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THE STATE TAX COMMISSION

A STUDY OF THE DEVELOPMENT AND RESULTS OF STATE CONTROL OVER THE ASSESSMENT OF PROPERTY FOR TAXATION

BY

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AWARDED THE DAVID A. WELLS PRIZE FOR THE YEAR 1915–16, AND PUBLISHED FROM THE INCOME OF THE DAVID A. WELLS FUND



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PREFACE

THIS book is a study of the development and results of state control over the assessment of property for taxation. Historically this development has been in the direction of a steadily enlarging sphere of state activity. Beginning with state equalization of the local assessments, the expansion of state control has brought within its scope central assessment of the property of certain classes of corporations and the exercise of a varying degree of supervisory authority over the original assessment of property remaining in the jurisdiction of the local assessor. The first chapter outlines the administrative evolution which produced, in turn, the state equalization, the state assessment of corporations, and the state supervision of local assessment. Both the state board of equalization and the state board of corporate assessment of the older type failed, however, because the nature of the administrative problem was so generally misunderstood. The situation in a few states under the older state boards of equalization and assessment is described in the second and third chapters. Under the state tax commission there has been the beginning of effective coördination of all parts of the administrative organization, and the beginning, therefore, of a solution of the problem of equitable distribution of the tax burden. The discussion of the achievements of the state tax commissions, and of the limitations under which these bodies have done their work, occupies the remainder of the book.

This study was begun several years ago, while the writer was a graduate student at Harvard University. It was submitted as a doctoral dissertation at Harvard in 1914, and is now published, after a thorough revision. The foundation of the whole was a visit, in 1911, to all of the important tax commissions then in existence. Subsequent visits have been made to some of these states and the acquaintance thus established has since been main-

tained and broadened through correspondence, attendance at the National Tax Conferences, and in other ways. The field work was made possible by a Sheldon Fellowship from Harvard University, for which grateful acknowledgment is here made.

The writer is glad to have this opportunity of expressing his appreciation of the assistance rendered to him by a large number of friends. His chief obligation is to Professor C. J. Bullock, at whose suggestion the study was undertaken. Professor Bullock's friendly encouragement, tolerant spirit and frank criticism have been exceedingly stimulating. Thanks are due, also, to Professor T. S. Adams, who read the manuscript and offered numerous valuable suggestions. The tax commissioners and other officials of many states have given freely of their time and the fruits of their experience, and their valuable services in this connection are hereby gratefully acknowledged. Some of these officials have read portions of the manuscript, and their criticisms have been most helpful. The writer assumes, however, full responsibility for all statements in the text concerning the work of any tax commission.

Finally, the writer is under a deep and lasting obligation to his wife, who cheerfully assumed a larger share of the common burden through the long years in which this book was being written.

H. L. LUTZ.

OBERLIN, OHIO,
November, 1917.

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THE STATE TAX COMMISSION

THE STATE TAX COMMISSION

CHAPTER I

THE EVOLUTION OF CENTRALIZED ADMINISTRATION IN TAXATION

THE last twenty-five years have witnessed a remarkable change in American tax administration, the development of state supervision and control of the assessment of property for taxation. The first of the modern permanent state tax commissions was established by Indiana in 1891. Today, state tax departments, headed either by a single official or by a board of tax commissioners, are found in thirty-five states. The movement, once begun, spread rapidly as the improvements which were accomplished by some of the more efficient commissions became more widely known and appreciated, and as public opinion in other states became more intolerant of the abuses of decentralization. The chief purpose of the present work is the investigation of the actual operation of the state tax systems under the guidance and direction of the new tax departments. No attempt has been made to write a history of state taxation and the little historical material introduced is intended simply as a setting for the main body of the work. The principal emphasis has been placed, therefore, upon the methods and results of central tax administration, and practically no attention has been given to those other aspects of state finance which have been as yet but little affected by centralizing tendencies.

The roots of this latest development in tax administration run back in two directions. One root is found embedded in the modern movement toward greater administrative centralization, a movement which is the natural result of the growing complexity of civilized life. The tendency toward administrative centralization has been widespread and has influenced the course of develop-

ment in many fields of governmental activity. The state tax commission is the logical expression, in the sphere of taxation, of this well-nigh universal phenomenon.

The second root of the state tax commission strikes down into the historical subsoil of the general property tax. This fiscal institution has long served as the principal source of state and local revenues. Partly through inertia and partly through a dimly realized preference for old and known taxes, changes have been made slowly and with difficulty. In form the general property tax has remained virtually unmodified in most commonwealths; but numerous administrative experiments have been undertaken at different times and places to keep it a practical and fruitful source of revenue. The outcome of this experimental policy on the administrative side is the state tax commission, the characteristic function of which is supervision and control of the process of local assessment. Whether this latest and most radical administrative change will suffice to preserve the general property tax against overthrow from without or dissolution from within, time alone will reveal. It is proving extremely doubtful, however, as the following pages show, whether centralized administration will be able to rehabilitate that tax, though fairly satisfactory improvements over the old conditions have been effected in some states. But the value of a certain degree of administrative centralization in taxation has already been so completely demonstrated that the tax commission must be accepted as a permanent organ of state government, the services of which will be essential to the successful operation of almost any substitute for the present tax system. The experience of Wisconsin with the income tax and of Minnesota with a classified property tax is conclusive on this point.[1]

In view of the importance of the administrative problem, both in practical operation and for the course of future development, it is rather curious that in the literature of the general property tax so much attention has been paid to the rigid and unchanging form of the tax system and so little to administrative development and requirements. Apart from the reports of the special tax

[1] See below, chs. 8 and 12.

commissions,[1] the space that until recently has been given to administrative questions in the voluminous literature upon the general property tax has been entirely inadequate to the importance of this phase of the subject. Writers on taxation are practically unanimous in the conclusion that the general property tax is a hopeless failure under modern conditions; but in directing the bulk of their discussion to the advocacy of various substitute and reform programs they have been guilty of a noticeable lack of interest in the administrative evolution that has been in progress in the past half-century, and especially in the past twenty-five years.[2]

Before entering upon a more detailed account of the evolution of the state tax department, the whole course of its development should be briefly summarized. In its formative stages the administration of the general property tax was highly decentralized. There was less need of central supervision of assessments during the continuance of the primitive economic and political conditions under which this tax originated. With the increase of moveable and intangible wealth, however, the prevention of inequalities among individuals, tax districts and classes of property proved impossible under the locally administered system of uniform taxation. The first significant step toward more efficient administration was the creation of boards of review and equalization. The earliest of such bodies were the local boards created in towns, cities, and counties, with powers intended primarily to

[1] About twenty-seven special tax commissions had reported to 1897. Their reports are reviewed by Chapman, *State Tax Commissions in the United States*. Since 1897 there have been more than fifty special investigations. Briefer reviews of some of these are found in Seligman, *Essays in Taxation*, 8th ed., 1913, chs. 19–21.

[2] The enlarged space given to administrative problems by Seligman in the successive editions of his *Essays* illustrates the point. The history of state income taxation also illustrates the earlier neglect of the administrative problem. The programs of the national tax conferences have shown a decided shift in emphasis toward a greater consideration of administrative problems from 1907 to the present time. Cf. also the very brief discussion of administrative problems in Plehn, *Introduction to Public Finance*, 3d ed., 1909, pp. 252–257. See review of the book by Boyle, in *Economic Bulletin*, iii, no. 1, March, 1910, pp. 45–47. Very suggestive of the present trend of interest in the National Tax Association is the new *Bulletin*, the first number of which appeared in February, 1916.

be used in checking and correcting evasion and undervaluation. Later came the state boards of equalization, established for the purpose of securing a more equitable distribution of the state tax. The powers and jurisdiction of the state boards were wholly inadequate; the seriousness of their problems was quite generally unappreciated; and under their regime competitive undervaluation continued to flourish.

The second step toward administrative reform, state control of corporate assessments, was occasioned by the growth of the modern corporation especially of the public service type. The farcical character of local assessment of such properties was early recognized, even by those who could see no further defects in the tax system. The rising tide of opposition which set in after 1870 against the powerful railroad corporations has been partly responsible for the administrative progress in dealing with this problem. The general policy of public control found expression in more effective systems of taxation as well as in regulation of rates and conditions of service. There was great variety in both the methods and results of this taxation, but the significant feature in practically every state was the removal of all or a part of the public service corporations from the jurisdiction of the local tax officials.[1]

The progressive decline of the general property tax led to the final reform, the establishment of the state tax commission. This body has usually taken over the functions of equalization and corporation assessment. Its distinctive function has been, however, the more or less effective supervision of local officials and the general administration of the entire tax system.[2] Such is the course of the running fight of the states with the general property tax in the hope of subduing it at last into an efficient and manage-

[1] Cf. below, pp. 33–39. Cf. also McCrea, "The Taxation of Transportation Companies in the United States," in *Report of the United States Industrial Commission*, 1901, ix, pp. 1005–1091.

[2] This outline is not meant to be more than roughly correct, chronologically. Few states have exemplified all of these stages in the above order, and the states in which centralization began later often adopted all of the administrative devices which had previously been developed. In some cases, also, the tax commission has not acquired the duties of equalization and corporate assessment, though such concentration is becoming more general.

able servant of the public needs. Whether this effort has succeeded will be one of the questions which can be answered only, if at all, at the close of this examination of the results achieved thus far by the centralizing movement. Each of the stages thus outlined will now be considered in more detail.

Decentralized Character of the Early General Property Tax

It was only natural that the administration of the general property tax should originally be highly decentralized. This tax developed in the colonial and early national periods under economic and political conditions which made any other form of administrative organization impracticable. In the first place it was unnecessary, because the limited range of public expenditures imposed no appreciable burden upon the resources of the people, who "paid their taxes out of their abundance." [1] The defects which were later to be pronounced inherent and inevitable had not yet become generally obnoxious, and indeed they only became so with greater revenue needs and the growth of forms of wealth which could easily evade the clumsy and inefficient administrative machinery of the times. Any attempt at an elaborate fiscal organization would have been a useless waste of energy in the face of the more serious political and economic problems with which the people were then confronted. In the second place a more highly centralized system would have been impracticable at that time because of the strong sentiment in favor of local autonomy. The revolutionary slogan, "No Taxation without Representation," still suggested too strongly the idea of intolerable interference with local institutions to permit any marked degree of central control over the functions of assessment and valuation, then regarded as so definitely localized in character. The persistence of this view in certain sections, especially in the New England states, has done much to block needed reforms.[2]

[1] Cf. Bullock, *The Finances of Massachusetts*, for comparative figures showing early expenditures in that state.

[2] Cf. W. B. Fellows, "Problems encountered in establishing central Administration in a State under a Town Form of Government," *Proceedings of the National Tax Conference*, 1912, pp. 469–477. Also, *Report of the New Hampshire Tax Com-*

During the first half of the nineteenth century the emphasis in American politics, in Professor Goodnow's phrase, was "upon political liberty rather than upon administrative efficiency," and decentralizing tendencies were evident in almost every branch of public administration.[1] It was but natural, therefore, that the general property tax, developing in such an environment of thought and procedure, should conform to the practice of the day.

Conformably with this practice, the administrative unit for tax purposes was either the township, as in the sections under New England influence, or the county, as in the areas settled from Virginia and the south.[2] Whatever the form of local governmental organization, the assessor was by far the most important official in the tax system.

Different methods of selecting the assessor were employed at different times and places. The first of these, used both in the colonial period and afterward, was to require some local official to act as the assessor ex officio. Thus, in Massachusetts colony, after 1646, it was the practice to require the selectmen of towns to act as assessors, assisted by a local commissioner elected by the freemen of each town for this purpose. The local commissioner disappeared after 1695, but the selectmen continued to act as assessors in many places throughout the eighteenth century.[3] In the colony of New York, previous to 1683, the constable and the eight

mission of 1908, pp. 160–164. Also, the *Reports of the Joint Special Committee on the Taxation Laws*, Rhode Island, 1910–12. In all four reports were issued by this committee before a tax commission was established. Also, D. R. Freeman, "Defeat of the Virginia Tax Reform Bill," *Proceedings of the National Tax Conference*, 1912, pp. 419–423.

[1] While it is true that in the period spoken of, *viz.*, the close of the eighteenth century and the first half of the nineteenth century, the prevailing mode of tax administration was highly decentralized in character, there had been periods of greater centralization at different times in the colonial history of the older states. The rise and decline of a phase of administrative centralization in New Jersey between 1668 and 1730 is described by J. M. Mathews, in the *Jour. Pol. Econ.*, xx, pp. 719 ff. See also, Fairlie, *The Centralization of Administration in New York*, especially p. 159.

[2] Cf. Howard, *Local Constitutional History of the United States*, chs. 3, 4, 9, 10.

