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Fundamental Economic and Legal Difficulties with Taxation and Some Suggested Remedies

Charles G. Haglund

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FUNDAMENTAL ECONOMIC AND LEGAL DIFFICULTIES WITH TAXATION AND SOME SUGGESTED REMEDIES.

CHARLES G. HAGLUND*

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The earliest development of any legal system usually centers around the fiscal administration of the government. It was for the purpose of creating the fiscal machinery of the Norman kings that our common law developed various writs and summary remedies to aid the government in the collection of the revenues for its support. Thus we find that the sovereign has always been invested with certain summary procedure for the collection of taxes. The ordinary civil remedies have been deemed too slow and cumbersome to afford efficient and speedy remedies necessary in the prompt collection of taxes. Judicial procedure of trial by jury has been unknown in such cases. As a result of the summary measures which have always been allowed for the enforcement of collection of taxes to avoid delay, certain legal rules, less summary, have been developed in the levy and assessment of taxes. Assessors and taxing boards have been allowed much wider discretion, a wider latitude of immunity with respect to official action, in law than other officials engaged in administrative duties. Thus, in the assessment of taxes, valuation of property, and apportionment of the tax burden the law recognizes that no exact mathematical equality can exist and that the most that can be required of taxing officials is the exercise of honest attempts at a fair apportionment of the tax burden among the public. Where departures from the law are not flagrant the decisions of taxing officials in the exercise of their discretion are upheld although there may be reason to question their motives at times. So in theory the people tax themselves for the protection that they receive from, and the duty of support that they owe to, their government. Whether that reserved power is wisely exercised is one of the major problems of our times.

K. L. J.—4
I.

INCOME NOT PROPERTY THE BASIS OF TAXATION

Whether the individual's duty to share in the support of the government rests upon the protection that he receives or upon the personal obligation that he owes to the government are theories upon which economists have differed. It seems that the personal obligation theory is gradually displacing the older protection theory. Under this theory the obligation of the taxpayer to the government is rated according to his faculty or ability to pay. And the ability of the individual to pay depends upon the income that he has and not upon the amount of property that he owns unless he is able to make that property produce income. So the taxation strength of a state is dependent on its powers of production. There must be a market for goods produced, for land and the products from land, or there will be no income out of which to pay taxes. Levying taxes on unproductive property, measured by a fictitious value thereof, is only levying a tax on the capital value of the corpus of the property and must be paid out of capital or out of income, derived from other sources and results sooner or later in the confiscation of the value of the property and the destruction of the source of the tax by the property eventually coming into the hands of the state.

The brunt of the burden of state and local taxation in all of the states at the present time falls on real and personal property. And this irrespective of whether the property is yielding any income from which to pay the tax or not. Taxes should logically be paid out of income and not from capital. As soon as taxes must be paid out of capital it becomes a burden to own property rather than an asset and the enjoyment of owning property of which the law speaks has ceased to exist. More than two-thirds of the states have no personal income tax law at all, and in those that have, if we except New York, Massachusetts and possibly Wisconsin, such tax is entirely inadequate to pro-

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2 Ibid., p. 27.
3 Final Report, California Tax Commission to Governor, 1929, p. 96, shows the New York income tax to be $63,600,000; Massachusetts $50,200,000; Wisconsin $6,800,000. Of other states only North Carolina and Missouri reach two millions.
duce the necessary revenue for the state and local government, or even to lighten the property tax to any appreciable extent. As a consequence the tangible property, whether productive or not, must bear the great burden of state and local taxation. A raw piece of land which produces nothing or a tenement which is unoccupied by tenants is taxed at the same rate as any other productive property. The owner must either pay the taxes out of capital or income derived from some other source or under the tax laws of the state the property will be sold if some one is found who is willing to pay the tax, or the property will revert to the state. The owner has been paying taxes for years perhaps, out of capital, in the hope that he will ultimately find a buyer and receive back some of the money put into the property. Not finding one he is forced to continue paying the property tax out of capital or abandon the property altogether with its original cost and the annual taxes paid in. The owner has but one of two alternatives—cease to pay taxes and abandon the property and his investment or continue to sink capital in the hope that a market will eventually be found. This situation has been aggravated by the land policy of the government in throwing open from time to time millions of acres in the west, denominated as "gratuities," to homesteaders. Much of this has only resulted in placing unproductive land on the tax rolls.

If unimproved land and improved land yielding no income were untaxed, the owner could hold the land for some time and be out only the interest on the capital invested. The present system of land taxation is largely responsible for the stagnation in the real estate market. In fact the land tax has rendered rural land unsalable except at sacrifice prices. And taxes on productive land are out of all proportion to its present income. The excessive high taxes on agricultural land is one of the principal causes of the present agricultural depression. A fair degree of prosperity among the agricultural classes is at the basis of all

4 "In most states farm land is almost unsalable." The Taxation Program of Organized Agriculture, J. C. Watson, 1929, Proc. Nat. Tax Assoc. 285, 290. Also that the decline of farming land is due to the overburdening of the agriculturist by the general property tax, see address of F. O. Lowden, 1929, Proc. Nat. Tax Assoc. 327, 328. To the effect that farm land does not sell, see Taxation of Farm Land, G. F. Warren, 11 Bul. Nat. Tax Assoc. 198.
Where the agriculturist has no purchasing power stagnation in business is the inevitable result. Production in all lines must be curtailed.

A tax upon income is the most equitable form of tax. It accurately measures ability to pay and it does not confiscate property. If property produces no income, as real estate devoted to a home in a city, but has a rental value, taxes should be paid upon the rental value. This would apply to property that is not devoted to business purposes. Tenements and business property should pay taxes upon actual income. And theoretically if income is the basis of taxation there should be no tax on the property itself from which the income is derived. And it follows that property yielding no income should not be taxed except as above qualified. A special rule might be made to apply to vacant urban real estate that is rapidly rising in value to prevent the same being kept out of the market too long. And to discourage large corporations and wealthy individuals from acquiring and holding large tracts of land for the purpose of controlling natural resources a progressive land tax might legitimately have a place. In England there is no general property tax and the exclusive income tax is in successful operation. And apparently there are other European countries with no property tax.

The abolition of the general property tax in this country does not mean that property would cease to be the source of taxation. Most property produces income and has a rental value. That would continue to pay taxes upon the income. By removing taxes from unproductive property the potential and market value of such property would increase. The property would again be rendered salable and when sold the owner would pay an income tax on the increment of value. The more rapid the turnovers and the larger the profits the greater would be the taxes. Adam Smith in 1776 clearly stated that income rather than property should be the measure of ability to pay taxes.

"Agricultural prosperity is infinitely more important to industry than industry is to agriculture." C. R. White, 1929, Proc. Nat. Tax Assoc. 318.

For graduated land tax in Oklahoma, see Okla. Comp. Stats., 1921, Sec. 9920-5.


Ibid., 379.
In the first of his famous canons of taxation he says: "The subjects of every state ought to contribute to the support of the government as nearly as possible in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state." Then he mentions three classes of revenue that should be subject to taxation—rent, profits and wages. Likewise, Francois Quesnay, who developed the Physiocratic doctrine of taxation, in 1758, advocated a direct tax upon the net product of the soil. 

An income tax, besides having the support of writers who develop economic doctrines, is just. It is flexible and varies with the prosperity of the taxpayer. It does not seek the impossible by attempting to squeeze a tax out of unproductive property, and, if not found there, take anything else. An income tax would not necessarily have to be levied at the same rate upon all property. The rate upon the income from real estate might justly be higher than the rate upon the income from a bond, and especially so if the real estate was constant-rising in value. Then an income tax upon farmers would necessarily vary from year to year. In years of good crops and fair markets there may conceivably be a considerable surplus collected. This should be used to set off deficits in lean years. Then in such case definite certificates of indebtedness might be used for temporary carryovers. Then certain limited discretion might be lodged in taxing officials to vary the rates according to the amount of funds needed. Such limits would be fixed by law. In Oklahoma the State Board of Equalization is authorized to vary the rate of the gross production tax to make the tax conform in amount to what would be derived under the general ad valorem tax. 

II.

Property Tax Unsuit for Present Conditions

The property tax is unsuit for present conditions. It is a heritage from a primitive and agricultural stage of society. Land then was the one great source of wealth. Of tangible personal property there was little and of intangible personality

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9 Wealth of Nations, Bk. 4, Ch. 2.
11 Okla. Comp. Stats., 1921, Sec. 9814.
practically none. Land then might well be said to be a fair measure of faculty or ability to pay. The property tax was then practically a land tax because there was nothing else of value. A land tax is easy to administer. There is no chance of evasion. The needs of government were limited and the tax was not burdensome. And unless the tax is too disproportionate in amount to the value or income from the land a provision in the law that the land will be sold for delinquent taxes usually constitutes sufficient coercion to secure the payment of the tax.

Most state constitutions have a uniformity and equality clause with respect to taxation. And statutes enacted thereunder usually provide that all property, not otherwise exempt, shall be assessed and taxed at full value, true cash value, fair cash value determined at fair voluntary sale, and other like expressions. The uniformity provisions require that all property pay equal rates of taxation within the taxing district and that all be valued at its true value. A few constitutions require that taxes shall be equal and uniform upon "subjects of the same class." Such constitutions permit classification of property for the purpose of applying different tax rates to the various classes. Constitutions of the first type will prevent classification for the purpose of applying different tax rates to various classes of property. The intent of these constitutional provisions, in absence of classification, was that all property of every description, unless exempt, should be taxed at one uniform rate within each taxing district. But when a class of property came into existence that the assessors could not reach the uniformity and equality provisions with respect to taxation came to have directly the opposite result. They have been responsible for the grossest inequality in that the taxing administrations have been unable to secure any equality in assessments of property. It has been said that that constitution is best which says the least about taxation and an argument has been made for wide open constitutions. It is pointed out that the constitutions have become too detailed and verbose from amendments and much detailed regulation found in them belongs to the field of legislation and administration. A flexible tax system is needed that could be

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changed as changing conditions demand. It will promote efficient tax administration, it is contended, and the absence of rigid constitutional provisions will save the state and the taxpayers unnecessary litigation.

