowers, T. W.
Bradford, R.
Broderick, J. P.
Brown, R. K.
Brownell, G. G.
Butterweek, H. S.
Carter, F., Jr.
Clarabut, G. G.
Cole, A. T.
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Cole, S. T.
Davenport, G. I.
Doyle, E. P.
Gerstenberg, C. W.
Gerstenberg, Mrs. C. W.
Graves, Mark
Hekeler, R.
Holcomb, A. E.
Holcomb, Mrs. A. E.
Holmwood, F. F.
Howard, M. S.
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Lynch, T. M.
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<td>Spahr, M. C.</td>
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<td>Steere, J. M.</td>
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<td>Turner, C. L.</td>
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<td>Woodward, G.</td>
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<td>Bliss, Z. W.</td>
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James, H. W.
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