[3] I am indebted to Professor E. E. Day of Harvard University for these facts. I have also had access to his unpublished work on the *History of the General Property Tax in Massachusetts during the Seventeenth Century*.

overseers of the parish acted as the board of assessors, but in this year the office of assessor was made elective in each town, city, and county of the province.[1] In Iowa [2] the sheriff, and in Illinois [3] the county treasurer performed the duties of assessor. The counties of Missouri which retained the township form of organization still use the town clerk as the assessor.[4] The selectmen of Maine and Massachusetts may act as assessors in case of the failure of the towns to elect such officers,[5] and the sheriffs of counties in Nevada may serve as county assessors ex officio.[6]

A second method of selection was appointment by the county or township board, or by the mayor and council of cities. This method was frequently in use under the early territorial and state governments. Thus in Michigan [7] and Indiana,[8] the assessor was appointed by the county board; in Kansas by the county court; [9] and in Mississippi by the court of common pleas.[10] In Ohio the special appraisers for the periodic revaluations of real estate were originally appointed by the boards of county commissioners,[11] and in Iowa where the county assessor was usually elected, the county judge was empowered to appoint deputies for the counties above 10,000 population.[12] Township or county assessors are still appointed by some local authority in about eight states, and for cities of certain size in about nine other states.[13]

A third, and by far the most common method of selection at the present time, is that of local election.[14] In the large majority of

[1] Schwab, *History of the General Property Tax in New York*, pp. 36, 52.

[2] Brindley, *Financial History of Iowa*, i, p. 30. The assessor had been elected by the county in 1839; by the township in 1843; by the county in 1845; in 1847 the sheriff was made assessor ex officio. Brindley, *ibid.*, pp. 5, 12, 16, 30.

[3] *Report of the Special Tax Commission of Illinois*, 1910, p. 2.

[4] Judson, *Taxation in Missouri*, p. 202.

[5] Bureau of the Census, *Wealth, Debt and Taxation*, 1913, i, pp. 40, 500.

[6] *Ibid.*, 1902, p. 745.

[7] *Revised Statutes of Michigan*, 1820, p. 271.

[8] *Laws of Indiana*, 1816, ch. 19.

[9] Benton, *Taxation in Kansas*, p. 125.

[10] Brough, *Taxation in Mississippi*, p. 184.

[11] *Laws of Ohio*, 1825, p. 85.

[12] Brindley, *op. cit.*, i, p. 42.

[13] Bureau of the Census, *Wealth, Debt and Taxation*, 1902, pp. 648–826. *Ibid.*, 1913, i, pp. 449–711.

[14] The assessor was elected locally in 1913 in 44 states. Bureau of the Census, *Wealth, Debt and Taxation*, 1913, i, pt. 4. Cf. *New York State Conference on Taxa-*

states the right of the township or county to choose its assessors from among its citizens has become a firmly established principle.

In the formative period of the general property tax relatively little attention was paid to the scope of administrative authority. The powers given to the early assessor were slight and the taxpayer enjoyed large freedom of self-assessment. It was not an uncommon practice for the assessor to post notices of a date and place of meeting, at which time and place all the people were to assemble to give in their lists of taxable property. Visits were made only to those who refused or were unable to appear at the appointed place. In Kansas the assessor was paid one dollar each for making these visits. Having collected the lists it was usual for the assessor to announce a period when these would be open to inspection, after which claims for abatement might be presented.[1] Originally some states failed to provide any other arrangement for review and equalization, and to prevent unequal assessments legislatures often enacted schedules of the valuations at which various classes of property were to be rated.[2] Such crude efforts at maintaining equality were probably unsatisfactory enough while the forms of wealth were fairly homogeneous in nature and earning power; they failed utterly after the imposition of the thoroughgoing general property tax upon a mass of wealth which had begun to differ considerably in income-yielding capacity.[3]

The defects of such extremely decentralized administration led to the early development of certain improvements which represented rather the efforts of the local units to overcome these defects single-handed. One of these attempted improvements was the grant of greater inquisitorial power to the assessor for the discovery of hidden wealth and the right of assessment by

tion, 1911, pp. 155–156, for a summary of the curiously varied methods of selection and composition of the local boards of assessors in New York state.

[1] *E. g.*, *Laws of Indiana*, 1816, ch. 19; *Revised Statutes of Kansas*, 1855, p. 663. Day, *op. cit.*, p. 61.

[2] Wolcott, "Report on Direct Taxes," in *American State Papers on Finance*, i, pp. 418, 419, gives such a schedule for Vermont and New Hampshire, as of 1794. Cf. also Schwab, *op. cit.*, p. 56. The New Jersey Special Tax Commission of 1880 reprints copies of such lists for that state, enacted in 1759 and 1782. *Report*, pp. 15, 19.

[3] This is the general verdict of the students of state taxation.

"doomage" in case of refusal on the part of the taxpayer to aid him in the search. In 1651 the General Court of Massachusetts colony ordered that merchants' and traders' stocks, which had been evading taxation under the methods of assessment in vogue, be "assessed by the rule of our common estimation according to the will and dome of the assessors."[1] In 1694–95 there was provided a fine of five shillings and a fourfold assessment as a penalty for any omission or evasion.[2] In 1735 it was ordered that no person could apply for an abatement unless he had made a return of his property to the assessor.[3] After numerous changes it was provided in 1853 that no application for abatement would be received "until the taxpayer shall have filed a list."[4] This device gave the taxpayer a chance to play against the state by refusing to list his property, and having lost through high assessment under doomage, to file his list and claim the abatement. Such obviously faulty procedure lasted only until 1857 when the list was required to be filed within the time prescribed by the assessors.[5] Finally, in 1865, an abatement was allowed on the amount in excess of a penalty of 50 per cent which was to be added to the original assessment.[6] The 50 per cent limit was really a check against approximating full value under doomage in the case of very large estates which had been considerably undervalued. In 1891 efforts to increase the doomage power of the Massachusetts assessor were defeated.[7]

The introduction of similar measures in Vermont dates to the early history of the state. The first tax act required the listers (or assessors) to warn all the people to give in writing "a true account of all their listable polls and all their rateable estate, particularly mentioning all such things as are in this act expressly mentioned."[8] These lists were to be signed by the taxpayers. The listers could place valuations on the articles which were not specifically valued by the statute and were empowered to fourfold

[1] Day, *op. cit.*, p. 42.
[2] *Laws of Massachusetts*, 1694–95, ch. 2.
[3] *Ibid.*, 1735, ch. 13.
[4] *Ibid.*, 1853, ch. 319.
[5] *Ibid.*, 1857, ch. 306.
[6] *Ibid.*, 1865, ch. 121.
[7] Cf. Henry Winn, *Speech on the Doomage Bill*, Boston, 1891.
[8] Wood, *History of Taxation in Vermont*, pp. 32, 33.

omissions as a penalty. By 1825 this simple procedure had proved so unsatisfactory that the listers were given practically unlimited powers over the assessment of intangibles so long as they acted with "common care, skill and prudence." A reaction against this extreme power occurred in 1841 and the taxpayer was not required to hand in a list of his personal property except on the demand of the lister. Five years later it was provided that the person claiming overassessment should submit to an examination under oath by the listers, who were then empowered to take other evidence and assess the aggrieved person "at such sum as from the evidence they shall deem just."

Ohio introduced a certain degree of inquisitorial power in the law which ushered in the general property tax. The assessor was to take the personal property returns of the taxpayer on oath. Should the person refuse to give in a statement, or swear to his return, however, the assessor was empowered to examine any other persons under oath in order to fix a proper assessment upon the delinquent.[1] Additional powers of inquisition were also given to the county auditor, who was authorized to add a 50 per cent penalty for refusal to swear to the list returned, and also to institute further examination as to the amount and the value of the personal property of such person. This inquisitorial feature was carried to its most notorious and obnoxious extreme in the so-called "tax ferret law," applied to certain counties in 1885 and extended to the whole state in 1888.[2] Under this law the county commissioners were allowed to contract with individuals to search for hidden property which the assessors had failed to discover.

The attempt to secure more complete returns of taxable property by strengthening the inquisitorial powers of local officials or by authorizing a delegation of this power to private detective agencies has nowhere attained marked success. Ohio's experience in the first decade convinced Professor Carver that the plan was "not capable of reforming the general property tax."[3] Success

[1] 44 *Ohio Laws*, 85. [2] 82 *Ohio Laws*, 152; 85 *Ohio Laws*, 170.

[3] T. N. Carver, "The Tax Inquisitor System in Ohio," *Pub. Am. Econ. Assn.*, 1898, p. 211. Cf. also E. A. Angell, "The Tax Inquisitor System in Ohio," *Yale*

depended upon the coöperation of the county auditors with whom rested the final authority to list the discovered property. These officials frequently lost interest in the activities of the " tax ferrets " and in some cases they even manifested open opposition to listing the property unearthed by the inquisitors. The law was held unconstitutional in 1906.[1] In Iowa the assessment of personal property increased in the counties in which " tax ferrets " were employed, but the historian of the Iowa system decided that definite conclusions could not be drawn from the results, either as to the increased listing of personal property through the inquisitors or as to the general increase in such assessments.[2]

A second feature of the struggle which the local units were making to sustain the weakening general property tax was the development of the oath which was to be taken by both taxpayer and official, and the increase of the penalties for false oath or returns. Originally this means of assuring correct returns from the taxpayer and proper performance of duty by the assessor was very simple, and it was not required in all cases.[3] In the colony of New York, in 1691, the assessors were required to swear that they would " well and truly, equally and according to their best understanding, assess and rate the Inhabitants, Residents, and Freeholds of the respective places for which they should be chosen assessors." After repeated efforts to stimulate the assessors by varying the form of the oath, together with numerous strict injunctions from the legislature to " spare no person for favor or affection, or grieve any person for Hatred or Ill-will," the following oath was formulated in 1764:[4]

Review, v, pp. 350–373. Also, J. R. Garfield, "Listing and Valuation," *National Tax Conference*, Buffalo, 1901, pp. 11–16.

[1] *State* v. *Lewis*, 74 *Ohio*, 403.

[2] Brindley, *op. cit.*, i, 341; also I, chs. 14, 15. In 1840 the Iowa assessor was authorized to require the oath at his discretion, and in case of refusal, he was to ascertain the proper value from other sources. A charge of $5.00 was to be made for this trouble. *Laws of Iowa*, 1839–40, pp. 65, 66.

[3] The oath was not required in Michigan. Cf. *Laws of 1820*, p. 271. In Missouri the assessor got sworn returns from less than half the taxpayers. Judson, *op. cit.*, p. 266.

[4] Schwab, *op. cit.*, pp. 60, 61.

I, A. B., do solemnly swear upon the Holy Evangels of Almighty God that I will well and truly, equally and impartially, and in due proportion according to the best of my understanding, assess all the whole Estates, real and personal, of all the Freeholds, etc. within the city of Albany. So help me God.

Evidence of the need for stricter assessments in Massachusetts is found in similar variations in the form of the oath in that state.[1] No oath was required by the first tax act of Vermont, passed in 1778, but a penalty of fourfold assessment was imposed for failure to return, or for incorrect returns. In 1809 the person appealing from the action of the assessors in their assessment of omitted property was required to take the oath as to the amount of his property. The tax act of 1880 required the oath, with signature, and penalized falsification by double assessment and the penalties for perjury. Even such drastic efforts were not successful in promoting the full assessment of intangible property.[2] Concerning similar legislation in New York state David A. Wells remarked:[3]

. . . oaths as a matter of restraint or as a guarantee of truth in respect to official statements have, in great measure, ceased to be effectual; or in other words, perjury, direct and constructive, has become so common as to almost cease to excite notice.

A third phase of the attempt to enforce the general property tax by local administration was the establishment of local boards of review and equalization, or the imposition of these functions upon some other body, such as the county court, the county commissioners, the town board of supervisors, or other local organization. Local boards of review often appeared quite early in the colonial period. For instance, the experience of Massachusetts colony under rather complete freedom of local assessment resulted, according to the language of the General Court in 1646, in the "want of one general way and rule of rating throughout ye country . . ."[4] The tax law of 1646 provided for the election of a local commissioner in each town who was to assist the selectmen in making the assessment. The commissioners in each county

[1] Douglas, *Financial History of Massachusetts*, pp. 66, 67.
[2] Wood, *op. cit.*, pp. 8, 40, 61, 62.
[3] Wells, *Theory and Practice of Taxation*, p. 432.
[4] Day, *op. cit.*, p. 40.

were then to assemble at the shire towns and were "required by law to examine the local lists, correct them if necessary, and reduce them as nearly as possible to a correct basis of valuation."[1] In 1688 the East Jersey legislature provided for county commissioners, with power to amend the account given by any individual in the county concerning his taxable property. This supervision was abandoned in 1716.[2] Similar difficulties were met in New York, for as early as 1692 the colonial assembly petitioned to the governor as follows:[3]

> . . . that there may be a certain method for the equal and proportionable assessing of subsidies we doe pray that his Excell. would appoint commissioners in each respective county for the making of an Estimate of their Estates, that for the future, there may not be such uncertaintyes.