The social conditions to which the constitutional uniformity provisions with respect to taxation were intended to apply have changed. As a country becomes industrialized wealth assumes new forms of property and land constantly diminishes in importance as a factor in wealth. Thus new form of wealth takes the form of personal property and chiefly of the intangible kind. Land and tangible personal property which in the early history of this country constituted almost the only wealth now contribute but one-fourth of the income of the country and three-fourths of the income comes from intangible personal property. When the general property tax with its uniformity provisions comes to be applied to this new mass of intangible personal property it breaks down. The intangible property is not assessed. It eludes the assessors and cannot be subjected to the same rates that are applied to real property. One who owns both real property and intangibles may think that the only way to escape an excessive real estate tax is to conceal his intangibles. At any rate, it is the universal experience of taxing officials that intangibles cannot be found and assessed at real property rates. This has the effect of subjecting the real property to the tax that should be borne by both. And the consequence is that the uniformity provisions in the constitutions are defeated. The more highly industrialized a community becomes the greater becomes the disparity between the assessed valuation of land and personal property until the latter virtually disappears. In New Jersey now real estate has an assessed valuation of sixty times that of personal property for purposes of taxation. The general property tax in New York is now 99 per cent of a tax on real estate. It is apparent under such conditions that, if one had

13 (1) State Income Tax and Real Estate, W Combs, 6 Nat. Inc. Tax Mag. 454 (1928).
a property tax alone, real estate would bear almost the ex-
clusive burden of taxation.

Switzerland is much better adapted to a successful admin-
istration of the general property tax, which prevails there, than
the United States. Yet, it has been said that "wherever in
Switzerland personal property is taxed with reasonable suc-
cess, the rate is comparatively moderate, and wherever the rate
exceeds the bounds of moderation, the severest laws fail to pre-
vent general evasion."16 The same conclusion as to the failure
of the general property tax to produce any semblance of equal-
ity in the tax burden is shared in by all who have considered
the subject.17

The tax situation in Illinois has been one of the most
troublesome in the country, and no solution so far has been ac-
complished. A very large proportion of the wealth of the state
consists of tangible and intangible personal property. The state
is highly industrialized. It has no income tax and the constitu-
tion, adopted in 1870, provides that taxes shall be laid in pro-
portion to value of property, and the statutes require that all
personal property shall be valued at its fair cash value.18 Also,
real estate shall be valued at its fair cash value at a price it
would bring at a fair, voluntary sale.19 Under these constitu-
tional and statutory provisions it has proved impossible to secure
any assessment of personal property that would bear any rea-

16 The General Property Tax in Switzerland, C. J. Bullock, 1910
17 (1) Report of Committee on Causes of Failure of the General
(2) Report of Committee on Practical Substitutes for Personal
(3) Annual Address of President, E. R. A. Selligman, 1915 Proc.
Nat. Tax Assoc. 126.
(4) Use of State Income Tax, H. T. Reiling, 8 N. I. T. M. 221.
(5) The Income Tax as a Measure of Relief for Ind., W A.
(6) Breakdown of Personal Property Tax in Illinois, S. E.
Leland, 7 N. I. T. M. 266 (1929).
(7) Primitive Forms of Government Responsible for High Taxes,
(8) The Classified Property Tax in the U. S., S. A. Leland,
Houghton, Mifflin Company (1928).
(9) Taxation of "Productive" Personal Property, S. E. Leland,
7 N. I. T. M. 307.
(10) Taxation of Intangible Property, S. A. Leland, 7 N. I. T. M.
364.
18 Cahill, Ill. Rev. Stats., 1929, Ch. 120, Sec. 3.
19 Ibid., Sec. 4.
sonable proportion to that borne by real estate. Repeated attempts have been made to amend the Illinois constitution so as to permit classification of personal property but so far they have invariably failed. The state has the township assessor in counties under the township organization. It is therefore obvious that the state is confronted with all the conditions that render an equitable application of the general property tax impossible. The state income tax would seem to furnish the only solution in Illinois.

The inevitable result of the escape of so much intangible property and the assessment of the same at low rates where classification prevails are that tangible property and especially real estate are over-burdened with taxation. From studies made by National Bureau of Economic Research and the Bureau of Agricultural Economics, it appears that in 1922, 78.7 per cent of state taxes came from general property. The local units derived 88.7 per cent of their revenue from the general property

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21 Note 18, supra, Secs. 77, 91, 106.
22 Note 17, supra (4), (6), (10).

* Since writing the above Illinois has enacted a personal income tax law which was approved Feb. 22, 1932. A tax is imposed upon every resident of the state with respect to his entire net income from within as well as without the state. Non-residents are taxed upon the entire net income from all property owned and from every business, trade, profession or occupation carried on within the state. The tax is imposed at progressive rates from one to six per cent, all net incomes exceeding $25,000 being subject to the highest rate. Personal exemptions are $1,000 for single persons and $2,500 for heads of families with $300 additional for each dependent. Where income is derived from tax paying property, such property tax shall, at the option of the taxpayer, be allowed either as a deduction, or as a credit against the income tax on such property, but the income tax cannot be decreased by such credit in any greater proportion than his net income derived from the income producing property bears to his total net income from all sources before deduction of personal exemptions. The tax is collected by the state and the proceeds thereof is paid into the public school fund. The tax is not in lieu of any property tax on intangibles.

The State Supreme Court recently held this income tax law unconstitutional in the case of Bachrach v. Nelson (Ill.), 182 N. E. 909, on the ground that a tax on income is a tax on property and violates the uniformity clause of the Constitution applicable to property taxes. Cf. Diefendorf v. Gollet (Ia.) 10 P. (2d) 307, which held that an income tax is an excise and not a property tax and, therefore, not within the uniformity clause. And see Barnett on Income Tax Law in Illinois, 27 Ill. L. R. 119, 135, where writer concludes that the decisions of courts and writers leave no doubt that a tax on income is not a tax on property. See also 10 Tax Mag. 401.
taxes. In the same year over 74 per cent of the assessed valuations was represented by real estate and less than 26 per cent constituted personal property. Of the latter less than ten per cent was intangibles. This shows that real property contributed three-fourths of all state and local government expenditures. But at the same time less than one-fourth of the national income was derived from tangible property. In 1919 when agriculture was at its peak one Pennsylvania county took in taxes nearly 66 per cent of the net rent of the land. In Michigan, Oklahoma, and Wisconsin about thirty per cent of the net rent went to pay taxes in each state. Oregon took thirty-eight per cent and two New York counties investigated took thirty-one per cent. From 1919 to 1926 taxes took nearly fifty-three per cent of the net rent in Michigan and in one county in that state in 1921 about seventy-one per cent of the net rent from real estate was used to pay taxes. North Dakota taxes from 1919 to 1924 absorbed forty-two per cent of the net rent of farms in three different sections of the state studied.

The same disproportionate burden carried by real estate existed generally at that time. And the situation has everywhere become worse since. In a recent message to the legislature Governor Roosevelt urged the necessity of a land survey to classify lands as fitted for agriculture, reforestation, or recreation. He says that "the existing unscientific assessment of rural lands is at the root of most local tax difficulties." He also states that the state has four million acres of abandoned farm land. As early as 1906 a California commission that was studying the tax situation reported that "the over-taxation of real estate is far and away the very worst evil of our present system." The Pennsylvania Tax Commission says that "a superficial investigation points to the conclusion that the increase in State-imposed standards for public schools and highways, including

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23 In N. Y. State 75 per cent of all taxes are paid by real estate which represents one-third of the wealth. The Tax System of N. Y. State, as viewed by the Administration. J. J. Merrill, Member of Tax Com., 1929 Proc. Nat. Tax Assoc. 116, 120.


25 N. Y. Times, Jan. 27, 1931, p. 15.

26 Final Report Calif. Tax Com. to Governor, 1929, p. 47.
bridges, has brought about a tremendous increase in realty taxation, which leads us to believe that this form of wealth is paying more than its fair share of the burden of taxation.”

We have no statistical information for 1930 except that land taxes seem to have been everywhere on the increase, at least no reduction, that there was a general and partial crop failure over the agricultural regions in the country, that wheat brings the farmer about 40 cents a bushel in the Dakotas and that the farmers in the south are unable to provide themselves with food. The writer has in mind a specific piece of land in North Dakota that brought the owner an income last year of one-third of the land tax. And there are millions of acres which due to location, crop conditions, and present prices of agricultural products that are not bringing in a sou to the owners. To be required to pay a heavy land tax under such conditions amounts to confiscation of capital to which the application of the general property tax to intangibles affords no parallel. And add to this that land values have been on the constant decline since 1920 and are now unmarketable except at sacrifices many times below their assessed valuations. The remedy is not in the restriction of immigration. The sparsely settled states in the west need millions of people to revive land values. The trouble was with the government’s land policy in throwing open millions of acres of the public domain to homesteaders and get the land on the tax rolls before it could be put to any gainful purpose. The same applies to the railroad land grants which the roads sold to the public.

Where only one-fourth of the national income is derived from tangible property and three-fourths of all local government expenditures are contributed by real estate taxation it becomes apparent that the system of taxation in force has become wholly unsuited to our present conditions. Urban real estate which rises rapidly in value, which often carry improvements of high rental value and where the turnovers are frequent is able to sustain heavy taxes. Not so with rural real estate where income is small or nothing, where sales are few and at long intervals of time, and where values are constantly declining. Such property is not able to bear heavy taxes. It re-

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solves itself into such taxes having to be paid out of capital and sooner or later bankrupt the land owners.