More effective county equalization in New York began in 1817 when the county boards were authorized to change the total assessment of any town in order to equalize the tax burden.[4]

By an act of 1795 Pennsylvania provided for a triennial assessment of all taxable property, the valuations of which were to be equalized by the county commissioner, though without changing relative valuations within the townships.[5] Indiana provided in 1816 that the county commissioners, who at that time served as the assessors, should "examine and correct" the lists each year at the end of the assessment season.[6] Vermont created county boards of equalization in 1820. They were composed of one lister (*i. e.*, assessor) elected by the board of listers of each town, and met only for the equalization of the triennial assessments of real estate then in vogue.[7] Ohio established in 1825 special county boards of review, consisting of the special appraisers of real estate and the county auditor.[8] Annual county equalization was begun in Ohio in 1852 when the county commissioners and the county auditor were constituted a board of equalization but without power to reduce the aggregate valuation of the county.[9]

[1] Day, *op. cit.*, p. 62.
[2] Mathews, "Tax Administration in New Jersey," *Jour. Pol. Econ.*, xx, p. 727.
[3] Schwab, *op. cit.*, p. 55.
[4] Fairlie, *op. cit.*, p. 160.
[5] Wolcott, *op. cit.*, p. 428.
[6] *Laws of Indiana*, 1816, ch. 19.
[7] Wood, *op. cit.*, p. 43.
[8] 23 *Ohio Laws*, 58.
[9] 49 *Ohio Laws*, 58.

By a Michigan statute of 1827 the county supervisors were to receive the rolls from the assessors and to examine them "with a view to ascertaining whether the valuations in one town bore a just relation or proportion to the valuations in all the townships of the county." The supervisors were further authorized, in their discretion, "to add or deduct from the valuations in any township such a per cent as might, in their opinion, be necessary to produce a just relation between all the valuations of real estate in the county . . ." [1] The increasing inequality of assessments in New Jersey led to the authorization of county equalization for individual counties at different times.[2] In 1846 the township committee of any township in Mercer county was authorized to appeal to the board of chosen freeholders of the county, which was empowered to alter the township's apportionment within certain limits. In 1873 a special county board was created in Hudson county, chiefly for the purpose of equalizing among the municipalities therein. Finally, ten years later, the county boards of assessors in the remaining counties were empowered to raise the duplicate of any township assessor.[3] Kansas provided in 1860 that the county commissioners should act as a board of equalization with power to equalize both real and personal property, though the aggregate valuation of the county might not be reduced.[4]

These local boards of review were unable to exercise any significant influence upon the course of development of the general property tax, because of the usual restriction of their power to the function of equalization only, and sometimes even to the equalization of real estate alone as in New York and Indiana. The equalization process ordinarily involved simply a redistribution of the local figures among the tax districts without alteration of the aggregate assessment. In Illinois the county boards were given power in 1872 to review original assessments; further extension of power was granted in 1898 when the town boards were abolished and the county boards were authorized to assess omitted property, to hear appeals on complaint, to equalize by raising or lower-

[1] *Laws of Michigan*, 1827, Act approved March 30, 1827.
[2] Cf. below, p. 100. [3] Mathews, *op. cit.*, pp. 729, 730.
[4] *Laws of Kansas*, 1860, ch. 114.

ing all property or any class of it, and to pass upon claims for exemptions.[1] The methods and motives of the early Indiana boards were illustrated by the following preamble to an emergency statute, passed in 1852:[2]

> Whereas information has been received that the boards of equalization in several of the counties of the state, at their September session of 1851, made a large reduction of their respective counties without authority and in violation of law, thereby releasing the taxpayers of said counties from their equal and just portion of the public burden, etc. . . .

The statute instructed the state auditor to ascertain and restore the amounts which had been thus cut off from the county rolls. This disclosure was followed shortly by the establishment of district and state boards of equalization.[3] Similar evidence of the failure of the county boards is found in the assertion of the New Jersey State Board of Taxation that the special boards created in certain counties failed to preserve equality among the cities of the county because the members were unwilling to raise the cities from which they happened to come.[4] In general, it must be concluded that local boards of equalization were unable to cope with the powerful tendencies which were setting in, during the middle of the nineteenth century, toward evasion and undervaluation, and in this respect most of the states have had similar experiences.[5]

In some states at an early period the county auditor was given scanty powers of supervision over the assessors' returns. It has not been possible to make an exhaustive examination of the early statutes on this point but those of a few states have been covered; and it has been observed that the early provisions on this subject have borne a rather close resemblance to each other, a coincidence which suggests the possibility of their common origin in the legislation of some older state. Such connection has not been definitely established, however. Using the earlier

[1] *Report of the Special Tax Commission of Illinois*, 1910, p. 7.

[2] *Laws of Indiana*, 1852, ch. 65.

[3] *Ibid.*, pp. 273 ff. The above resolution was approved Feb. 12, while the boards of equalization were approved on May 28.

[4] New Jersey State Board of Taxation, *Report*, 1894, p. 14.

[5] Cf. also *Report of the Counsel appointed to assist the New York Special Tax Commission of 1893*, p. 18. Also, Brough, *Taxation in Mississippi*, pp. 200, 204.

statutes of Indiana, Ohio, Minnesota, and some other middle-western states, the supervisory duties of the county auditor in connection with the assessment process may be tentatively grouped thus:[1]

1. Clerical duties. — Among these were the preparation of the tax duplicate and the land maps, the correction of clerical errors in the roll, and other duties of a similar nature.
2. The power of abatement. — In Minnesota the auditor was the only local official who was empowered to grant abatements. This authority was assumed by the tax commission in 1907.[2] Indiana allowed the auditor to grant abatements on account of losses by fire or upon oath that the taxes for the current year had been paid in another state.
3. Powers of supervision over assessments. — The auditor was usually required to impose the penalty for refusal of the taxpayer to swear to his returns. In all of the states investigated, he was given power to deal with omitted or falsely returned property. In the case of omissions, Indiana permitted the auditor to assess it or to require the assessor to do so, while Minnesota required the assessor to perform the assessment, though the auditor could compel him to make it. In dealing with false returns the auditor was generally given the powers of the assessor while Minnesota gave in addition the authority to summon witnesses and to take testimony under oath in order to reach a correct valuation.

It will be seen from even this brief outline of his duties that the auditor was hardly intended as a supervisory officer over the tax system, but was given certain duties in the event that property was likely to escape taxation through the oversight or negligence of the assessor or through the deliberate attempt of the taxpayer to avoid making the necessary disclosures regarding his taxable possessions. His relation to the assessor was supplementary and clerical rather than supervisory and such influence as he was able to exercise was insufficient to prevent the appearance of the conditions which were forcing the development of a more effective system of control.

[1] The data for these paragraphs were taken from the early statutes of the states mentioned and some others. They relate of course only to the auditor's powers in the early nineteenth century.

[2] Minnesota Tax Commission, *Preliminary Report*, 1907, p. 45.

State Boards of Equalization

Evidence of the changed attitude of mind toward centralized administration, a change which brought about the state board of equalization, is at this time difficult to secure. The history of the administrative organization has been written for only a few states, and in the brief discussion which follows there is no pretense of doing more than to sketch in roughly the setting for the later administrative changes. From readily available sources some evidence has been collected concerning the conditions in some states which may illustrate fairly well the general situation.

In Massachusetts a legislative schedule of values for classes of live stock had been found necessary by 1646, the year in which local equalization was begun. Lands were similarly classified and assigned fixed values per class in 1657. A tax list of 1687 shows that the proportion of the tax burden falling on real and personal property varied with economic conditions. In the commercial towns, possessing less live stock and more intangible property the proportion of personal to total assessment was relatively small. The tax burden increased heavily during and just after King Philip's War and in 1694 provincial equalization was begun by a legislative committee.[1] Though the tax burden declined during the eighteenth century, there is still evidence of undervaluation and evasion at the end of it. The constitution of 1780 had required a revaluation of estates at least as often as once in ten years.[2] As a matter of fact, it was actually made more frequently than that, but a committee of the General Court continued to make the equalization. In 1792 this committee reported that owing to the "errors and deficiencies in the returns of many towns, the relative proportions of such towns to those which had made legal and proper returns would be marked with striking features of injustice."[3] The committee sought to correct these inequalities by adding property not returned by the owners, using for this purpose former returns and the results of their observations of conditions over the state.

[1] Day, *op. cit.*, pp. 51, 56, 75. [2] Bullock, *op. cit.*, p. 12.
[3] The complete report is given by Bullock, *ibid.*, pp. 13, 14, note.

The need for state equalization in this period was not confined to the northern states, though these had tended to make greater use of direct property taxes.[1] Virginia furnishes evidence of the inequality between assessment districts and of the need of centralized supervision of these returns, and the situation in 1782 was thus described by Oliver Wolcott:[2]

> As was to have been foreseen, the valuations made by the commissioners of counties, though they might be and doubtless were just and accurate in respect to the relative valuation of different tracts of land within the same county, were found to be exceedingly unequal when compared with the valuations of other counties. This inequality, the unavoidable consequence of assessment by commissioners whose proceedings were independent of each other and uncontrolled by any common standard of opinion, rendered a revision indispensable. To effect a general equalization of the assessment an act was passed in October, 1782, by which the different counties of the state were arranged in four districts; in this classification of counties, reference was had to their soil and situation, with the view of obtaining a general and equitable standard of valuation for the lands of the several counties. . . . To give effect to this act, two commissioners were appointed who were directed to examine the county returns, and after ascertaining the average value of the lands in each county, agreeably to the assessment made pursuant to the act of November, 1781, and after comparing the same with the standard or average valuation of the district, to apply the same by adding or deducting the same, *pro rata*, to the assessment of each individual.

This appearance of a crude state equalization in Virginia was only sporadic and did not result in a permanent assumption of the task by the state.

State equalization seems to have been undertaken next in Maine, Vermont, and Connecticut in 1820, and in Ohio in 1825. No evidence is at hand relative to conditions in Maine and Connecticut, but they were probably not widely different from those in neighboring states. The tendency for personal property to evade assessment in Vermont is shown by the series of laws which were enacted to improve the returns. An act of 1797 had simply required moneys and credits to be set down in the grand list at $6.00 in the $100. In 1809 a much more definite and exact requirement to list moneys and credits was enacted, and the listers

[1] Dewey, *Financial History of the United States*, p. 10.

[2] Wolcott, *op. cit.*, p. 431. The document prepared by Secretary Wolcott presents a valuable account of state tax systems as they were at the close of the eighteenth century.

were given doomage powers in order to enforce a better return. In 1811 the list of items of taxable property was enlarged, and in 1817 more exact regulations were laid down governing the exemptions to be allowed for military purposes. The growth of manufactures denotes an increase of intangible wealth and led to a greater interest in tax matters. In 1820 lands were made assessable on their value instead of on a specific classification and this change was made the occasion for a state equalization.[1] A similar change in the method of taxing lands in Ohio in 1825 led to the state equalization in that state. The tax burden had become very unequal, as was shown by the report of a legislative committee in 1825.[2] This report showed that lands were underclassified. In 1820 only 225,082 acres had been returned in class I, though the committee estimated the correct quantity at 2,000,000 acres. Further, the state tax was being inequitably apportioned. For instance, Hamilton county paid $2080, while Athens county, with one-thirteenth the valuation, paid $2142. And finally, there were serious inequalities among individuals. In Vermont and Ohio as in Massachusetts, the state equalization of this period was made only on the occasions of land reappraisals. There was as yet no regular annual equalization of assessments such as was introduced later under the fully developed general property tax.

The first instances of such regular equalization appear in a group of middle western states about the turn of the half-century. Michigan and Iowa established state boards of equalization in 1851, Wisconsin and Indiana in 1852.[3] As in the eastern states, the evidence goes to show that evasion and competitive undervaluation were important causes for the creation of these boards. In Indiana such a board had been established in 1841 but it continued in existence only eleven months.[4] In 1850 the subject of equitable taxation was discussed by both the auditor and the governor. Each of these officials emphasized the volume of stocks,

[1] Wood, *History of Taxation in Vermont*, pp. 40–44.

[2] *House Journal*, 1825, pp. 153–156. Cf. Bogart, *Financial History of Ohio*, pp. 200, 201.

[3] *Laws of Michigan*, 1851, p. 143, act no. 106; *Laws of Iowa*, Code of 1851; *Laws of Wisconsin*, 1852, ch. 498; *Laws of Indiana*, 1852, p. 273.

[4] Rawles, *Centralization of Administration in Indiana*, pp. 260, 261.

notes, mortgages, and other intangible possessions that was escaping taxation. Marion county, with 3454 taxable polls, returned $11,349 of corporation stocks; and Marshall county, with 785 taxable polls, returned $11,885.[1] The governor struck a popular note in contrasting the certainty of assessing the tangible property belonging to the man of moderate means — " the farmer, the mechanic and the day laborer " — with the ease of evasion of the intangible evidences of wealth which filled the coffers of the rich.[2] The assessment of lands in contiguous counties was declared to be very unequal, and beyond remedy except by a state board of equalization.[3]

In Wisconsin the territorial governor declared in 1841 that the tax system was " unjust, illegal and highly oppressive." [4] County equalization was introduced in 1849, but complaints continued to be heard in all sections and the state board of equalization was provided three years later. In Iowa a defective revenue system had been inherited from the territorial regime. Property was underassessed, some counties were returning no moneys and credits, and an abnormal percentage of taxes was delinquent.[5] In both Iowa and Wisconsin there was strong feeling against the non-resident capitalist and landholder, and in this early discussion of tax problems there is evident the same antagonism to the outside capitalist that later found expression in the Greenback and Granger movements.[6]

In New York, where a state board of equalization was established in 1859, the effect of an increased tax burden may be clearly seen. The rate of the state tax had been one mill on the dollar in 1821. This tax had been entirely abandoned from 1826 to 1842, and the total amount yielded after its reintroduction had never exceeded $500,000 in any year previous to 1850.[7] Local competi-

[1] Auditor of Indiana, *Report*, 1850, p. 57.

[2] Message of Governor Wright, Dec. 31, 1850. *Doc. Jour.*, 1850–51, p. 100.

[3] *Ibid.* [4] Phelan, *Financial History of Wisconsin*, pp. 403, 318–320.

[5] Brindley, *op. cit.*, i, chs. 1, 2.

[6] Cf. the discussions on the exemption of improvements, the taxation of credits and land increments, and the possibility of a land monopoly, in Brindley, *op. cit.*, i, ch. 2, and Phelan, *op. cit.*, pp. 300–306.

[7] State Board of Assessors, *Report*, 1879, p. 18. The income from the Erie

tive evasion appears to have been common even before the restoration of the state tax. Governor Bouck declared in 1843 that the assessors of each town had fixed as low a valuation as their sense of duty would permit. He recommended a state board of equalization.[1] In 1851 Governor Hunt declared that much personal property escaped entirely, while lands were assessed at less than their value.[2] The next year he reported that the assessment of lands had been improved but that considerable masses of wealth in other forms continued to escape taxation.[3] The rapid increase of both state and local taxes in New York after 1850 may be seen from the following table:

ASSESSED VALUATION, STATE TAX AND TOTAL STATE AND LOCAL TAX, IN NEW YORK, 1846–1870[4]

Year	Assessed valuation	State tax	Total state and local taxes
1846	$616,800,000	$370,557	$4,647,000
1850	724,700,000	364,003	6,312,000
1855	1,402,800,000	2,515,000	11,676,000
1860	1,419,200,000	5,440,000	18,956,000
1865	1,550,800,000	7,230,000	45,961,000
1870	1,967,000,000	14,285,000	50,328,000

It will be seen that in 1850 the state tax represented a tax rate of about 50 cents per $1000. By 1855 the rate was about $1.792 per $1000, and in 1860 it was $3.833. The total assessment of property increased 130 per cent from 1846 to 1860, but the state tax increased 1341 per cent in the same time. The table shows also the phenomenal increase of the total tax burden after 1860 and supplies in itself a sufficient explanation for the later failure of the New York board of state equalization.

This brief review of the evidence readily available to the writer indicates that the state board of equalization was the logical response to a demand for relief from local inequalities in taxation. The causes of this inequality are not in every case so clear, nor is it so evident why regular annual equalization should have ap-

Canal permitted discontinuance of the state tax. Cf. *Report of the Committee on Internal Improvements in New York.* Privately reprinted, Boston, 1839, pp. 18, 19.

[1] Lincoln, *Messages of the Governors of New York*, iv, pp. 24, 25.

[2] *Ibid.*, iv, p. 564. [3] *Ibid.*, iv, pp. 597, 598.

[4] Fairlie, *The Centralization of Administration in New York*, p. 160.

peared first in the newer states of the middle west. The natural tendency to evasion has always been present and a considerable impulse to its exercise was given by the extension of the tax system to cover all forms of property, and by the increased pressure of higher taxes. In some of the eastern states the rapid rise in tax burden did not come until the Civil War or the years immediately preceding. In the states farther west the tax burden began to be considered oppressive somewhat earlier.[1] Inefficient management of finances, heavy interest charges on account of internal improvements, and the initial expansion of state administrative functions — these factors had caused a real increase in the cost of government.[2] The burden was felt to be the heavier and apparently furnished a sufficient incentive to evasion because the aggregate of taxable wealth was small, the economic interests were predominantly agricultural, and the transportation facilities were still quite undeveloped. The sense of injustice was deepened by the feeling that those best able to pay were escaping in largest measure.[3] Public sentiment crystallized on the subject of state equalization and placed it in the category of state administrative responsibilities. Historically this step was very important. It marked a definite change of administrative policy and opened the way for a new line of development, though as a practical remedy these boards accomplished very little for the relief of local inequalities. The reasons for this failure will be made clear from an examination of the structure and powers of the state boards of equalization, and of the conditions with which they were expected to deal.[4]

Methods of Selection.—Four principal methods of selection have been employed, as follows: state officials acting ex officio; elec-

[1] Cf. figures for New York above, p. 23, and those for Massachusetts below, p. 28.

[2] Cf. the discussion of these problems for Iowa in Brindley, *op. cit.*, i, chs. 1–5. Also "Minnesota Tax Commission," *Report*, 1914, ch. 8, "The Cost of Government in Minnesota."

[3] Brindley and Phelan emphasize this feeling especially. See also, Haig, *A History of the General Property Tax in Illinois*, pp. 112, 113.

[4] Cf. the *Separate Report of Oscar Leser, Member of the State Tax Commission of Maryland*, 1916, for a discussion of these and other points.

tion; appointment by the governor with confirmation by the senate or executive council; and appointment by the legislature of a committee of its own members. The first method has been most popular, but none has offered any material advantage in results. The elective Illinois board has failed just as conspicuously as did the ex officio Wisconsin board. However constituted, it has been impossible to prevent the entrance of the same spirit of log-rolling that appeared in the county boards. Representatives of districts have fought to secure a low valuation for their districts, with the inevitable result of inequality of taxation over the state. Ex officio members have been a hindrance both to boards of equalization and to the later tax commissions. Their principal interests lie elsewhere; they are not compelled to make continuous and careful study of tax problems and conditions; and they perform the ex officio duty chiefly with a view to its ulterior political effects. This, at least, has been the experience in tax administration, and the sentiment has been very generally expressed that tax boards should be kept free from officials so chosen.[1]

Several western states have made provision in their constitutions for state boards of equalization.[2] The folly of providing permanent forms of administrative organization by thus embedding them in the organic law is shown by the experience of Colorado. Complete centralization of tax administration in that state was defeated by the refusal of the people to endorse a proposed amendment providing for the abolition of the state board of

[1] A recommendation to this effect occurs very widely in the reports of special commissions. Cf. the following as a sample of the criticism that is offered:

"The state officers who constitute the present state board of equalization are almost wholly occupied with the other duties of their respective offices. It is impossible, in the nature of the case, that they should give very much of their time to this most important subject. During ten or eleven months of the year they have no time or opportunity to devote to the matter of assessment, and the whole work of assessment and collection of taxes goes on in the various counties independently, without any directing or supervising power." *Report of the Kansas Tax Commission of 1901*, p. 13. The political motives are especially commented upon by the New York state board of assessors in their *Report*, 1885, p. 25. Cf. also Colorado Tax Commission, *Report*, 1912, pp. 16, 17; and the *Report of the Committee to investigate Assessment and Taxation, Tennessee*, 1915, p. 31.

[2] These states are California, Colorado, Idaho, Montana, Utah, and Wyoming.

equalization and the transfer of its duties to the new tax commission.[1]

Scope of Powers. — According to the original design, all of the earlier state boards of equalization were expected merely to equalize the local returns and no further powers were conferred, though in some cases these boards were later given the duty of assessing certain classes of corporate property. But so far as concerned the function of equalization, the authority of both state and county boards was strictly limited to the equalizing process. In a few cases, notably New York and Ohio, this process was extended to real estate only. The more general practice in later years was to equalize both real and personal property though of course the power of changing real property assessments, except in the years of general revaluation, was limited to allowances for the erection or destruction of improvements above a certain value, usually $100. The variety of restrictions may be illustrated from a group of middle western states. The Ohio board could raise or lower the total local valuation by 12½ per cent;[2] the Minnesota board was not permitted to reduce the total, but might increase it, apparently without limit;[3] the Kansas board might raise or lower any county but was not allowed to alter the total for the state;[4] and the Michigan board was free to alter this total by any amount in either direction.[5] Previous to 1898 the Illinois board could not reduce the aggregate, but in this year it was empowered to alter the total in either direction by 10 per cent.[6]

Irregular or Infrequent Equalization. — The infrequency of equalization was in some states another cause of inefficiency. In this respect there has been wide variation in practice. Maryland has headed the list with only five revaluations of real estate, at irregular intervals, in the nineteenth century.[7] Maine had a

[1] Colorado Tax Commission, *Report*, 1912, p. 18.

[2] Cf. below, p. 50. Even this power was withdrawn in 1900.

[3] *Laws of Minnesota*, 1860, ch. 1.

[4] *Laws of Kansas*, 1861, ch. 30.

[5] *Laws of Michigan*, 1851, p. 143, § 4.

[6] *Laws of Illinois*, 1898, p. 34.

[7] Cf. *Report of the Special Tax Commission of Maryland*, 1913, p. 170. Cf. also T. S. Adams' argument that this infrequent appraisal was no hardship, since the great expense of more frequent revaluations tended to outweigh the possible gain. *Taxation in Maryland*, p. 37.

decennial revaluation from 1820 to 1890, when the period was changed to a biennial term.[1] Ohio in 1910 abandoned for a quadrennial appraisal the decennial period which had prevailed since 1860.[2] Michigan has used a quinquennial period, Missouri a biennial, while Wisconsin, California, Illinois, and New York have revalued real estate annually. Indiana has tried at different times periods of five, two, six, and finally four years, with equally indifferent success in the results. There has been little to the advantage of any of these boards owing to the lack of adequate powers and of a proper sense of the responsibilities which rested upon them. The work of the Illinois board in annual session has been no more creditable than that of the Ohio decennial board. Given the other conditions which prevailed, inefficiency was inevitable, though the infrequency of meeting lessened by so much the chance of possible relief.

It seems clear enough from this review of the structure and powers of the state boards of equalization that they would be inadequate to afford any guarantee of effective control of the situation. The improbability of adequate equalization by such boards is further increased by a consideration of the new conditions which were developing — a development which meant virtually the breakdown of the general property tax. These conditions were the enormous increase of public expenditures, the funds for which were gotten mainly through taxation; and in addition, the phenomenal growth of intangible wealth.

The Civil War marked for the older states a turning point in their fiscal history and signalized the beginning of an era of public expenditure which had seen no parallel in the history of any previous epoch. The first cause of this increase was the additional burden imposed by the war itself, a burden borne the more cheerfully because it was expected to be but temporary.[3] But the high level of public outlay reached in 1865 has served for both state and federal governments merely as the basis for an expansion as yet

[1] Cf. below, p. 118.

[2] Since 1913 the various tax laws have permitted the reassessment of real estate in the discretion of some taxing authority, state or local. Cf. below, ch. 16.

[3] Cf. Taussig, *Tariff History of the United States*, pp. 172, 173, for a statement of the popular attitude toward high tariff rates during the War.

unchecked for either.[1] For the states there has been the whole modern movement toward economic and social betterment at public expense, and the enlargement of the entire administrative organization entailed by these wider activities. This extension of functions, with its concomitant growth of the administrative organization, has occasioned a phenomenal increase in the amounts required to be raised through taxation. The earlier special tax commissions were greatly concerned with this problem and their reports contained frequent reference to the recent rapid increase of the public burdens.[2] The figures showing the growth of taxation in New York have already been given.[3] Massachusetts presents a similar experience. The Boston tax rate in 1822 was 36 cents per $100. As late as 1860 the general level throughout the state was from 60 cents to $1.00, and in 1861 the average tax rate was 83 cents.[4] The average direct state revenue during the years 1856–60 had been $1,125,000 but the average of the next four years was $4,000,000. In 1859–61 the state levy had averaged less than $300,000, but in 1865 it was $5,000,000. The total yield from the general property tax was $7,600,000 in 1861, and $16,800,000 in 1865.[5]

The universality of this tendency toward higher tax burdens is shown by the general advance of tax rates after 1860.[6] In this year the average tax rate for the whole United States was 78 cents per $100 of assessed valuation. Ten years later it was $1.98. The average rate receded slightly in the next two census years, to $1.83

[1] Cf. Bullock, "The Growth of Federal Expenditures," *Pol. Sci. Quart.*, xviii, p. 97.

[2] Cf. Chapman, *op. cit.*, *passim*.

[3] Cf. above, p. 23.

[4] Bullock, "A Classified Property Tax," *Proceedings of the National Tax Conference*, 1909, p. 96.

[5] Friedman, *The Taxation of Corporations in Massachusetts*, p. 24. The Massachusetts Special Tax Commission of 1875 said: "The War of the Rebellion brought with it an enormous expenditure, and an inflated paper currency. . . . The holders of personal property . . . were stimulated to extraordinary efforts to evade their share of the common burden, while the banks . . . without exception surrendered their charters and became National Banks. The state and the municipalities were deprived of resources at a time when they were experiencing a pressing need for revenue." *Report*, pp. 123, 124.