Primitive forms of local government which are retained are to a large extent responsible for the increased tax burden borne by real estate. While everything connected with industry has been modernized the old local government with its multiplicity of officials and unadaptability for efficiency is still preserved. It is the most difficult thing we have to change. The local government of North Dakota is a representative type of the decentralized form. The congressional township of six miles square is the local unit of rural government in the state. An assessor is elected annually by the township voters as well as the board of supervisors. The school board is elected by the voters at another election. The assessor receives his supplies from the county auditor but apparently without any instructions as to his work except clerical work. He is also furnished with a list of descriptions of every piece of real estate in the township to insure that he omits none. Opposite each description the assessor enters the value of the land. This usually consists of copying the valuations of his predecessor, or his own if he was re-elected. He may increase them but rarely lowers them. The result is that valuations which were apparently fair when land values were at the peak in 1920 now are often three or four times what the land could be sold for. The supervisors act as a board of equalization on a date fixed by statute. Taxpayers rarely appear and ask for revision of the assessment, and if they do, the assessor’s valuation is usually increased, especially if the complainer happens to be a non-resident and a “speculator.” The assessor then turns in to the county auditor the valuations as equalized. It may be added that no returns are required to be made to the assessor, but he makes his regular rounds among the farmers and lists the personal property, at which time the farmers bargain for valuations. All the township assessments having been returned the county commissioners act as a board of equalization for the county. Their only function consists in increasing or decreasing the valuations of the township as a whole by some fixed percentage on the assessments as returned by the township. Thus any discrimination existing in

\[\text{See Note 17, supra (7). See also Address of Governor Franklin D. Roosevelt, 1929 Proc. Nat. Tax Assoc. 319.}\]
the township assessments cannot be remedied by the county board. Some townships have the vicious habit of deliberately valuing the land of non-residents and "speculators" at a higher figure, often very considerable, than the valuations placed upon the land of local residents. The only relief for such procedure is an appeal to the courts and the sums involved are ordinarily too small to warrant such delay and expense. The practical result is that the township assessor may place almost any value that he pleases upon the land and commit discriminations however flagrant and the land owner has no remedy. The state board of equalization again increases and decreases the valuations of the counties as a whole so the taxpayer has no remedy here against discriminatory assessments. No classification of land as to value or use to which it may be put exists. A quarter section which is hilly, submerged by a lake and otherwise practically useless is often valued more for purposes of taxation than the best piece of land in the township.

Then it should be noted that all local governmental bodies in North Dakota possess independent powers of taxation with no provision for review except that maximum limits of tax levy are fixed by statute. The amount of highway taxes is usually fixed by the voters at the annual township meeting but all other township taxes are levied by the township supervisors. The school district which usually coincides with the boundaries of the township is governed by a school board also possessing independent powers of taxation without right of review and whose discretion is only limited as to the amount of taxes they can levy by the maximum fixed statute. Like independent powers of taxation are possessed by the village trustees and the county commissioners with no control save the maximum fixed by law. We may state that the voting of school bonds is left to the local voters, but since so much of the land is owned by non-residents, the resident voters always feel that they are entitled to the best that can be provided in the line of school facilities, because such a large proportion of the expense will be paid by "speculators" anyway. And then it is always an easy matter to boost their assessed valuations.

It is obvious that a system of taxing machinery of the type just described is wholly inadequate to cope with the situation in a state where a large mass of the wealth consists of m-
tangible property. It is conceded by all who have investigated the matter that the township assessor is the remnant of a primitive institution that is utterly unsuited to our modern conditions. There is abundant evidence that the township assessor has equally proved a failure in other jurisdictions to secure any semblance of equality in assessments.29

The township assessor should be replaced by the county assessor. And that the office might be out of politics he should be appointed by the tax commission and subject to removal by them. The county assessor should appoint his local deputies. His office should be a full time position and should be filled by an expert in tax matters. The system of purely local assessment has been considered one of the fundamental shortcomings of our present system of taxation.30 Among the remedies that Seligman suggests are the necessity of central fiscal administration, or, at all events, greatly increased central control over the local administration.31 The same necessity for subjecting local finance to state control is emphasized by the same authority on other occasions.32 It is likewise the opinion of Professor Bullock that central control of the process of assessment is necessary for the successful operation of either a property or an income tax.33 In fact, centralization is fundamental in any plan of tax reform. The need of state supervision over local assessments is generally recognized.34

One advantage that one would expect from the county assessor replacing the township assessor should be the discontinuance of discriminatory valuations of land.34 The county

34 Final Report California Tax Com. to Governor, 1929, p. 99.
34 The following descriptions selected at random from a certain township in North Dakota were assessed by the assessor in 1929 at
assessor who would devote his entire time to the office for a definite term would acquire certain expert knowledge in tax matters that the township assessor, who devotes two or three weeks a year to the duties of his office, could never be expected to acquire. Then since he would be subject to the supervision of the state tax commission, or commissioner, an expert and impartial body, it would insure careful work on the part of the assessor's office and his deputies. An appeal from the assessor's valuations would naturally lie to the state commission. And this would be effective, whereas under the North Dakota system the appeal to the supervisors from the assessor, and the only one available, has proved to be a nugatory remedy in practice.

Another reason for the excessive tax burden on real estate is the excessive expenditures that the country has indulged in since the beginning of the World War. Public debts at present incurred must be paid, and the interest on those obligations is now bearing very heavily in increased taxation. But unless we can devise means to curb expenditures in the future little relief from the present tax burden is to be expected. On the contrary, the tendency now is to increase state and local taxes rather than to reduce them. It is encouraging to find in the Proceedings of the National Tax Association in recent years that more attention and space are being devoted to discussion of problems relating to the reduction of public expenditures, whereas in the earlier proceedings all attention seems to be concentrated upon devising means to produce more revenue. That the people have been living beyond their means since 1914 as far as public expenditures are concerned seems to be the unanimous conclusion of all who have investigated or considered the subject. Taxpayers' associations are everywhere

following valuations as shown by books of the county treasurer S. W. ¼, Sec. 8, $2,333, N. E. ¼ of 20, $2,333; S. E. ¼ of 20, $2,333; S. ½ of 15, $4,538; S. W ¼ of 22, $2,333. These valuations are supposed to be 75 per cent of the actual value of the lands. All of these lands were overvalued by the assessor as none of them could be sold at the value placed upon them by the assessor for tax purposes. In 1931 these same lands were assessed at the following valuations for tax purposes: S. W. ¼ of 8, $1,532; N. E. ¼ of 20, $1,799; S. E. ¼ of 20, $1,892; S. ½ of 15, $2,572; S. W ¼ of 22, $2,030. It will be observed that while the other descriptions were reduced in 1931 from $200 to $500 in assessed valuations the S. ½ of 15 was reduced about $2,000 and this in spite of the fact that the "assessors were specifically instructed to assess land at a fair value" by the State Tax Commissioner at the meeting of the commissioner and the township assessors in that county
deploring the tendency. We find indictments against waste and extravagance. Some lay the increased state and local expenditures to the issue of tax exempt bonds. The report of the committee on increase in public expenditures of the National Tax Associations urges the value of financial statistics for state and representative local groups to enlighten the public as to unwise, wasteful or ill-timed spending. The value of the services rendered by the newer types of taxpayers' associations arises chiefly from their educating the public and disseminating information as to public expenditures. The committee emphasizes the necessity of fearless and thorough scrutiny of school expenditures and points out the danger in the method of financing highway improvements existing in some jurisdictions. Long term bonds are issued to pay for temporary improvements, whereas the life of the obligation should not exceed the life of the improvement. And serial bonds are to be preferred to sinking fund obligations. The committee also recommends that public expenditures, public debts and tax rates be limited by law.

In this connection we may mention that prior to 1918 North Dakota had a constitutional state debt limit of two hundred thousand dollars. In that year the Non-Partisan League succeeded in removing that restriction from the constitution and now the state is in debt 25 to 30 millions with nothing to show for it except taxes that have increased three and four times what they were before that time.

On October 25, 1930, the press carried the statement that nineteen states would vote in the November election on propositions of bond issues for public improvements and for the relief of unemployment. Such expenditures are fundamentally and economically wrong, and more so in a time of economic depression. If such expenditures can be justified at all as a means


of relieving a temporary depression they only aggravate the situation in the case of a depression of some prevalence as the present one seems to be. Unless such improvements are necessary and can be done cheaper at this time they have no justification. The state cannot improve the taxpayer's condition by taking his money and using it to create jobs for him. The depression now is largely due to overtaxation. There is a limit to the utility of the state borrowing for public improvements as well as there are limits to individual borrowing for improving his property. Adam Smith clearly showed that the state cannot profit from extravagance and borrowing any more than the individual. The same economic law applies to both. What is borrowed to provide work for the taxpayer today must be paid back with interest in the future. President Coolidge in his inaugural address said: "The wisest and soundest method of solving our tax problem is through economy. The result of economic dissipation to a nation is always moral decay." And President Harding in his Salt Lake City speech on taxation on June 26, 1923, warned against state and local extravagance in public expenditures. After showing the tremendous increase in such expenditures since 1913 and that it greatly exceeded that of the federal government, even with the great war, he stated: "There is but one way for the community finally to get back on its feet, and that is to go seriously about paying its debts and reducing its expenses." But in spite of such warnings state and local taxation have steadily increased since those utterances were made by the Presidents. The total amount of taxes raised by the state governments in 1924 was about three and one-half times that raised in 1913, and the total raised by the county, city, town, village, township, and other districts increased more than three times during the same period.

It is apparent that the first fundamental prerequisite to the reduction of the tax burden is the control and reduction of public expenditures. It has been truly said that "the control

40 N. Y. Times, Mar. 5, 1925, p. 2.
43 Bond, Suggestions for Alleviating the Tax Burden, 10 Tax Mag. 451, 452 (Sec. 1932), concludes that the total tax burden can only be reduced by one method, namely, to reduce public expenditures.
of public expenditures constitutes the greatest problem of taxation.” One often hears it said that the reduction in the tax burden rests ultimately with the people themselves. There are, however, several reasons that render it difficult for the taxpayer to control public expenditures. First may be mentioned the undesirability of submitting questions of bond issues for public improvements and expenditures to unrestricted universal suffrage. It often results in taxpayers’ being subjected to indebtedness that they would not themselves undertake. Those who have no taxes to pay are quite ready to vote for public improvements and saddle the taxpayer with a burden that he would not himself willingly make. It would be impracticable to return to the colonial practice of a property qualification for voting. But we believe that no one should vote to incur bond issues unless by so doing the voter knows that he is directly placing a tax burden upon himself. We propose to supplement the income tax by a direct capitation tax so that everyone irrespective of whether he has any property from which income is derived would be required to contribute to the support of the government. This tax should be in the form of a substantial poll tax fixed at a legal minimum and maximum of, say, ten and twenty-five dollars. This poll tax should be made variable so that when special indebtedness was incurred the taxing authority would have power to increase or diminish it between the limits fixed by law. Women should be subjected to a like poll tax, except that married women engaged solely in keeping a home might be subjected to half rates so as not to place an undue burden upon the husband. Local taxing authorities, such as school boards, township supervisors and county boards now vary the tax rate on property from year to year as expenditures vary. So a variable poll tax would be no departure from methods now pursued with respect to property taxes. Such a capitation tax would insure a direct interest by every voter in public expenditures. Furthermore, where income is taxed practically everyone would be a taxpayer unless tax exemptions are set too high. There would be no greater hardship to pay an income tax without exemptions than a property tax on a home as at present. Good government is best secured by making every

citizen feel that he is sharing a direct responsibility in its acquisition.

The second difficulty at present in controlling public expenditures arises out of the multiplicity of commissions and the increasing complexity of government. The tax commission has for its function to raise all the revenue it can under the law as it exists. The highway commission is interested in spending all it can for improvement. So with the school board. And if the latter has independent powers of taxation there is nothing but public opinion to prevent it from levying the maximum allowed by law. The Reclamation Bureau is spending huge sums to put more land into agriculture. The Farm Board advises the farmers to reduce production. In short, there are too many independent agencies in government each interested in spending money in its own department and extending its service. In the third place there are too many activities already undertaken by the state to hope to reduce the aggregate of public expenditures much. And the tendency is constantly to increase the functions of the state instead of diminishing them. With the increase in population and the growth of large cities it is probably inevitable that governmental functions must increase rather than decrease.

In school and highway expenditures, the two greatest burdens of local taxation, there is much evidence of waste. Rural consolidated schools have been built in anticipation of future needs which will probably never arise during the life of the building upon the advice of some supposed state expert in education. Concrete highways have been built only to discover that they are not on the main line of travel and have been rendered comparatively worthless. The writer recalls an instance where ten miles of graded highway on one side of a railroad track was abandoned and a new road constructed on the other side of the track only to avoid two grade crossings. The county board that made this change had independent power of taxation. It apparently relied upon the report of a surveyor who advised the change.

Whether the remedy for excessive and wasteful expenditures is central and state control is not so certain. All agree

"Wasting a Billion a Year, L. Sullivan, Atlantic Monthly, April, 1931, p. 503.
that centralization of control promotes efficiency in the collection of revenues. It is not so certain that the same centralized control promotes economy in expenditures. Educational administrators are constantly threatening to withhold state apportionments to schools unless certain standards are complied with. Assuming that we have central control with respect to public expenditures the difficulty is to find administrative officials who can properly balance the advantages to be derived from the expenditure of public money with the disadvantages to the taxpayers arising from increased taxation. Unless there is a proper balance between the two, government will not serve the public interests the best. The same difficulty exists even to a greater extent in the choice of legislators. Adam Smith in his fourth canon of taxation says "Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state." He had here in mind administrative waste in the collection of the tax. But the maxim is equally applicable to injudicious expenditures after the taxes have once gotten into the public treasury.

The budget system is a device that has been growing in favor and is designed to keep public expenditures in reasonable correlation to available supplies. The more power given to the executive the better it should function. It has been defined as "a plan for financing an enterprise or government during a definite period, which is prepared and submitted by a responsible executive to a representative body, whose approval and authorization are necessary before the plan may be executed." The budget system in state finance was adopted in Massachusetts in 1918. "The general court may increase, decrease, add or omit items in the budget." After reviewing the budget experience in Massachusetts since its adoption the speaker of the Massachusetts House of Representatives states that "the executive budget system has proved a valuable preventive measure against public extravagance," and that "the budget is not merely a valuable, but is an essential feature for any unit of

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4 Wealth of Nations, Bk. 4, Ch. 2.
4 Art. 63, Sec. 3, of Amendments to the Constitution of Massachusetts.
government, large or small. It will not guarantee good results, but without it good results are almost impossible to obtain.\textsuperscript{48}

In 1927, Indiana enacted a budget law applicable to municipal corporations. It had been preceded by the bond control law of 1919. It provides for the making and publication of the budget by the proper officers and taxpayers are given the right to file petitions setting forth objections. The plan is said to work successfully\textsuperscript{49} The budget was adopted by the federal government during President Harding's administration, and it is said to be a valuable device to keep expenditures of the governmental departments within control.\textsuperscript{50}

It will be observed that the general court in Massachusetts may increase or decrease the executive budget. To promote real central control over expenditures it might be urged that the legislative body should have power to decrease but not increase the budget. That would probably work well when applied to municipal corporations with a progressive executive in charge. It may be open to doubt whether the people should rest such extensive power in the governor of a state or the President of the United States as to fix maximum limits for a budget. It would avoid embarrassing legislation like the recent soldiers' bonus law before Congress. It would secure better coordination between available supplies for the treasury and disbursements. It has been suggested with respect to the national government that the members of the President's cabinet be given seats in the lower house of Congress like the British cabinet members who are also members of the House of Commons in order to secure this better coordination between the executive and legislative departments of the government. Our members of Congress are too dependent upon their home vote for re-election to neglect every opportunity to secure an advantage from the national treasury for their local constituents. But we doubt whether the people are ready to invest the Governor and the President with the powers of fixing maximum budgets. We also doubt that the budget system has been as efficacious in reducing taxes as its promoters have hoped.

\textsuperscript{48} The Budget System as a Preventive Measure Against Public Extravagance, B. L. Young, 1924 Proc. Nat. Tax Assc. 104, 129, 131.
\textsuperscript{50} Note 41, supra.
Then an excessive tax burden has fallen on real estate by reason of the fact that the local units must support schools, construct and maintain roads. School and highway expenditures constitute the two greatest burdens of local taxation. From 1905 to 1926 public school expenditures increased from less than 300 millions annually to over two billions.\(^5\) Education, which is a state rather than a local function, is almost everywhere financed from local expenditures and carried on by the local units of government. In Oregon, education and highways represent 70 per cent of the cost of government.\(^5\) That is not believed to be much above the average for the country.\(^5\) School standards are set, highway construction engaged in, and welfare work undertaken, beyond the ability of the taxpayers to pay. The state fixes the standards for the schools which are imposed on the local communities. It has well been asked. "Can the state legitimately fix minimum costs on a plane entirely above the ability of the poorer districts to pay and then confiscate the property of the inhabitants because they do not pay?"\(^5\)

In this connection we may state that the Federal Highway Aid to the states has in many cases been productive of increasing state expenditures rather than alleviating them. Many of the more sparsely settled states and local communities have engaged upon extensive highway construction programs in order to secure federal aid. Many of those states and communities could not afford them and then highways have been constructed where the travel does not warrant the expenditures involved. Furthermore, the construction having once been completed, the upkeep of the highways is left to the states alone.

Then real estate is overburdened because personal property does not bear its share of taxation. It either evades the property tax or is taxed at low rates in the few states that have income taxes. Writers on economics are in accord that a property tax at regular rates cannot be enforced against intangibles because of concealment. They have advocated low rates for intangibles as they say that it produces more revenue because intangibles will not be returned with general property tax rates in force.

\(^5\) Note 17, supra (7).
\(^5\) See also note 27, supra, and note 24, supra.
\(^5\) Note 13, supra (3), p. 259.
Intangibles cannot be given a preferential rate under the ordinary constitutions with uniformity and equality provisions unless those provisions apply to "subjects of the same class." The constitutions must permit classification before different classes of property can be taxed at different rates. Where they do not permit classification attempts have been made to amend them. Constitutions containing the above quoted clause exist in a few jurisdictions and permit classification.

Much has been written on the classified property tax proposing it as a partial remedy, at least, for tax troubles. The most elaborate work on the subject has perhaps been done by Leland.55 His thesis is classification and a low rate tax for intangibles. The argument that he seems to advance for that is that a low rate will produce more revenue as more intangibles will be returned, whereas under the high general property rates they will be concealed. He deduces abundant proof to show that intangibles escape taxation under the general property tax. It is open to doubt, however, whether the low-rate tax on intangibles will cause more to be listed for taxation. The experience has been otherwise in some jurisdictions. The four mills tax on intangibles has not resulted in any increased assessment nor greater revenue from that class of property in Pennsylvania.56 The evidence that he attempts to deduce, that the classified property tax and the application of low rates to intangibles have reduced the burden on real estate, is not convincing.57 Professor Bullock has proposed a tax upon all incomes and a classified property tax for all tangible property. The entire income to be taxed at the domicil of the owner and all tangible property under proper classification to be taxed at its situs.58 We doubt, however, that the classified property tax can accomplish anything by way of reducing the tax burden borne by real estate.

However, classification can serve as a useful purpose of classifying land as to value for purposes of assessment. The constitutional uniformity and equality clause will not prevent

56 State Finance as Viewed by the Legislator, G. Woodward, 1929 Proc. Nat. Tax Assoc. 185, 187
57 Note 55, supra, pp. 284-287.
that. In fact many constitutions provide that property shall be assessed at actual or market value. This is not done if all land within a taxing district is assessed at equal values irrespective of quality and actual value. Any further useful purpose to be derived from classification is not apparent. Classification for the purpose of securing the application of different tax rates to different classes of property does not afford any solution for our tax troubles. It will not relieve the disproportionate burden of taxes borne by real estate at present which is the fundamental difficulty with our present tax system. Classification of land on the basis of valuation has been done or is in progress in some states. It is submitted that classification of land on the basis of valuation for the purpose of securing equality in assessments is its most productive use and the only kind of classification that can serve any useful purpose in solving our tax problems.