[6] Bureau of the Census, *Wealth, Debt and Taxation*, 1913, i, p. 751.

and $1.85 respectively, but advanced to $2.05 in 1902. While this increase was doubtless due, in part, to evasion of assessment, yet there was unquestionably an advance to a higher level of taxation by 1870, the greater burden of which stimulated interest in the problems of tax reform and of more equitable tax distribution. Throughout the country the increasing difficulty of securing adequate returns from taxation forced attention to the question of tax administration. Reference has already been made to the number of special tax commissions which have been created for the study of these problems.[1] In Indiana "The subject of taxation was brought into prominence by the condition of the state's revenues. The state was in debt and the debt was being increased annually by over $500,000. It was necessary to raise additional revenue."[2] The Iowa special tax commission of 1893 asserted, "The credit and financial standing of our state are impaired by the low valuation that now obtains."[3] In the same year the preamble to the resolution passed by the Ohio legislature creating a special tax commission recited that the existing tax law needed revision and that the state was compelled to find additional revenue.[4]

While the increased fiscal needs of states and local communities have been compelling greater demands upon the taxpayers, there has been in progress in the United States a subtle transformation of the forms of wealth, which has rendered the general property tax a steadily less effective agency for the just distribution of the tax burden. Intangible property had existed, of course, from colonial times, and it had even begun to appear in considerable volume before the Civil War. But the American Industrial Revolution has only worked out its full effects since that time. The rise of the corporation as the chief form of industrial organization, the tremendous accumulation of wealth as the result of greater national productivity, and the general development of the national resources — these phenomena have made possible the creation of an enormous volume of intangible property. The steadily increasing

[1] Cf. above, p. 5, note.

[2] J. P. Dunn, *The New Tax Law in Indiana*, Indianapolis, 1892, p. 6.

[3] *Report of the Special Tax Commission of Iowa*, 1893, p. 8.

[4] *Report of the Tax Commission of Ohio*, 1893, p. 1.

evasion of these more elusive forms of wealth has been the "bloody angle" of criticism against the general property tax and the latest administrative reform, supervision of the local assessment, marks the final attempt to save the tax by eliminating this weakness.

With the rapid increase of the tax burden after the middle of the nineteenth century, the growing evasion of intangible personal property gave rise to a vicious circle of cause and effect which worked havoc with all standards of justice in taxation.[1] The pressure of a steadily advancing tax rate popularized competitive undervaluation until a generally accepted canon of taxation among local tax officials was "Keep down the duplicate in order to reduce the state tax." These officials embarked upon this course notwithstanding all the penalties of the law and the solemnity of their oaths of office. The lower valuation meant a higher rate for local purposes, but the total taxes to be levied were somewhat reduced by the smaller quota of state and county taxes. The higher local rate, however, began to bear more and more heavily upon property and at last to approach confiscation of the entire income from certain classes of investments.[2] The natural result of this increased pressure was a progressive evasion by intangible and readily moveable property, thereby lessening the total valuation and increasing still further the rate necessary to raise the needed local revenue. The incentive was then still greater to secrete or undervalue the moveables and intangibles. Evidence of the operation of this vicious circle may be seen in the personal property assessments of almost any city or state since the Civil War.[3] The only escape under the general property tax has been the recent action of several states in limiting the total tax rate, thereby forcing higher valuations and affording some guarantee to personal property owners that the whole income from their property would not be confiscated.[4] In some other

[1] Cf. Bullock, "A Classified Property Tax," *Proceedings of the National Tax Conference*, 1909, pp. 95–111, especially p. 97.

[2] The tax rate in many districts has been $4.00 or above on the $100.

[3] *E. g.*, E. D. Durand, *The Finances of New York City*, pp. 190–195; C. C. Williamson, *The Finances of Cleveland*, pp. 67, 68; J. H. Hollander, *Financial History of Baltimore*, p. 384; C. P. Huse, *The Financial History of Boston*, pp. 376, 377.

[4] *E. g.*, Kansas, Ohio, Wyoming, Colorado.

states the condition of underassessment has been officially recognized by the legislature and the legal basis of assessment has been reduced to a percentage of full value, or else the levies have assumed the existence of undervaluation without legalizing it. For example, Iowa in 1897 adopted 25 per cent of full value as the legal basis of assessment [1] and Illinois in the following year accepted 20 per cent of full value as the legal basis.[2] The latter percentage was advanced in 1909 to 33⅓ per cent with a corresponding reduction in the tax rates.[3] Similar depreciation of the basis of assessment occurred in Minnesota and Washington and in both these states it has proved an effective barrier to the work of the tax commission in establishing needed reforms.[4] Minnesota in 1913 legalized the percentage basis, requiring the assessment of different classes of property at varying percentages of full value.[5]

To the present time state equalization, by a board or otherwise, has been provided in some thirty-nine states, including those in which the later tax commissions have taken over this function. The earlier boards were established almost exclusively in the northern states, though not all of these states have had such boards. The comparatively late appearance of heavy direct taxation in southern states and the relatively small amount of locally owned intangible property delayed intense competitive undervaluation and the demand for state equalization.[6] The recent changes in

[1] *Code of Iowa*, 1897, p. 457.

[2] *Laws of Illinois*, Special session, 1898, p. 36.

[3] *Ibid.*, 1909, p. 308. Acceptance of the depreciated basis by the legislature occurred also in Kansas, where the treasurer asserted in 1886: "The levies provided for by law last year would raise — no person can say how much — certainly $3,000,000; whereas, with the present valuation, but about $1,000,000 is raised. Treasurer of Kansas, *Report*, 1886, p. 94.

[4] Cf. below, chs. 12 and 13.

[5] *Laws of Minnesota*, 1913, ch. 483. The auditor of Missouri recommended a 50 per cent basis in 1900. *Report of the Missouri Tax Commission*, 1903, p. 14. Washington adopted a 50 per cent basis in 1913.

[6] Cf. Seligman, *Essays in Taxation*, p. 20; Bullock, *The General Property Tax*. Also, Hart, "The License System in Louisiana," *Proceedings of the National Tax Conference*, 1909, pp. 275–295. Cf. also *Report of the Special Tax Commission of Louisiana*, 1908, p. 8. Florida established a state board of equalization in 1871 (*Laws*, ch. 1841) but it was abolished after one report (*Laws*, 1872, ch. 1887).

tax systems and the growth of wealth in the South have altered the situation, and the practices which once characterized assessments in northern states only are now to be found in southern states as well. The collapse of local administration has led to a general demand for state equalization in those commonwealths north and south which have not yet progressed to this stage of administrative reform. After three special tax commissions in New Jersey,[1] a board of equalization with power to adjust valuations on appeal was established in 1905.[2] Similar recommendations were made by the Delaware special tax commission of 1893, and for Mississippi by a student of the tax system in 1899.[3] Louisiana created such a board in 1906,[4] North Carolina in 1907;[5] and the Arkansas Tax Commission recommended in 1910 that its powers be extended to include authority to change individual assessments.[6] The Virginia special tax commission of 1911 recommended the establishment of a permanent tax commission with power to equalize among the counties, but the plan was defeated in the legislature.[7] The Texas special tax commission of 1899 declared that as far as concerned the state tax, nothing was more unequal than the values in the several counties of the state.[8] Since 1912 the Texas Tax Commissioner has been urging the advisability of creating a board of equalization or a tax commission with power to equalize.[9] These more recent recommendations for a state board of equalization are really behind the times. State equalization may be necessary, but a board with equalizing powers only would be of small avail. In reality, what is needed is

[1] The first proposal came from the commission of 1880, the second from the commission of 1890, and the third from the commission of 1905. These reports are reviewed on this point, by the report of the last-named commission, pp. 34, 35.

[2] Cf. below, pp. 114 ff.

[3] Brough, *Taxation in Mississippi*, p. 204. Mississippi created a state board of equalization in 1874 (*Laws*, ch. 28), but it soon disappeared.

[4] *Laws of Louisiana*, 1906, No. 182.

[5] *Laws of North Carolina*, 1907, ch. 261.

[6] Arkansas Tax Commission, *Report*, 1910, pp. 42, 43.

[7] *Report of the Virginia Tax Commission*, 1911, p. 18. On the reasons for the failure, cf. D. R. Freeman, "The Defeat of the Virginia Tax Reform Bill," *Proceedings of the National Tax Conference*, 1912, pp. 419–423.

[8] *Report of the Tax Commission of Texas*, 1899, p. 5.

[9] Cf. below, p. 563.

a state tax commission, with power not only to equalize but also to supervise local assessments.[1]

State Boards of Corporate Assessment

The second stage in the evolution of the centralized tax department was state assessment of corporations. In general this stage succeeded that of state equalization of local assessments, though in a few states, especially in the South, it preceded state equalization, while in some others the two functions were established simultaneously. The principal reasons for centralization at this point were the difficulties of corporate valuation and assessment, and the need of supplementing the revenue from the general property tax. An examination of the state session laws shows that the majority of these boards were established in the twenty years following the Civil War, a period in which state and local expenditures were rising rapidly and the general property tax was going to pieces under the heavier strain. It was in this period, too, that the public attitude toward public service corporations, especially railroads, underwent a marked change reacting from an extremely tolerant policy of favoritism and encouragement to an equally extreme attitude of suspicion, restriction and regulation. The "Granger Movement" left its trail of state railroad commissions equipped with varying degrees of authority over rates and conditions of service. As the scales fell from their eyes the people saw that in taxation as in rate structures there was need of central administrative control.

Originally the states made no distinction between corporate and other property but sought to tax all property within their jurisdiction according to the uniform rules of the general property tax.[2] In the era of popular craze for internal improvements at any cost exemptions and concessions of various sorts were offered by some communities in favor of internal improvement companies but tax exemptions were never so generally used as were the more

[1] Certain recent special tax commissions have recognized this fact. Cf. *e. g.*, *Report of the Commission to Investigate Tax Assessments in New Jersey*, 1913, p. 31; also *Report of the Commission to Investigate Assessment and Taxation in Tennessee*, 1915, p. 31.

[2] Cf. Seligman, *Essays in Taxation*, pp. 145–148.

direct forms of financial assistance.[1] The growth of interstate transportation and the increase of earning capacity placed the problem of railroad assessment beyond the capacity of the local assessors. The assumption of this function by the state was a natural and logical development that was forced upon it by circumstances.

The usual method of effecting such administrative centralization was through the erection of a state board of assessment. Some states, which already had a state board of equalization, imposed upon that body the additional duties of corporate assessment. In most other cases certain state officers were required to act ex officio as assessors of certain corporations. These assessment boards were often given fairly extensive powers, including the authority to call and examine witnesses, to compel the production of books and papers, and to have access to the records of the business. State control of corporate assessment forced the consideration of methods of taxation which would achieve the desired result of increasing the tax burden on the companies thus detached from the local jurisdiction. The attempt to develop an adequate system of corporate taxation led to great diversity in practice; but out of these originally wide variations there emerged finally certain fairly definite types of tax system, which as applied to railroads have been characterized as follows:[2]

> Railways are taxed either upon an ad valorem or upon a specific basis, or upon a combination of the two. The ad valorem taxes fall into two classes: First, taxes on the value of real and personal property; second, taxes on the value of stocks or bonds or on valuation based on earnings, dividends or other results of operation. The specific taxes fall into three classes: First, taxes on stocks, bonds, loans, etc.; second, taxes on gross or net earnings, revenue, or dividends; third, taxes on traffic or some physical quality or property operated, or on privilege.

By a somewhat different grouping these taxes have been classified as taxes on capitalization, taxes on gross receipts, and a modified form of the general property tax. The first two of these forms

[1] McCrea, *op. cit.*, p. 1009; also Cleveland and Powell, *Railroad Promotion and Capitalization*, pp. 176–178.

[2] Bureau of the Census, *Commercial Valuation of the Railway Operating Property in the United States*, Bulletin No. 21, 1904.

have been most popular north of the Ohio and east of the Mississippi, while the third has prevailed more commonly in the remainder of the country.[1] Ad valorem taxation in the form of a modified general property tax has displayed some tendency in recent years to encroach upon the territory of the other two forms. The taxation of railroads on gross receipts received a severe blow in its abandonment by Michigan and Wisconsin for an ad valorem system and at the present time but five states employ this method.[2] The transition represents in part, at least, the demand for greater accuracy in allocating the tax burden. The responsibility for the adjustment of the tax burden upon the corporation under the gross earnings system is largely legislative while under the ad valorem system it is chiefly administrative. The failure of legislatures to display the desired sensitiveness to the interests of the people has engendered a certain distrust in legislative responsibility.[3] Out of this distrust grew the feeling that it was impossible to tax the railroads adequately under specific taxation, inasmuch as any change in the rates required the approval of a majority of the legislature and the difficulty of securing such changes made the system exceedingly rigid and inflexible. The responsibility for delays in adjusting the tax rates was neither easily nor certainly fixed, and discontent naturally emerged with the practical operation of specific taxes. The investigations of tax commissions in both Wisconsin and Michigan led to the conclusion that the railroads were not paying their fair share of taxes, and the popular distrust of the legislature as an agency of relief was a factor in the adoption of the ad valorem system.[4] The Minnesota tax commission has on two separate occasions shown that the railroads were paying less taxes than other property but in each case a second contest in the legislature was necessary in order to secure an advance in the rate on gross earnings, while in the first case the proposal was submitted to the people the second time

[1] McCrea, *op. cit.*, pp. 1012–1015; cf. Seligman, *Essays in Taxation*, pp. 170–177.

[2] California, Maine, Maryland, Minnesota, and Connecticut.

[3] The recent movement for the initiative and referendum illustrates the feeling.