Since the general property tax is no longer suited to our conditions and since classification has failed to bring the relief expected by its promoters, it becomes necessary to seek elsewhere for a solution of our tax problems, if any solution can be found. That solution must be found in the state income tax, first as supplementing the general property tax, and then replacing it. It should be a tax in lieu of the property tax on intangibles from the beginning and then gradually become a substitute for the tax on tangible personality and finally replace the real estate tax. As has been said, "the farmers will not be content with an income tax which represents but an insignificant proportion of the total state and local revenues. Instead, they look forward to the day when income taxes will supplant the property tax as the chief source of revenue." An income tax will render unnecessary any classification of property and any assessment of property as a basis for valuation. In a pure income tax the property from which the income is derived should not be taxed, nor should property that produces no income be taxed, except property which has a rental value although it may not be devoted to business. The difficulty has always been that income

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TAXATION DIFFICULTIES AND SOME SUGGESTED REMEDIES

Taxes alone have so far not produced sufficient revenue. That is due to the fact that intangible property subjected to income tax does not anywhere near bear the proportion of taxes that real estate must bear. If the income tax rates were high enough so that intangibles would bear a tax proportional to that levied on real estate the objection would be raised that the tax would be confiscatory. A property tax that would take half the income from intangibles would be so considered. On the other hand we have shown that it is the constant practice to take one-half to three-fourths or even all the income from real estate in taxes and that is not looked upon as confiscatory. It is difficult to see where the distinction lies. And more so since farm land is not increasing, but constantly decreasing in value.

If real estate is destined to have any relief from the present tax burden, aside from the possibility of reduction of expenditures, there must be a much wider adoption of state income taxes and at higher rates than usually prevail at present. There are sixteen states that have personal income tax laws at this time. They are New York, North Dakota, New Hampshire, Massachusetts, Wisconsin, Delaware, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Virginia, Oregon, Arkansas, Utah and Idaho. In the first five the tax is in lieu of the property tax on intangibles. Delaware, New Hampshire, and Oklahoma have the personal income tax only. California, Connecticut, Montana, Tennessee, and Washington, have the corporate income tax only.

An income tax to afford any relief against local taxation cannot be for state purposes only. It must be distributed and shared with the local communities. In Delaware the entire state income tax is devoted to the maintenance and operation of the public school system of the state. The tax is administered by the school tax board. In New York the tax is administered by the state comptroller. He is directed to retain $250,000 of the tax collected to be used for the payment of refunds. Of the remainder, 50 per cent is paid into the state general fund and the other 50 per cent is distributed to the county treasurers in the proportion that the assessed valuation of real property of each county bears to the aggregate assessed valua-

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61 Laws of Delaware, Ch. 3, Sec. 2 (b), 1929.
tion of the real property of the state. The county treasurer again apportions the amount received among the several towns and cities within the county in the proportion that the assessed valuation of the real property of each town or city bears to the aggregate assessed valuation of the real property of the county. Seligman believes that this form of distribution has the effect of checking under-assessment of local real estate. In New Hampshire the income tax is administered by the tax commission and the entire proceeds, except administration expenses, is distributed by the state treasurer to the towns and cities where the owner of taxable income resides, and where the owner resides in an unorganized place, to the county in which such place is situated. In Wisconsin the income tax is administered by the tax commission and the assessors of income. Of the proceeds, 40 per cent goes to the state, 10 per cent to the county, and the balance to the town, city, or village from which the income was derived. Massachusetts income tax is administered by the commissioner of corporations and taxation, and is all distributed after deducting the cost of administration. The system of distribution is complicated. In substance the state treasurer distributes to each city, town and district the percentages of amount obtained by subtracting from the average amount of tax levied upon personal property in such city, town, or district the average amount that would be produced by a tax upon the personal property actually assessed in each city, town, or district. That is, the amount distributed is dependent upon the amount of tax levied upon personal property. In all the other states the entire income tax goes to state purposes.

It is apparent that real estate can receive no relief from the local tax burden where the income tax is not distributed except in so far as the income tax will reduce the levy for state purposes spread over the localities. The state tax is in any event insignificant as compared with the local tax where highways and schools are supported by the localities. Where the tax, or a part thereof, is distributed to the localities the relief to

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82 Laws of New York, 1919, Ch. 627, Sec. 382.
84 Public Laws of N. H., 1926, Ch. 65, Sec. 31.
85 Wis. Statutes, 1929, Sec. 71.09.
86 Ibid., Sec. 71.19.
87 General Laws of Mass., 1921, Ch. 58, Sec. 18.
local taxation becomes more direct and substantial. The total amount of income tax levied in any state as compared with the total aggregate taxes levied within the same state is too small to afford any very substantial relief against local taxation, however distributed. The total state and local taxes collected in Massachusetts about the time of the war was 175 millions. At the present time the total annual collection is about 386 millions. Since the income tax is 32 millions it is apparent that no very substantial relief can be expected against local taxation from the distribution of the income tax. Relief against the tax burden will most surely be found in the payment of the state and local indebtedness and in the curtailment of expenditures. If the income taxpayer were subjected to the same rates that the farmer is under the general property tax upon his real estate we suppose that the amount produced would be sufficient for both state and local purposes. But such rate cannot be justified any more in the case of the income taxpayer, than it can be justified as an imposition on the owner of real estate under the general property tax. It is apparent that state income tax rates will have to be much higher than at present to afford much relief against the present disproportionate general property taxes. One thing would seem to be clear, and it is this If the local governmental units are going to continue to support schools and construct and maintain highways, the state will have to distribute other forms of taxes, such as inheritance and corporation franchise taxes, now devoted entirely to state purposes. Then the power of the local subdivisions to create debts and issue bonds must be subjected to state control with a complete power of veto if necessary. The farmer is too often the victim of crop failures and unremunerative markets to be able to count on any fixed income with which to pay increased taxes arising from the creation of public indebtedness. Then where there is an income tax upon all sources of income within the state and also a property tax upon land, the land owner will be doubly taxed if his land produce any income unless his income tax is deducted from the amount of his land tax. It is submitted that it should be so deducted if the two taxes are levied concurrently. And where an income tax is in lieu of the property tax, as it usually is in the case of intangibles, the tax rate should be very considerably higher than at present in order that such exempt prop-
erty might carry a burden at all commensurate with tangible property and real estate.

The Massachusetts income tax law has made some attempt to carry out such a principle. It provides for four classes of rates. Incomes from professions, employment, trade or business are taxed at one and one-half per cent and, in 1923, produced 26 per cent of the total income tax proceeds. Incomes from taxable interest and dividends are taxed at six per cent and produced seventy per cent of the total tax. Incomes from net gains from purchases or sales of intangible personal property are taxed at three per cent and produced three per cent of the entire tax, while incomes from annuities are taxed at one and one-half per cent and produced one per cent of the total income tax revenue. The New York income tax law on the other hand does not classify income but uses progressive rates. The rate is one per cent on the net income up to $10,000, two per cent on the excess up to $50,000, and three per cent on the remainder. Intangibles are exempt only if income is derived therefrom, and if owned by persons subject to income tax. It is submitted that the Massachusetts plan which taxes the income from the exempt intangibles at a higher rate is the better plan. But the income tax rates in both states are too low to afford any substantial relief to the real estate taxpayers. It only lightens their burden at the most. The Oregon personal income tax law which was adopted by referendum vote on November 4, 1930, imposes the tax upon both residents and non-residents on the entire net income from every source within the state. It is administered by the tax commission, and the entire proceeds, save $10,000 to be retained for refunds, are paid into the state general fund and used for state purposes only. The rates of taxation are graduated and not classified. The tax is not in lieu of the property tax upon intangibles which are taxed five

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71 Ibid., Secs. 69-1530.
72 Ibid., Secs. 69-1537.
73 Ibid., Secs. 69-1503.
per cent upon the income from money and credits.\textsuperscript{74} This recent state income tax is thus not designed to relieve the general property tax on land, except in so far as it will reduce the general state levy spread over the local taxing districts. It fails to provide for any distribution to the localities.

The Utah individual income tax was enacted in 1931. Laws of Utah 1931, ch. 44. The tax is imposed upon the net income of every resident of the state derived from any source whatever. Non-residents are not taxed upon income derived within the state. The tax is progressive from one to four per cent. Personal exemptions are $1,000 for single persons and $2,000 for heads of families with $400 for each dependent other than husband or wife. Real and personal property taxes paid on property within the state may be set off against the income tax not to exceed one-third of the income tax, but shall not apply against any filing fee, which is $1.00 for the filing of an income tax return. Of the proceeds of the tax, after retaining five per cent or a reserve fund for the payment of refunds to taxpayers entitled, seventy-five per cent is distributed to the state district school fund and twenty-five per cent to the state general fund.

The Idaho income tax act was enacted at the extraordinary session of the legislature in 1931. The tax is levied “upon the net income of every individual subject to this tax.” Rates are progressive from 1 to 4 per cent. Income taxed with certain exceptions is that “derived from any source whatever.” Exemptions for single persons are $1,000, married persons $2,500 and $300 for each dependent. Non-residents are taxable on income derived within the state. All taxes collected under the act go into the state general fund and “shall reduce by corresponding amount the direct tax levy which the State Board of Equalization would otherwise make and apportion to the several counties.” Sec. 65. The constitutionality of the act has been sustained as an excise tax and it has been held that it does not violate the constitutional inhibition against double taxation. \textit{Drefendorf v Gallet} (Ida.) 10 P (2d) 307

Take the situation as we find it at present with enormous debts already created that must be paid, the most effective means by which to distribute the tax burden and thus relieve property of a part of the burden is for every state to enact a state income

\textsuperscript{74} Ib\textit{id}.\textit{,} Secs. 69-1402.
tax law and for those that already have one to increase the in-
come tax rates and reduce the personal exemp-
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75*tions.
And at least 75 per cent of that tax should be distributed to the local subdivi-
sions unless the state would take over the financing of
the schools and roads. An argument against an income tax with-
out exemptions is that there will be so many small amounts to
collect that the cost of administration in collecting the same
will be more than the taxes realized. That same objection exists
where an individual’s income falls just above the lowest exemp-
tion. He is required to make a return even though little or no tax
will be due. An income tax without exemptions and the imposi-
tion of a minimum tax of five dollars would obviate the argument
against cost of administration in the collection of small amounts.
And it would be the most effective way to bring home to the voter
his responsibility for the tax burden and the part that it is his
duty to share in government.