[4] See below, chs. 8 and 9.

before it became a law.[1] Without endorsing either method at this point it is apparent that such difficulties as these have been of weight in provoking discontent with the specific system.[2]

The complete results of corporate assessment by state boards of assessors are not available. This material is still for the greater part buried away in state documentary files. The accessible evidence shows, however, that although the ex officio boards effected valuable improvement over the primitive conditions of the locally administered general property tax, yet their results left much to be desired. Some indication of the condition of valuations may be seen in the comparative figures of the older boards and those of the new tax commissions. The Indiana board of tax commissioners added $100,000,000 to the assessment of railroads the first year; the Kansas commission added more than $200,000,000 to the total corporate assessment; the Ohio commission added $400,000,000, and comparable advances were made in other states. These increases are strikingly suggestive of the low level of results which satisfied the first boards of corporate assessment.

The reasons for such inefficiency have been various. The defects of the ex officio and the large elective state administrative boards have already been discussed.[3] These defects have prevented efficient corporation assessment for the same reasons that they prevented proper equalization of local assessments of other property. The Illinois board of equalization has successfully resisted all efforts to compel it to make a proper assessment of certain public service corporations in Chicago.[4] The Missouri board of equalization was accused of favoritism in railroad assessments, and its best reply was that it was assessing railroads on a higher basis than the Illinois board, a very questionable defense under the circumstances.[5] One of the most notorious cases that has come to light was the action of the Nevada State Convention of

[1] Minnesota Tax Commission, *Report*, 1908, p. 85, and 1912, p. 4. The constitution requires a popular vote on any proposal to change the rate of tax on gross earnings.

[2] Cf. *Ibid.*, 1912, for an extensive review and criticism of the ad valorem system. Cf. also below, ch. 13.

[3] See above, pp. 24–27.

[4] See below, pp. 75, 76.

[5] Judson, *op. cit.*, p. 82.

County Assessors, which assesses railroad property. In 1906 a progressive minority sought to make the railroad valuation something more than nominal; but after taking more than sixty ballots the convention adopted the utterly inadequate valuation originally decided upon by the majority.[1]

Further, the earlier laws were often lacking in clearness, and did not always give adequate powers to the boards charged with their enforcement. But little inducement was required to persuade the ex officio assessment boards to lapse into the same practices in assessing corporations as had become characteristic of their work, and of the work of similar boards, in the state equalization. Even this small encouragement was afforded, however, by the inadequate laws and the absence of any scientific spirit in approaching the problem; and the unsatisfactory results which appeared were the natural fruit of imposing tasks of such magnitude upon men so little fitted for them, with defective statutes and restricted powers to add to their difficulties. Corporation assessments drifted into ruts, and but little attempt seems to have been made to keep abreast of the advance in taxable capacity. In short, the older corporation assessment boards seem to have been repeating, for these classes of taxpayers, many of the vicious practices which have been followed by the local assessors in their administration of the general property tax.

Centralization of corporate taxation has been incomplete, both with regard to the property of the corporation and with regard to classes of corporations. Everywhere the central assessment under the ad valorem system covers only the property actually used in the business. All other real estate is taxed where situated in the same manner as adjoining property, though in practice discriminations are sometimes made against or in favor of corporate real estate. In Wisconsin and New Jersey the cities succeeded in temporarily detaching certain definitely localized operating property from the state assessment.[2] The motive here was the increase of municipal revenue but there was evidently a confusion between local assessment and the allocation of a somewhat larger share of

[1] Nevada State Convention of Assessors, *Report*, 1906, *passim*.

[2] See below, pp. 104, 263, 264.

the taxes paid on the state assessment. Further, while the function of valuation has been centralized, the determination of the tax rates is often left to the local tax districts, subject only to the general restrictions on the local levying power. In such cases the centrally determined valuation is apportioned among the various counties, cities and tax districts on the basis of mileage. This process has proved very uneconomical in the case of certain transmission companies since the greater part of the receipts in small districts has been absorbed by the expenses of certification and collection.

Centralized corporate assessment is incomplete also in that it has been confined almost wholly to the public service corporations, though there are private corporations in many states which exceed in size and importance some of the public service corporations which are now assessed through state agencies. With the exception of the few states in which fairly complete systems of corporate taxation have been developed, it is still the rule to tax private business corporations through the agency of the local assessor.[1] In a few instances the general property tax has been supplemented by franchise or capitalization taxes. It need hardly be pointed out that the local piecemeal assessment of the larger private corporations is as indefensible as would be the local assessment of railroads. This proposition was sustained by the Michigan Special Commission of Inquiry into Taxation of 1911, which suggested that the board of tax commissioners be given power to assess all business corporations.[2] The Wisconsin income tax overcomes the deficiencies of local assessment of personal property by central assessment of incomes, including corporate incomes. In Michigan, Minnesota, Arizona, and Ohio the tax commission has assumed the assessment of mines. Aside from such instances, however, the assessment of private corporations remains a local matter, subject only to such central control as may be exercised over the whole local assessment process by a state tax department. The tax commission should be permitted and required to advise the local assessors, at least, if the whole problem of the valuation

[1] Seligman, *Essays in Taxation*, pp. 195–215.

[2] *Final Report of the Commission of Inquiry into Taxation*, 1911, pp. 46–49.

of the larger industrial and mercantile companies is to be dealt with under the general property tax.

The centralizing movement in the taxation of corporations was for a long time confined to the states, but in 1909 the federal government entered this field by the enactment of an excise tax on corporations, a tax which was later merged with the income tax of 1913. The first measure was not so much a necessary complement to existing federal taxation as the outcome of opposing political forces.[1] The second was avowedly made a part of the revenue plan as an offset to certain tariff reductions. In addition to this direct participation in corporate taxation the federal government bids fair to engage more extensively in the movement through contributory channels. The increasing popularity of physical valuation as a guide to taxable values will enhance the significance of the physical survey of railroad property which is now being conducted by the Interstate Commerce Commission. Professor Seligman has invoked the aid of the federal government in the administration of the income tax, though advocating the latter as a means of state income, owing to the interstate complications which threaten the efficiency of state administration.[2]

The State Tax Commission

The final stage of the development here outlined has been the extension of state control over the actual process of local assessment. In the earlier stages, reform was attempted either by correcting the mistakes after they had been made or by removing the assessment entirely from local jurisdiction. But the fact remains that a good equalization cannot wholly correct a poor assessment. Experience showed that even a good equalization was not usually obtained under the older regime. The inefficient results of ex officio administration finally became intolerable and the tax commission, a body in special charge of tax administra-

[1] Seligman, *The Income Tax*, pp. 591–594, describes the origin of the corporation tax of 1909.

[2] Seligman, *ibid.*, pp. 654–658. Cf. also his Presidential Address at the National Tax Conference, 1914, *Proceedings*, pp. 186–198. Also the discussion by T. S. Adams, *ibid.*, pp. 199, 200, approving this policy.

tion, has emerged. In most cases it has taken over the functions of state equalization and of corporate assessment; but its own distinctive function, that which made the advent of the tax commission so definite an advance, was the supervision of local assessments. None of the boards created before 1891 had possessed this authority.

In some states, however, a certain degree of supervisory authority had apparently been exercised by the state auditor, by whom the blank forms were prepared, instructions issued, and a certain inspection maintained over the returns. In this there was no real supervision of the local assessors, no thorough inspection of their work, no effective authority for the enforcement of suggestions. The significant feature of the tax commission's supervision has been the actual extension of a varying degree of control over the official acts of the assessor.

The difficulties of adequate supervision of the hundreds of local officials were not comprehended at first and the earlier statutes which created tax commissions were therefore not entirely successful. In fact some boards have been able to exercise merely advisory authority, which has proved to be of little value in combating long-established local practices. These defects have been met recently in some states by conferring upon the tax commissions sweeping powers of reassessment, and in a few instances the authority to remove the assessors. Whether the tax commission is to go farther and appoint the assessor, as in the Ohio experiment of 1913, or whether the locality is to continue to make its own assessment subject to review and correction from above, it is impossible now to say. It is really a question of local self-government — is the locality to choose the original assessor, or shall he be chosen by the state?

The former practice is deeply rooted, but the conviction has been freely expressed that to the practical results of the principle of local election may be attributed a considerable proportion of the difficulties which have been experienced in enforcing the general property tax.[1] Under the conditions which actually pre-

[1] The Kansas special commission of 1901 said: "The township assessor assesses the voters upon whom he depends for reëlection. It is a necessity of the case, and

vailed — great increase of tax burden and rapid growth of intangible wealth — it is quite questionable if central assessment could have prevented the breakdown which actually came, though it might have made it less serious. The more important question today is whether, for the future, the principle of local selection of the assessing officers shall be retained?

Two opposing movements are discernible. One, headed by the special tax commissions, has advanced toward the goal of greater state control of the whole machinery of assessment; the other, headed by the advocates of "home rule" for cities, has reacted against all centralizing tendencies. As early as 1875 the Massachusetts special tax commission suggested that the tax commissioner be empowered to appoint one member on each local board of assessors, thinking to secure in this way general uniformity in the enforcement of the tax laws.[1] The ideal of state-wide uniformity in administration was upheld also by the Ohio special tax commission of 1893 in proposing a permanent tax commission with power to appoint a county board of three members which should have complete charge of assessment and equalization in the

it universally appears in practice, that the assessment becomes a machine for the securing of votes, and in too many instances individual inequalities are a direct result of this defect." *Report*, 1901, p. 15. Professor Seligman has asserted that "the assessors are compelled openly to disregard their oath or to incur certain defeat at the next election." *Pol. Sci. Quart.*, v, p. 26. In New Jersey one assessor based his appeal for reëlection upon the statement that he had reduced the valuation by $100,000, though actual values had increased 15 per cent. New Jersey special commission of 1912, *Report*, p. 21.

The assessor's struggle for political self-preservation is further intensified by the short term which quite generally prevails. In 14 out of 26 states in which the office of county assessor was elective in 1913, the term was for two years. In the remaining 12 states the term was four years. Out of 21 states with elective town assessors, 9 were elected annually, 8 biennially, 3 triennially and 1 quadrennially. Bureau of the Census, *Wealth, Debt and Taxation*, 1913, i, pp. 449 ff. In Illinois it has been the practice to elect the assessors just before the quadrennial revaluation of real estate, thereby requiring the inexperienced official to undertake at the outset one of the most difficult and important of his duties and affording great advantage to those localities which have been pressing for low valuations. The New Jersey board of state assessors secured an extension of the assessor's term from one to three years and recommended a further extension to five years. *Report*, 1891, p. 14. The term of the Oregon assessor has recently been extended to four years.

[1] *Report of the Commission on Taxation in Massachusetts*, 1875, pp. 85, 86.

county.[1] This proposal passed unheeded at the time, but the present permanent tax commission was given the right in 1913 to appoint the county board of review, and the power of removing the county assessors who were to be appointed, according to the same act, by the governor. This law was repealed in 1915.[2] The Kansas Tax Commission aimed at improving assessment conditions while preserving a measure of local autonomy in its recommendation of 1912 that county boards be empowered to appoint county assessors, over whose work the commission was to exercise close supervision.[3] Similar recommendations were made by the Utah board of equalization in 1910,[4] the Minnesota Tax Commission in 1912, and the Massachusetts Joint Special Commission on Municipal Finance of 1913.[5] In Connecticut the tax commissioner found that the six cities in which the assessors were appointive under charter provisions were among the best assessed districts of the state.[6] These proposals have not all been adopted. They indicate, however, the trend of sentiment among the practical officials and the special students and investigators of conditions in various states.

On the other hand, the "home rule" advocates are demanding complete surrender of state control over municipal affairs.[7]

[1] *Report of the Tax Commission of Ohio*, 1893, p. 71.

[2] See below, ch. 15.

[3] Kansas Tax Commission, *Third Report to the Legislature*, 1912, pp. 35–45.

[4] Utah State Board of Equalization, *Report*, 1910, p. 7; in 1912 the suggestion was withdrawn as it had evidently not met with the approval of the Board's constituents. Cf. *ibid.*, 1912, p. 6.

[5] The Minnesota special tax commission of 1902 approved a central appointment, but felt that such a plan would arouse too much opposition, and it proposed, therefore, a county supervisor of assessments, to be locally elected. *Report*, p. 22. The plan of the Massachusetts Commission was to make the assessor's office appointive, the selection being made by the mayor and council, with the approval of the state tax commissioner, by whom the assessor might be removed. *Report*, pp. 21, 22, 83–88. The New Jersey special tax commission of 1912 also recommended the enlargement of the tax district and the appointment of an assessor in each district by the governor. *Report*, pp. 33, 34. For a statement of the Canadian practice and a comparison with American conditions and results, cf. Vineberg, *Provincial and Local Taxation in Canada*, p. 90.

[6] Tax Commissioner of Connecticut, *Report*, 1912, p. 19.