The first successful modern state income tax law was that
enacted in Wisconsin in 1911. It imposes a tax of reasonable
amount, in lieu of other taxation of intangible property and is
administered by special assessors of incomes who are appointed
and controlled by the state tax commission. The features of
centralized machinery for operation which have made it suc-
cessful are indispensable to the successful operation of any in-
come tax and likewise to the administration of any property
tax. The Wisconsin law has furnished the model for later income
tax laws as to centralized administrative machinery. An income
tax law thus administered would be successful, it seems, with-

74* The House of the Alabama Legislature in special session in
1932 approved a bill proposing a constitutional amendment permitting
the imposition of a state-income tax. Likewise the West Virginia Legis-
lature in special session the same year adopted a joint resolution submit-
ting at the November election a constitutional amendment empow-
ering the legislature “to tax privileges, franchises and incomes of
persons and corporations and to classify and graduate the tax on all
incomes.” A constitutional amendment providing for a graduated
income tax was voted on at the same election in Minnesota. 10 Tax
Mag. 341-42. Groves, Recent State Tax Legislation in the United States,
10 Tax Mag. 405 (November, 1932), states that the principal tax
problems of the last two years has been that of relieving general prop-
erty of its heavy burden of taxes; and that relief has followed two
main lines: reduction of governmental expenditures and shifting the
burden from the general property tax to other sources of revenue. He,
further states that at the last election several states voted on tax
limitation and income tax statutes and constitutional amendments
authorizing income tax laws. A number of states raised the rates
of their income tax schedules.
out any further legislation looking to the discovery of intangible property.

The collection at source of the income tax is applied under the New York law with respect to income due to non-residents.\textsuperscript{75} The collection at source is objectionable in that it places undue burdens on the collecting agent. Then a non-resident may be required to pay an income tax whether he would be liable for one or not. It can take no account of his rights to exemptions or the amount of his yearly income unless a return is filed whether he is liable for a tax or not. The deductions would be made from each month's pay irrespective of how long he would work or how much is earned. Yet a difficulty is presented how to collect the tax against a non-resident in any other way. It is well known that the state tax officials cannot go into another jurisdiction and collect the tax from the non-resident.

Where a corporation does business in several states, and assuming that the corporation would be taxed on its income or business in every state, a system of centralized collection and distribution back would facilitate tax matters very much and would avoid double taxation being imposed on the corporation. In that event it would be desirable that every state should have an income tax law and the rates should be uniform and the tax might be in lieu of the general property tax, although that would not be necessary. Assuming that Michigan had a state income tax law and would levy a tax on the Ford Motor Company's total income, that tax should be distributed among the several states in proportion to the amount of income derived by the Ford Motor Company from each of the several states. And the income derived by the Ford Company should not be taxed by any other state. The company would thus pay one income tax upon its entire aggregate income from all the states and there would be no double taxation of the same income by two states. The same result could be accomplished by allowing each state to tax the Ford Company on the income derived from sales of cars within its own state only. That should be the system pursued in the absence of a centralized collection. Thus the state of Michigan would only tax the company on the amount of income derived from sales of cars made within the state and used there. A uniform tax rate would be necessary for central

\textsuperscript{75} Laws of New York, 1919, Ch. 627, Sec. 366.
collection, but if the states made their own collections the rates could vary from state to state. Uniformity of rates would also be fairer to the corporation. It is clear that an income tax on a manufacturer constitutes a part of the cost of production and will be reflected in the price of the product. If Michigan made the entire collection and distributed the shares among the states it would have to apply its own rates and there would be uniformity in the rate. Another state, however, could hardly claim a distributive share unless it taxed incomes itself, nor could it claim more than was produced under the Michigan rate, hence the necessity of uniform state rates. The income from each state could easily be segregated by the company. In fact, it would have to do so anyway, if each state taxed the income separately.

And so with every corporation and business that derives its income from more than one state. It would seem to facilitate matters most, both as to uniformity of rates and avoiding double taxation, to allow the state of the domicile or principal place of business of the corporation to make the entire collection and distribute the shares to the respective states. That would make the state income tax collections correspond closely to the federal taxing unit and avoid much duplicity in making tax returns on the part of the corporation. Should the corporation do business in a foreign country no distribution would be made to it and probably equity would require that no tax should be levied on its foreign business to avoid double taxation, or at a less rate if the corporation is taxed by the foreign jurisdiction. In return for its protection in the foreign business the corporation would pay the federal income tax so there is no reason why a state should be permitted to tax foreign income, and especially where it has already been taxed in the foreign country. The proceeds of the tax derived from foreign business, if such tax be levied, would be distributed among the several states in proportion to the income that the corporation derives from each of them. There will be no objection to a graduated income tax in this plan of distribution. The total income on which the graduated tax is collected is the combined income from all the states and the distribution is in proportion to the total income derived from each state. It may be objected that the proposed system of centralized collection would be a burden upon inter-
state commerce forbidden by the constitution as interpreted by the highest court. But here the central collection is not for the benefit of any particular state, or for the collecting state, but for all of the states as a whole and it is not perceivable why that should constitute an illegal interference with interstate commerce. The protection originally designed to be afforded by vesting in Congress the control over interstate commerce was against selfish state action, which would seem to have no application to a centralized collection of a tax for the benefit of all the states. Perhaps no more embarrassing state tax problems have been encountered than those where states are undertaking to tax the business of interstate corporations where the business done within the state cannot be readily segregated from the total business of the corporation, or where franchise and capital stock taxes are imposed measured by the proportion that the business done within the state bears to the total business or capital stock of the corporation. The problem in such case is always to avoid unlawful regulation of interstate commerce. It has been asserted that states are unable to cope with interstate corporations and especially in the taxation of bond holders in these corporations. The remedy has been proposed that the United States levy a general tax on their capital stock and bonds and collect the tax, and give to the corporation a right to deduct the tax paid on account of such bonds from the interest paid to the bond holders without regard to their residence. And the proceeds of these taxes could then be distributed among the several states in which the corporation operates, according to the extent of their business therein. And Seligman has suggested that the federal government may have to administer corporation, inheritance and income taxes and apportion the proceeds to the states. The objection to these proposals is that the federal government is already too complicated and has too many functions to perform, let alone imposing the further duty of becoming tax gatherer for the states.

Much has been written on tax exemptions and the consequent increase in the tax burden on property not exempt. The Pennsylvania Tax Commission has recommended the repeal of exemptions on all land values where the property is used for

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"Note 1, supra, p. 131.
religious, charitable, and educational purposes and exempt only the improvements.\textsuperscript{78} It is doubtful whether the aggregate of such exemptions, if repealed, would reduce the tax burden on the non-exempt property to any material extent. The controversy has chiefly centered on tax exempt securities. Since the days of Marshall it has been settled that the states may not tax the securities and the instrumentalities of the United States and, conversely, the United States may not tax the same agencies of the states. Whether the reason advanced by Marshall that "the power to tax involves the power to destroy" should have been applied to preclude taxation of the securities of one by the other may well admit of doubt. At least states usually tax the securities of sister states and such taxes have not been challenged on the ground that they involved destruction of the instrumentalities of the taxed state. And Justice Holmes has said that "the power to tax is not the power to destroy while this court sits," that in Marshall's days it was not recognized that most distinctions of the law are distinctions of degree, and that "interference with government is one of reasonableness and degree."\textsuperscript{79} Yet, it has become firmly established in constitutional law that neither the Federal Government nor the states can tax the instrumentalities and agencies of the other. And while some attempt has been made to show that Congress does possess the power under the 16th amendment to tax state securities,\textsuperscript{80} yet Professor Powell has convincingly shown that Congress possesses no power to tax state securities until the constitution is still further amended.\textsuperscript{81} This view is concurred in by Ritchie who concludes that the 16th amendment confers no power on Congress to tax state securities, or the income therefrom, and that it does not enlarge at all the taxing power of the nation.\textsuperscript{82} The same opinion as to the lack of power of Congress to tax such securities is held by others.\textsuperscript{83} Arguments for the taxation of

\textsuperscript{79} Panhandle Oil Co. v. Miss., 277 U. S. 218.
\textsuperscript{80} Power of Congress to Tax Income from State and Municipal Bonds, E. S. Corwin, 13 Nat. Mun. Rev. 51.
\textsuperscript{83} Power of Congress to Tax State Securities, A. W Gregg, 2 N. I. T. M. 144 (1924).
federal and state securities are numerous. Tax exemptions granted in any form must be made up by the persons and property that are taxed. It is believed, however, that tax exempt securities have not increased the burden on other property to the extent claimed. Securities all fall under the head of intangibles and would be taxed at low rates under a classified property tax and therefore would not produce a tax equivalent to an equal valuation of tangible property. Then if the securities were taxable at uniform rates under the general property tax they would escape taxation by concealment anyway. It is everywhere the experience that intangibles cannot be taxed under a uniform rate general property tax. It is not perceived that this situation would be altered by increasing the bulk of intangible securities that ought to be taxed. The Federal Government is the greatest loser by not being able to tax the income from state and municipal securities. But assuming that they could be taxed, this would not cause any material reduction in the federal income tax rates. Most state securities yield about four to five per cent and only that yield would be subject to the federal tax. It has been argued that by investing in tax exempt securities there is a chance to reduce the federal surtax rates by reducing the taxable income and thus taking the advantage of lower surtax rates. The extent to which that is practiced is perhaps not large. So it is not perceived that federal taxation of state and municipal securities would have any tendency to increase the federal tax to such an extent that there could be any material reduction in the federal income tax rates. On the other hand the revenue lost to the states from the tax exempt bonds of the federal government would be very much less. The government bonds could not be successfully taxed by the states under a general property tax for the reason that intangibles cannot in practice be taxed under a general property tax. In the states that have income taxes the yield from the tax on government bonds would be comparatively small as they run at low interest rates. The taxability of federal and state securities would increase the interest rates and in the end neither the federal nor state gov-

86 Note 85, supra.
ernments would benefit by such increased tax since each would have to pay an increased rate of interest on their own securities. It would only be a case of taking money out of one pocket and putting it into the other. So were each government permitted to tax the securities of the other we cannot see that it would have any effect upon reducing the general property taxes of the states and much less of the local subdivisions. The interest rates to each would increase by the amount of the tax levied by the other division of the government and the increase in interest paid by states on their bonds would amount to more than the tax derived from the securities of the other governmental division.