[7] "Home rule" in the general sense should be distinguished from "local option," a somewhat restricted term which has usually been coupled with the project

Numerous issues are involved, such as the liquor question, public ownership of local utilities, tax and debt limits, and the exemption of various forms of property from local taxation. The writer has no intention of entering into this controversy, in which may be seen the perennial conflict between urban and rural interests. The progress in the field of taxation seems to indicate, however, that the current is now setting strongly toward centralized administration, and that it will not be checked until all matters of state-wide importance have been swept into the hands of the state tax commission.[1] Whether it will carry away all vestiges of local autonomy in taxation depends somewhat upon the moorings of the old traditions of self-government, and upon the success achieved in establishing reasonable standards of distinction between the issues of purely local and of general concern. A constitutional amendment recently proposed in Wisconsin offers an interesting solution of the latter problem.[2] It authorized localities to extend the principle of classification to various classes of property, *for the purpose of local taxation.* These exempted properties were to continue to pay the state tax, and more significantly still, in so far as there was taxation of any property for either state or

to introduce in each locality certain experiments in social reform through the use of special forms of taxation or the extension of certain exemptions. In this form the movement has met with considerable opposition. The National Tax Association in 1911 voted to eliminate from future publications its tentative endorsement of local option, adopted in 1907. *Proceedings of the National Tax Conference*, 1911, pp. 425–449. Oregon has been one of the battle grounds in recent years, but thus far the efforts of the "Single Tax League" have been unavailing. The bogie of single tax stampeded the Ohio Constitutional Convention of 1912 and prevented the frank consideration of possible measures of tax reform, and the amendment providing for the initiative and referendum expressly forbade the use of this agency for the introduction of the single tax. Cf. also H. Secrist, "Home Rule in Taxation," *Quart. Jour. of Econ.*, xxviii, p. 490.

[1] Cf. *e. g.*, the recommendations of the California State Tax Association in its bulletin, *The Problem of Taxation in California*, Feb., 1915.

[2] Cf. T. S. Adams, discussion at the Seattle Tax Conference, *Taxation in Washington*, p. 204. The Tax Commission approved the amendment, which was proposed in response to state wide pressure on the subject. Notwithstanding the apparently wide demand for the amendment, it was lost in the greater wave of reaction against central administration which swept over the state during the recent political storm.

local purposes, its assessment was to remain under the supervision of the tax commission. Local autonomy was thus preserved at the vital point, the determination of the basis of the local burden; and central administration was retained at its vital point, the control of the distribution of the local burden over the determined base.

APPENDIX TO CHAPTER I

STATE BOARDS OF EQUALIZATION

State	Date of establishment	Term (years)	Method of selection
Maine	1820 Constitution	..	Elected by Legislature
New Hampshire	1878 ch. 73	2	Appointed by Supreme Court
Vermont	1820 ch. 1	..	Committee of Legislature
Massachusetts	1694	..	Committee of General Court [1]
Connecticut	1820 ch. 57	..	Ex officio
Rhode Island	....		
New York	1859 ch. 312	3	State officials ex officio, and three members appointed by the governor
New Jersey	1891 ch. 114	5	Appointed by governor
Pennsylvania	1878 no. 160	..	Ex officio
Delaware	None		
Maryland	"		
Virginia	"		
West Virginia	1882 ch. 32	..	Board of Public Works, ex officio
North Carolina	1907 ch. 7	..	Ex officio
South Carolina	1868 no. 22	5	Elected by the county commissioners
Georgia	None		
Florida	"		
Alabama	"[2]		
Mississippi	"		
Louisiana	1906 no. 182	4	Elected from congressional districts
Texas	None		
Oklahoma	1907 ch. 71	..	Ex officio
Arkansas	None		
Tennessee	1895 ch. 120		Ex officio
Kentucky	1884 ch. 1336	4	Auditor, and one from each appellate district appointed by the governor
Ohio	1825 p. 58	..	Elected from congressional districts [3]

[1] The date refers to the earliest beginning of provincial equalization.

[2] The title of the state tax commission was recently changed to State Board of Equalization. Cf. below, p. 561.

[3] In those cases in which no term is given, but in which the board was elected, the term extended only through the current equalization. This was the case in Ohio, Indiana, and Maine.

STATE BOARDS OF EQUALIZATION — *continued*

State	Date of establishment	Term (years)	Method of selection
Indiana	1852 ch. 32	..	Elected from congressional districts
Illinois	1867 p. 105	4	Elected from congressional districts
Michigan	1851 no. 106	..	Ex officio
Wisconsin	1852 ch. 598	..	" "
Minnesota	1860 ch. 1	..	" "
Iowa	1851 Code, ch. 37	..	" "
Missouri	1872 p. 80	..	" "
Kansas	1861 ch. 35	..	" "
Nebraska	1869 p. 179	..	" "
North Dakota	1890 ch. 132	..	" "
South Dakota	1891 ch. 14	..	" "
Montana	1891 p. 73	..	" "[1]
Idaho	1887 Act of Feb. 10	..	" "[1]
Wyoming	1869 ch. 68	..	" "
Colorado	1876 Constitution		" "
New Mexico	1882 ch. 62	..	" "
Arizona	1887 R. S. sec. 2657	..	" "
Utah	1896 ch. 129	4	Appointed by the governor
Nevada	1891 ch. 56	..	County assessors ex officio
California	1870 ch. 489	4	Elected from congressional districts
Oregon	1891		Ex officio
Washington	1891 ch. 140	..	" "

[1] Several western states had provided boards of equalization under the territorial regime, a fact which explains why the state constitution is not given as the authority in all cases. Cf. above, p. 25.

[2] The date of establishment is that on which a regular board of equalization was provided for. In New Hampshire provincial equalization was begun by a committee of the legislature in 1775. The regular state board of equalization was established in 1878. Cf. Robinson, *History of Taxation in New Hampshire*, pp. 75, 144.

In Massachusetts, the provincial equalization dates to 1694. The state tax commissioner assumed this task in 1871. Cf. Bullock, *op. cit.*, pp. 91, 92.

Where the method of selection is given as ex officio, the board consisted of certain state officers unless otherwise specified, as in the case of Nevada. No term is shown for ex officio boards, as this would, of course, coincide with the regular term of such officials.

CHAPTER II

STATE BOARDS OF EQUALIZATION AND ASSESSMENT

IN this chapter and the one following are given brief accounts of certain state boards of equalization and corporate assessment. While these studies are not elaborate they will perhaps serve to illustrate and strengthen the generalizations made in the preceding chapter regarding the work of the earlier boards of equalization and corporate assessment.

The selection has been confined to those boards the published proceedings of which were available to the writer. The grouping by chapters is roughly according to the degree of progress that has been made in administrative reform. The boards described in the present chapter have either ceased to exist as such (*e. g.*, in Ohio and New York), or continue to exercise simply the old functions of equalization and corporate assessment. In the following chapter the boards described appear to be in process of evolution into regular state tax commissions. In one case, New Jersey, this evolution is now (1916) virtually complete.

STATE BOARDS OF EQUALIZATION IN OHIO

The several stages in the development of centralized tax administration which have been outlined above [1] have all been exemplified in Ohio. The first stage was reached in 1825 with the provision of a state board of equalization for the periodic revaluations of real estate. After the Civil War special state boards of equalization were created for the review and equalization of the locally determined corporate valuations. These boards assumed no functions of corporate assessment, and gave way in the last decade of the nineteenth century to another series of state boards created to administer certain franchise and gross earnings taxes. None of these boards produced satisfactory results and in 1910 they were all abolished and their functions transferred to the state

[1] Cf. above, pp. 5–7.

tax commission. Since the boards of assessment were more directly the predecessors of the tax commission they will be described in the chapter dealing with the commission itself,[1] and only the various boards of equalization will be dealt with here. Such boards have been created to equalize the periodic appraisal of real estate and the annual assessments of railroads and banks.

The State Board of Equalization for Real Estate

Previous to 1825 lands had been entered on the tax duplicate according to schedules of values established by the legislature,[2] a method which had been in use in several older states. Reference has already been made to the defects of this system of assessment by classification, defects which were becoming more apparent with the growth of population, the rise of cities, and the increasing revenue needs of the state.[3] The law of 1825 provided for a valuation of all real property and of certain forms of personal property upon actual view by an assessor who was to be appointed for each county by the court of common pleas. No provision was then made for a reappraisal of real property, but revaluations were made, upon order of the legislature in 1835, 1841, 1846, 1853, 1860, and decennially thereafter to 1910 when the period was shortened to four years. For each of these recurring appraisals down to 1900 special county and city boards of review were provided, in addition to the state board of equalization. The latter was composed in each instance of the state auditor, ex officio, and one member from each state senatorial district. The first board was chosen by the legislature on joint ballot but all of the succeeding boards were elected by the people on the regular partizan basis.

The procedure of the board was early settled upon. The very simple rules of order which had been adopted in 1825 were replaced in 1835 by a more elaborate set which continued, with few changes, to 1900.[4] In the first two equalizations the board at-

[1] Cf. below, ch. 15. [2] 8 *Ohio Laws*, 315, 1809, contains such a schedule.

[3] Cf. above, pp. 20, 21.

[4] Ohio State Board of Equalization, *Report*, 1825–53, pp. 3, 14, 15; also *ibid.*, 1900, p. 26.

tempted to select the county which had been assessed most nearly at full value and equalize all other counties on this basis.[1] Little evidence exists to indicate the method of choosing the best-assessed county, but the doubtful character of the choice can hardly be questioned. The actual adjustment of valuations was done in committee of the whole, a procedure which favored attempts at "railroading."[2] Later boards began the practice of referring counties that presented difficulties, or over which for any reason agreement was impossible, to special committees.[3] Extensions of the committee system continued and in 1900 committees were appointed for the following classes of property: cities of the first and second grade of the first class; other cities; villages; farm lands and improvements; non-taxable property.[4] There is no evidence, however, that these committees performed any important part of the work of equalization. In fact, there was legal authority for the failure to equalize by classes, for the attorney-general ruled in 1900 that coal lands might not be equalized separately.[5] An attempt was made in 1890 to collect sales data but so far as the records show no practical results were attained.[6]

Until 1859 each board had been given unrestricted powers to change the aggregate valuation of the state in either direction and by any amount. The fact that successive boards had refused to change materially the local results indicates the superficiality of their work and of their point of view. In the reappraisal of 1835 lands were assessed at about one-fourth of true value,[7] while in 1844, three years after the third revaluation, the state auditor spoke of the necessity of adopting the principle of a "cash valuation," notwithstanding the assessors' oaths to assess at full value.[8] The board's action in 1841 was illustrative of its attitude toward any vigorous exercise of the powers which it possessed. The local returns totalled $95,630,916, and a resolution was adopted that the equalized figures should not exceed $100,000,000. This vote

[1] Ohio State Board of Equalization, *Report*, 1825–53, pp. 4, 18, 19.
[2] *Ibid.*, p. 40.
[3] *Ibid.*, p. 54; also *ibid.*, 1890, p. 74.
[4] *Ibid.*, 1900, p. 4.
[5] *Ibid.*, p. 84.
[6] *Ibid.*, 1890, p. 106.
[7] Bogart, *op. cit.*, p. 210.
[8] *Ibid.*, p. 211, note.

was later rescinded but when the results showed that the final equalized figures would exceed $116,000,000 a flat reduction of 15 per cent was ordered, thereby lowering the aggregate to about $99,000,000 and virtually attaining the intent of the original resolution. This action was vigorously but unsuccessfully opposed by the state auditor and ten members.[1] In 1859 the legislature forbade reduction of the aggregate by more than $10,000,000.[2] This limitation was repeated decennially until 1889 when it was changed to 12½ per cent.[3] In 1900 all reference to the amount by which the local aggregate might be changed was omitted, and the omission was construed by the attorney-general to mean that all power to alter the total had been withdrawn.[4] As a matter of fact, since 1846 such privileges as the law allowed in this respect had not been exercised except to reduce the valuations, so that in 1900 there was at least the gain of preventing a repetition of past practices. In 1870 the board petitioned the legislature to extend the amount by which the aggregate might be reduced, complaining that because of the marked inequalities of assessment it would be impossible "to equalize by a uniform rule without leaving the real estate at a valuation largely in excess of its true value in money."[5] The request was ignored and an alternative course of action was supplied to later boards by the attorney-general who rendered in 1890 the astonishing ruling that the board might "properly assume that the counties had already been appraised substantially at their true value in money, and it was the duty of the board to equalize these valuations or appraisals on this theory and not to establish new appraisals or new valuations."[6] Such an assumption might have been fair to the Ohio tax laws but it was certainly unwarranted on any other basis.[7] Indeed, it is not clear why the attorney-general should have considered equalization necessary at all if each county had been appraised at full value.

[1] Ohio State Board of Equalization, *Report*, 1841, pp. 56, 57.
[2] 56 *Ohio Laws*, 175.
[3] 86 *Ohio Laws*, 235.
[4] Ohio State Board of Equalization, *Report*, 1900, pp. 102–106.
[5] *Ibid.*, 1870, pp. 26, 27.
[6] *Ibid.*, 1890, p. 50.
[7] *Report of the Tax Commission of Ohio*, 1893, p. 46.

It will be seen from this summary of the board's policies that it must have been of very little importance in furthering better administration of the tax system. This conclusion is substantiated by the figures below, which present the net results of equalization since the beginning. They indicate that the board's influence was in general regressive rather than in the direction of improved assessment conditions.