A greater danger to the increase of the property tax of local subdivisions is likely to arise in the future from the counties having to buy property at delinquent tax sales and from the failure to redeem from such sales. Should the present agricultural depression continue long the counties and the states will become the owners of much land that will cease to pay taxes. For every acre thus taken off the tax rolls the property that continues in private ownership will have to pay increased taxes by the amount that the other land ceased to pay. Private individuals are more and more unwilling to buy land at tax sales with the result that the ownership of more and more land will vest in the state. Never before was so much land sold for delinquent taxes as in 1930. A letter from the county auditor in one of the representative counties in North Dakota states that 30 per cent of the land was sold for delinquent taxes that year and that three-eighths thereof was sold to private parties and five-eighths bid in by the county. The private parties were presumably mortgagees. And a letter from the auditor of another county in the same state states that only 6½ per cent of the land sold for delinquent taxes in 1930 was bid in by private parties while 93½ per cent the county had to purchase. He further states that for the past ten years an average of about 60 per cent was purchased by private parties. It is apparent from this that it becomes increasingly more difficult for the counties to collect delinquent taxes by means of tax sales. A good crop with the return of fair prices for farm products will cause much of this land to be redeemed. But the present enormous general property and land taxes are creating a situa-
tion that is moving us toward socialism to an extent that should not pass unnoticed. So keen an observer as Dr. Richard T. Ely as far back as 1924 said. "Taxes on farm lands are steadily and rapidly approximating the rental value of farm lands, and in a period varying from state to state, but in most of the states in a relatively short period—a period so short that some of us may live to see it; if the movement continues unchecked—the taxes will absorb farm land values, the farmers' land will be confiscated by the state and our farmers will become virtual tenants of the state." Things have been moving very rapidly in this direction since those words were spoken.

III.

INCIDENCE

Business is able to avoid the effect of any tax, largely or almost completely, by shifting the burden on the consumer. That is so to the extent that it is not compelled to reduce prices because of competition. But the economists are all agreed that

* It is of interest to note that in 1920 the legislature of New York empowered local legislative bodies to exempt new buildings used for dwelling purposes from local taxation for a limited period. The act provided that "the legislative body of a county, or the legislative body of a city with the approval of the board of estimate and apportionment—or the governing board of a town, village or school district may determine that until January 1, 1932, new buildings therein, planned for dwelling purposes exclusively, except hotels, shall be exempt from taxation for local purposes other than for assessments for local improvements during construction and so long as used or intended to be used exclusively for dwelling purposes." New York City has availed itself of the power conferred by this statute to grant tax exemption on buildings used exclusively for dwelling purposes until Jan. 1, 1932. This applies to new buildings whether single or multiple dwellings and also to buildings four stories or more in height. For every single-family house $5,000 of the value of the building is exempt and for every multi-family house the same amount of the value of the building for each separate family apartment is exempt. To secure the benefit of these exemptions construction must have been commenced before April 1, 1923, and completed within two years. Multi-family houses commenced after that date but before April 1, 1924, and completed within like time are granted an exemption after such commencement of $15,000 of the value of the building. No later exemptions seem to have been granted. These tax exemptions have no doubt stimulated the construction of many of the city's skyscraper apartment houses.

*8 Laws of N. Y., 1920, Vol. 3, Ch. 949, Sec. 4b.
the incidence of a land tax cannot be shifted.\textsuperscript{90} Certainly is this true of unproductive land. And it will hold true in the case of general agricultural land. The farmer must compete in the world market and has no power to influence prices. He must accept the price that the general market offers. And his land tax is so much of an extra burden which he cannot shift. The merchants and the corporations are organized, deal in a more limited territory and with the aid of tariff can control production and, hence prices. They can thus shift the incidence of the tax on the consumer. So with public utilities—they are guaranteed a certain net income on the investment and the incidence of their taxes is thus shifted on the public. But the owner of land must bear his tax burden alone. He cannot shift it on any other shoulders. It has been said that "nothing is better settled in economic science than the fact that a tax on the structure is shifted to the occupier."\textsuperscript{91} That statement is only true if we assume that there is a supply of available tenants for every structure. As soon as the building of residences, tenements and business structures exceed the demand or even begin to approach the demand, it becomes increasingly difficult, if not impossible, to shift the tax on the occupier. Many places will be vacant for want of tenants and new structures that will be built will cause the tenant to move from the old to the new. Thus new buildings are continually being constructed and occupied at the expense of buildings only a few years old. Under such circumstances it is difficult to see how the tax on the structure can always be shifted on the occupier. The law of supply and demand in such cases will tend to keep the rent at a minimum until it reaches a point where the owner rather than heat the building and keep it in repair will be no worse off if the structure stands vacant. We have already suggested that unproductive land should not be taxed at all or at least much less than productive property. The tax burden should be lighter on those who cannot shift the incidence of the tax. Where the tax can be shifted and spread uniformly there is justification for a higher tax. A system of indirect taxes thus levied on the

\textsuperscript{90}Who Bears the Burden of Taxes? M. H. Hunter, 3 N. I. T. M. 327, 329 (1925).

public is not open to the grave objection that heavy capital taxes are on unproductive land. The principle of spreading the burden of taxation is as fundamental as the spreading of the risk of loss provided against by insurance.

IV

PRESENT REMEDY TO DISTRIBUTE TAX BURDEN

For the present all that it seems possible to accomplish by the way of tax reform is to distribute the tax burden. Economists generally are in favor of spreading the tax base as wide as possible so as to include all sources of revenue. The general property tax, although wholly unsound in theory in that it fails to recognize that income and not property constitutes the measure of ability to pay taxes, must undoubtedly be continued for the immediate future. The sparsely settled states of the west are not ready for the transition which would have to be brought about gradually. A sudden change would render the states destitute of revenue unless income tax rates were abnormally increased. At most a reduction in the amount of land taxes collected and a change in the methods of administration are all that can be hoped for in the immediate present.

We have already mentioned Professor Bullock's proposal of a tax upon all incomes at the domicil of the owner and a classified property tax for all tangible property at its situs. In the model tax plan adopted by the Committee of the National Tax Association, and drawn by Professor Bullock as committee chairman, three complementary taxes are proposed. First, a personal income tax levied upon all persons upon their entire net income from all sources at their place of domicil. This tax does not include corporations. Second, a property tax upon all tangible property levied where such property has its situs. Third, for such states as desire to tax business, a business tax which shall be levied upon all business carried on within the jurisdiction. It should be levied upon the net income derived from business. It is said that this system will avoid double taxation. This plan, in effect, has been recommended for adoption in California.

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92 Note 58, supra.
94 Note 3, supra 75.
With the proposal to tax all tangible property at its situs we must agree if the property tax is to be retained at all. The personal income tax under the proposed plan taxes the entire net income from all sources at the place where the persons are domiciled. This is the plan that prevails in Massachusetts. The statute taxes "income received by any inhabitant of the Commonwealth during the preceding calendar year." The New York income tax law levies the tax on all residents of the state on their entire net income from all sources and also levies a tax on non-residents upon their entire net income from sources within the state. It will be observed that with respect to residents the New York law follows the model tax plan. In addition, however, it taxes income derived within the state by non-residents. The Wisconsin income tax law levies a tax on "all average net income (of) every person resident," and on every non-resident on all incomes derived within the state. It is thus the same as the New York law with respect to the jurisdiction exercised. We cannot agree with either plan so far as it taxes the income of residents derived from sources without the state. In that respect the Oregon law is to be preferred which taxes only income derived within the state whether by residents or non-residents. It cannot be supposed that a state as rich in natural resources as Oklahoma and whose oil fields are developed largely by non-resident corporations would consent to abandon levying its income tax upon the greatest source of income within the state that is carried away by non-residents. A state should tax all the income produced within its borders and, conversely, to avoid possible double taxation, it should not tax any income that is acquired by its citizens from without the state.

The model tax plan is again defective in that it leaves it optional whether the state should levy a business tax or not and excludes corporations from the operation of the income tax. If the business tax were not imposed corporate income would go untaxed. It is well known only a part of the corporate income is distributed as dividends and, until it is so distributed, the corporate income could not be taxed as personal income of the stockholders. Much of the corporate income is retained in the

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95 General Laws of Massachusetts, 1921, Ch. 62, Sec. 1.
96 Laws of New York, 1919, Ch. 627, Sec. 351.
97 Wisconsin Statutes, 1929, Sec. 71.01.
business and other income is distributed to stockholders in the form of non-taxable stock dividends. The business tax on corporations should be in the form of an annual tax measured by its annual income derived from all sources within the state. If the income derived within the state cannot be separated from that derived from outside the state the tax should be measured by the proportion that the gross income derived within the state bears to the entire gross income derived by the corporation from all sources.

Consumption taxes are a fruitful source for raising revenue but they are objectionable on the ground that they disregard ability to pay and are therefore not much in use. Suppose there is a tax of one cent on each loaf of bread the tax would bear equally heavy on the poor and rich. To the latter the tax would be negligible while to a laboring man with a large family the tax would bear very heavily. For that reason consumption taxes are not ordinarily laid on articles that are considered necessities of life. They are usually confined to excise taxes on tobacco and liquors and articles classed as injurious to the consumer. It is doubtful, however, that they act as a deterrent to consumption and therefore they disregard the principle of ability to pay. So with taxes on theatre tickets. Taxes on luxuries in the form of excises fall more within the principle of ability to pay and are therefore proper taxes. Taxes on gasoline used for motor cars fall equally on all users and can hardly be said to fall within the principle of ability to pay in view of the general use of such vehicles. Such taxes therefore bear with increased burden on those on the borderline as to whether they should own cars or not. In view of the fact that consumption taxes disregard the principle of ability to pay they should probably not be extended further than at present. They are more to be looked upon as emergency rather than general taxes where they are extended to cover a wide range of articles in general use. Then they often give dealers an opportunity to exploit the public by profiteering. Take a specific instance: Minnesota does not tax cigarettes while North Dakota taxes them at three cents per package. Yet on the state line the retail price in North Dakota is five cents more per package thus allowing the dealer to exploit the public for two cents above the added tax.\[98\] And

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then complaint is made by dealers that business is lost in states that have consumption taxes where the business is located near an adjoining state with no such taxes in force. The tax offers no difficult problems of administration, especially where it can be enforced by the use of stamps. The most extensive system of consumption taxes at present is found in South Carolina. Whether consumption taxes so far as used have been able to reduce the land tax burden has not been shown. The motor vehicle gasoline tax is a consumption tax in a class by itself. Its success so far is due to its use by every state, we believe, at this time, and for the further important reason that it is devoted to the maintenance and construction of roads and does not go into the general funds of the state. If it were used as a general source of taxation more opposition would be likely to arise from the use of this tax.

Business, license, corporation and inheritance taxes should be used to supplement the income tax in order to relieve real estate. The larger commercial states now have a very comprehensive system of business taxes. New York and Massachusetts are among the foremost of the states in the development of their business taxes.\textsuperscript{100}

Income taxes as well as inheritance taxes should employ the principle of progressive rates but not so large that they will act as a deterrent to industry and saving. Progressive taxes are justified in that they conform to the principle of ability to pay and fall on those best able to pay. They are also supported on the ground that they tend to equalize the distribution of wealth. This is just because after all large fortunes are derived from society and society in turn is entitled to a return of some of its benefits.

There are at least two fundamental difficulties at the root of our tax troubles which imperatively demand a speedy solution before we can hope to achieve any tax reform of any permanent nature. The first is that we must spend less money. We have shown that in order to bring this about every voter must be made to feel that he is bearing a distinct burden in the support

\textsuperscript{99} Consumption Excise Taxes as Relief for the Tax Burden on Farm Property, S. M. Derrick, 1929 Proc. Nat. Tax Assoc. 263.
\textsuperscript{100} The Tax System of N. Y. State, L. Gulick, 1929 Proc. Nat. Tax Assoc. 68. Also see on same subject, C. J. Tobin, 1929 Proc. Nat. Tax Assoc. 82.
of the government. We have proposed the poll tax in a substantial sum to insure the individual's financial interest in the government. Another writer has proposed that every person who is employed in a gainful occupation be required to make a tax return and pay a filing fee of at least five dollars which fee may be subject to increase with increased indebtedness.¹0¹ In communities where 90 to 95 per cent of the people pay no direct taxes some such system is indispensable to render that large class of voters "tax-conscious." The payment of some form of indirect taxes will not have the same effect of conscious responsibility that the payment of a direct tax will. If 90 per cent of the voters pay no direct taxes the legislators elected by them will be expected to be liberal spenders. The same result will prevail when the people directly vote on bond issues. Under such circumstances there is too great demand upon the legislators for the expenditures of public funds to consider the best interests of those who contribute the bulk of the taxes.¹0² It has been said that "the universal interest in honesty and economy in state and local government in earlier times has been destroyed by the virtual exemption of the greater portion of the population from contributing directly to the cost thereof."¹0³

The second difficulty is that the tax burden at present is not distributed. The tax burden must be spread and a part of it taken off from the shoulders of those who are unable to carry it. At present it is virtually only real estate and large incomes that pay the taxes in the direct form. Ten per cent of the people are taxpayers and ninety per cent do not pay any in the more centralized communities. Twenty-five per cent of the income comes from real estate which pays 75 per cent of state and local taxes, and 75 per cent of the income contributes 25 per cent of the taxes. In Michigan real estate which constitutes 35 per cent of the total wealth pays 80 per cent of the state and local taxes.¹0⁴ If real estate were able to shift the incidence of the tax upon the tenant or upon the public in the form of increased

¹0² W J. Thomas, Ibid. 316, note 101, supra.
rent or increased prices for farm products there would not be much objection to excessive real estate taxes. But we know that that cannot be done. It is absolutely impossible for the farmer to shift the incidence of the tax and practically impossible for the owner of city real estate to do so. Property does not represent taxpaying ability unless it produces income. And then that ability is measured in terms of income from the property and not in terms of the property itself. State and local taxation no longer depend upon ability to pay but taxes are heaviest upon those least able to pay. Property regardless of income pays nearly all of the taxes and personal industry contributes but slightly. Unless there is an income tax salaries will pay no taxes and a very light tax where there is one. Large fortunes are no longer derived from real estate nor are they made up of that class of property. Then, in a business depression other forms of taxes will yield less revenue so the deficiency will be made up by increased levy on real estate. That class of property will be taxed higher in a depression than in ordinary times as a consequence. Other forms of taxation are indispensable in order to relieve real estate of some of its burden. Seventy-five per cent of the income which is now represented by personal property must pay more taxes. Other sources of taxation we have already indicated. Increased income taxes adopted by every state and increased poll taxes should contribute very materially in distributing the tax burden.

Estates for the purpose of inheritance taxes are appraised as of the date of the death of the owner. That is the date under the federal estate law and presumably under all the state inheritance tax laws. (All of the states now have inheritance tax laws.) That application of that rule works much injustice where an estate is composed largely of intangible property and a stock crash follows immediately after the death of the owner. Before the estate is ready for distribution it may have shrunk one-half in value. And the application of the progressive principle makes the tax more than double what it would have been had the tax been levied as of the date of the distribution instead. By levying the tax as of the latter date no tax would be paid on value that has ceased to exist, and, on the other hand, if the estate increased in value the tax would increase with it. It may prove a little more difficult to levy the tax on the value of the estate
as of the date of distribution but justice would thereby be effected. The tax would then be measured by the actual value of the estate when it would be available whether it fell or rose in value.

**Conclusion**

In conclusion it has been shown that the general property tax is an institution that has come down from earlier times when wealth consisted almost exclusively of tangible property and, that again, almost entirely of land. Public expenditures then were light and the land tax was not burdensome and was well suited to raise the necessary revenue. The local government and tax machinery which then existed have been brought down to the present time, almost without change in the rural communities, and with very little alteration in populous centers. In proportion as the country has become industrialized and wealth has assumed other forms than land the general property tax has degenerated into a tax upon tangible property and, that in turn, into a tax upon land. The wealth which has assumed the form of intangible property eludes the obsolete taxing machinery which can only function when property is seen. With the ever increasing expenditures of government the land has been compelled to bear an increasing and disproportionate amount. Constitutional provisions designed to guarantee that property be taxed uniformly and equally have had directly the contrary effect. The intangible property cannot be found by the listing assessors and the uniformity provisions in the constitutions are defeated. The result is the breakdown of the property tax when wealth assumes forms other than tangible property. Classification of property with different tax rates for various classes has not removed the difficulties inherent in the general property tax. Classification with low rates for intangibles has on the whole produced no better results.

The general property tax again fails in that it measures ability to pay taxes by property rather than by income from property. Unless property produces income it has no taxpaying ability. The general property tax cannot reach the great mass

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106 The general property tax in New York is now 99 per cent of a tax on real estate and provides three-fourths of all taxes collected for state and local government. The Tax System of New York State, L. Gulick, 1929 Proc. Nat. Tax Assoc. 68.
of people who work for wages and salaries. Nor does it reach the
income from professions. An income tax is the only one suitable
to reach intangible incomes. It is based upon the correct theory
that income and not property should be the measure of ability
to pay taxes. An income tax should be in lieu of a property tax
on intangibles and should gradually displace the property tax,
first on tangible personality, and finally on real estate. For the
present the income tax and the land tax, at least, must operate
concurrently. And to relieve land of some of its burden the in-
come tax must be distributed. For the successful operation of
an income tax, as well as of a general property tax, centralized
machinery for assessment and collection is indispensable. The
elective township assessor must be replaced by the appointive
county assessor. And the latter must be responsible to a state
tax commission. Nothing else will secure any scientific valuation
of property and prevent discrimination.

In order to control public expenditures it is essential that
every voter be a taxpayer. And the tax paid by each must be
sufficiently large to insure that he will have a direct interest
in the affairs and expenditures of government. Besides it is
further desirable that local expenditures should be subjected to
state control with power to decrease but not increase them.
Schools and roads should be financed to a substantial extent
directly by the state. Local units of government should be
abolished wherever feasible and replaced by county government
to avoid duplication of unnecessary officials. With respect to
corporations doing interstate business there should be a central-
ized collection of the income tax and distribution to the states of
the tax derived from income earned within the state. No state
income tax should extend to sources of income derived from
without the state. In so far as the model tax plan provides for
the levy of a state income tax upon residents upon income from
whatever source it cannot be approved.

The tax base for the present must be as wide as possible
and income taxes must bear a larger proportion of the expendi-
tures than at present in order to relieve real estate. The federal
government’s expenditures for state aid in road construction
and especially in the reclamation of agricultural lands by irriga-
tion and drainage projects are likely to do more harm than
good for the present and ought not to be extended at this time.
Consumption taxes are most widely used in South Carolina. As an indirect tax it is an effective revenue producer but fails to recognize the principle of ability to pay and bears heaviest on those least able to pay. They do not develop the sense of personal responsibility for good government like direct taxes and should not be looked upon as primary sources of revenue. It is not believed that tax exempt property of religious, charitable and educational corporations, and state and federal tax exempt securities have occasioned a loss of revenue in any amount at all proportionate to what we have been led to believe. It is not believed that if such exemptions were withdrawn the tax burden would to any material extent be reduced. Reduction of expenditures and distribution of the tax burden should be the immediate aims in tax reform.