SUMMARY OF VALUATIONS AND NET CHANGES BY THE OHIO BOARD OF EQUALIZATION, 1825–1900[1]

Year	Valuation as returned	Valuation as equalized	Net change − = dec.
1825.....	$37,474,494	$37,809,942	$335,447
1835.....	67,048,964	73,932,892	6,883,928
1841.....	95,630,916	99,154,745	3,523,829
1846.....	327,396,916	324,396,004	− 3,000,912
1853.....	567,005,454	558,725,542	− 8,279,892
1860.....	.....	633,215,747	
1870.....	1,146,106,968	1,013,444,506	−32,662,462
1880.....	1,102,049,931	1,097,508,830	− 4,450,101
1890.....	1,266,826,855	1,140,135,496	−126,693,350
1900.....	1,372,857,744	1,372,857,744	

The chief reasons for the board's failure to achieve better results were the following. In the first place the assessment periods were too long. Real values changed rapidly in the interim and there was no adequate machinery for registering this growth and entering it upon the tax rolls. The personnel changed completely with each new board and there was no accumulation of standards or experience. In the second place the board was too large and the method of selection was especially unfortunate. The first board contained 14 members, but by 1841 there were 37 members, though in 1900 the number had fallen to 33 owing to a rearrangement of senatorial districts. The choice of members on the political basis made the office a convenient one for rewarding those who had served the party well,[2] and naturally the personnel so selected

[1] Compiled from the reports of the board. Complete figures for 1860 are not available.

[2] In 1900 brief biographical sketches of about 27 members were published. They were written in a frankly laudatory style and made the most of the political experiences of the several subjects. Their naïveté provides excellent illustration of the criticisms which have been offered to a personnel so chosen. Of one member

would be but indifferently prepared for, or interested in the task of equalization. Finally, the powers of the boards were so strictly limited that but little could have been done, even by really capable men, to improve tax conditions.

The special tax commission of 1893 condemned the decennial equalization and recommended a complete reorganization of the administrative system, including the establishment of a state tax commission with considerable powers of supervision.[1] The commission attributed the inequality and injustice of the tax system mainly to the unequal, unjust, and dishonest assessment of property and the utter absence of adequate corrective or supervisory powers. This analysis failed to take account of the shortcomings of the general property tax, but it is interesting as an example of the reasoning then popular with special commissions, among which the idea of state supervision of local assessments was being worked out. The tax system was thoroughly investigated again in 1908 by the special commission reporting in that year, and the conclusion was again reached that the decennial appraisal and equalization were the causes of the least tolerable of the wrongs then borne by the people.[2] As before, this conclusion neglected the widespread evasion and undervaluation of personal property,

it was said, "His devotion to the interests of the taxpayers was partially rewarded when he secured favorable action in reducing the tax values in . . ." Similar statements were made in commendation of various members. Of one Democratic member it was remarked that he got all he could for his district, while another minority member was celebrated for the satisfaction which he experienced at thwarting every effort to advance the valuation of his district. Numerous references were made to the faithful service which the members had rendered to their parties. One was characterized as a "prime favorite," another had always stood "in the front rank of the party's many battles," a third had never permitted private affairs to cause him to lose sight of public interests, while a fourth man was "sufficiently interested in politics to warrant his neighbors in nominating and electing him." One professional office-holder had been in office for 39 years, and only one man confessed to a lack of interest in politics. One member was spoken of by the frank biographer as an honest man. Ohio State Board of Equalization, *Report*, 1900, pp. 159–192.

[1] *Report of the Tax Commission of Ohio*, 1893, pp. 44–46, 71–77.

[2] *Report of the Tax Commission*, 1908, p. 20. Cf. also *ibid.*, pp. 56, 57, for data comparing sale value and assessed value of real property transferred in certain counties in 1906. The ratios of assessed to true value ranged from 10.8 per cent to 120.7 per cent.

with which the decennial appraisal had nothing to do. The commission's criticisms of real estate assessments were sufficiently convincing, however, and in 1910 the whole process of equalization was transferred to the new state tax commission. The results of this equalization, and the subsequent changes in the policy of assessing and equalizing lands, will be taken up in the chapter on the Ohio Tax Commission.[1]

Boards of Equalization for Railroads and Banks

The reasons for the failure to develop earlier more effective methods of dealing with the problems of corporate assessment in Ohio are rather obscure.[2] The apathy and indifference toward the whole question of tax reform prevented more thorough revision here, as elsewhere; corporate interests were distinctly hostile to improvements; and, though centralizing tendencies appeared as early as the Civil War, an adequate system of corporate assessment was not established until 1910. The people apparently preferred to temporize with the increasing demands for state revenue by developing a series of supplementary corporation taxes, after the manner of the construction of crazy quilts, rather than by facing the issue more squarely.

The differentiation of special methods of railroad taxation began in 1862 with an act which constituted the county auditors of the counties through which a railroad operated a board of appraisers and assessors for that road.[3] The auditor of the county in which a company had its principal office, or (in case the principal office was in some other state) the auditor of the county having the largest city on the road, was made president of the board. The procedure was carefully prescribed by the statute. In making the valuation the boards were to assess, at its true value in money, the personal property of railroads, which was defined to include all of the operating property and the moneys and credits. The term "personal property" was later extended to include all undivided profits, reserved or contingent funds, however the same may have been invested.[4] A second amendment in-

[1] See below, ch. 15.

[2] Cf. Bogart, *op. cit.*, ch. 6, especially pp. 302–317.

[3] 59 *Ohio Laws*, 88.

[4] 60 *Ohio Laws*, 114.

cluded as personal property locomotives and cars not belonging to the company, but hired for its use or operated under its control by a sleeping car company. Power was given to require railroad officials to submit sworn returns relative to the business, and these statements might be substantiated by examination of the books and papers, authority for which was also conferred.

This method of assessment was not long allowed to remain free from nominal central supervision. In 1865 the state board of equalization for railroads was created, consisting of the state auditor, treasurer and attorney-general.[1] The commissioner of railroads and telegraphs was added in 1867.[2] After hearing appeals the state board was to equalize valuations by raising or lowering the assessment of any individual road but it was forbidden to reduce the aggregate valuation as returned by the several boards of assessment. In practice the state board made but few changes and apparently confined its efforts to approximating as closely as possible the local returns. The following figures present a view of the results since the beginning of state equalization:[3]

LOCAL AND EQUALIZED VALUATIONS OF RAILROADS (000 OMITTED)

Year	Valuation by County Boards	Changes by State Board		Valuation as fixed by State Board	Number of changes	
		Additions	Deductions		Additions	Deductions
1866	$48,817	$886	$679	$49,024	2	3
1871	64,545	785	453	64,877	2	2
1876	83,917	397	184	84,129	3	3
1881	83,597	828	661	83,764	6	3
1886	89,273	215	172	89,316	4	3
1891	104,954	398	457	104,896	7	7
1896	104,984	67	35	105,015	3	2
1901	116,891	379	376	116,894	6	4
1906	148,066	....	6	148,060		1
1907	152,403	....	....	152,403		
1908	156,096	....	....	156,096		
1909	156,783	....	....	156,783		

[1] 62 *Ohio Laws*, 110. [2] The office was created by 64 *Ohio Laws*, 111.

[3] From Bogart, *op. cit.*, p. 320. The figures are found in the annual reports of the auditor of state. No action was taken in five other years from 1866 to 1909, in addition to those shown.

The declining interest of the state board in the equalization is clearly shown. At the same time the annual meetings of the local boards of railroad assessors were becoming mere junketing parties at the expense, and for the advantage, of the railroads.[1] Because of the exceedingly inefficient assessment of general property it is impossible now to ascertain whether these figures represent, through the years, an equitable basis for the taxation of railroads as compared with other property. The investigations of the special commission of 1893 indicated, however, that the railroads had not been as heavily taxed as other property. For example, the taxes paid by the railroads for the years 1868–75 amounted, on the average, to 2.988 per cent on their gross earnings.[2] The increasing disparity between earning power and the basis of taxation is well illustrated by the following comparison of assessed valuation and gross receipts:[3]

COMPARISON OF VALUATION AND GROSS RECEIPTS IN 1878 AND 1892

Company	Year	Valuation	Gross receipts
L. S. and M. S.	1878	$12,996,609	$13,505,139
	1892	12,457,745	22,415,382
Cleve. and Pitts.	1878	5,731,000	2,272,166
	1892	4,495,000	3,429,278
P. Ft. W. and C.	1878	10,732,001	7,830,000
	1892	10,525,948	11,659,142

In 1891 the live stock of the state was appraised at $84,428,562, while the railroads were assessed at less than $105,000,000.[4] The latter were estimated by the special commission of 1893 to be assessed at about 25–39 per cent of full value, on the basis of a 6 per cent capitalization of the net earnings. If the valuation placed upon the securities by the investing public were taken as the basis, the Lake Shore Railroad would have been worth in 1892 more than the entire assessment of Ohio railroads in that year.[5] The commission of 1893 concluded that railroads were not paying their fair share of taxes, whether judged on the basis of earnings or on the valuation of their properties.[6] The only practical remedy

[1] Cf. Bogart, *op. cit.*, pp. 325–327, for a description of one annual session of a local board.

[2] *Report of the Tax Commission of Ohio*, 1893, p. 52. [3] *Ibid.*

[4] *Ibid.*, p. 59. [5] *Ibid.*, p. 56. [6] *Ibid.*, p. 59.

for this situation, in the judgment of the commission, was the imposition of additional taxes upon the railroads. Another possible alternative — the reorganization of the whole assessment machinery for both railroads and other property — was indeed suggested in its report, but for the time being it was entirely disregarded and successive legislatures continued to experiment with additional corporation taxes. This policy produced another administrative board, known as the board of state appraisers and assessors, an account of which is given below in Chapter XV.

In 1876 the duty of equalizing the local assessments of banks was imposed upon the state officials who made up the railroad board.[1] These corporations were assessed by the county auditors on their capital stock, from the valuation of which was deducted the real estate locally assessed. State equalization of these assessments was rendered necessary by the increasing variations in different counties.[2] The method used for national banks was thus described in 1883:[3]

1. Let the sum of capital, surplus and undivided profits represent the actual value of the shares.
2. Ascertain the ratio of assessed value to the above true value. (In 1883 this ratio averaged 68 per cent.)
3. Equalize as follows — make no change in all cases where the ratio of assessed to true value is between 65 per cent and 75 per cent. Lower all ratios above 75 per cent to that level, and bring all ratios under 65 per cent up to that level, but make no decrease or increase of over 10 per cent without evidence of improper valuation by the county auditor.

The same rules were used for state banks except that the range of ratios was established between 55 per cent and 65 per cent. The commission of 1893 found that banks were paying in taxes a larger portion of their net income than any other class of property.[4] General recognition of this situation had perhaps contributed to the custom of listing bank stock at 60 per cent of the "book value." In 1910 the tax commission equalized banks on this basis because of the general underassessment of other property.[5]

[1] 73 *Ohio Laws*, 251. In this capacity they were to act as the State Board of Equalization for Banks.

[2] Bogart, *op. cit.*, p. 300. [3] Auditor of State, *Report*, 1883, p. 115.

[4] *Report of the Tax Commission of Ohio*, 1893, p. 70.

[5] Ohio Tax Commission, *Report*, 1910, p. 6.

The New York Board of State Assessors

The reintroduction of the direct state tax by New York in 1846, after it had been discontinued for nearly twenty years, and its rapid increase after 1850, were the immediate causes for the establishment of the state board of equalization in 1859.[1] In the decade between 1850 and 1859 the state tax had risen from $364,000 to $5,440,000, and the increasing gravity of the situation had led to an investigation and report by a legislative committee early in the year 1859.[2] After discussing equalization by the county boards as a satisfactory means of distributing the local taxes within the counties this committee said:[3]

> But the aggregate or gross value of the county is returned to the Comptroller and made the basis of the levy for whatever taxes the exigencies of the state may require.
>
> The lower the value of the valuation of the county, the less will be the amount which it will be compelled to pay into the state treasury because there being no process whereby the whole property can be equalized over the state as it is in the board of supervisors, the levy must be governed by the assessors' valuation; thus affording a premium to the assessors for an undervaluation of the property in their respective towns.
>
> When the state taxes were merely nominal, these inequalities in the amounts paid by the several counties were not so burdensome as to be severely realized. . . . And as there is no prospect that for years to come the state taxes can be materially lessened, it is due to the taxpayers of the state that the present defective system of equalization should be abandoned.

Instead of abandoning the system of equalization, the legislature extended it by the creation of the state board of equalization.[4] This board was composed of seven elective state officials who were already serving, ex officio, as commissioners of the land office, and the Board of State Assessors created by the act. The latter board was a unique feature of the New York plan for a state equalization. No other state has provided its ex officio board with a group of advisers who were to become experts through the continuous study of tax problems, though the principle was later followed in Indiana and Oregon in establishing the tax commissions. The state assessors were to be appointed by the

[1] Cf. above, p. 23.

[2] *Assembly Document* 47, 1859.

[3] *Ibid.*

[4] *Laws of New York*, 1859, ch. 312.

governor with the consent of the senate, for a term of three years. Their chief duty was to make regular visits to the counties and "to prepare a written digest of such facts as they might deem most important for aiding the state board of equalization in the discharge of their duties." The important factor in New York equalization was certain to be the board of state assessors, since ex officio members have seldom been characterized by their interest in such duties, even when compelled to perform the whole process alone. With the provision of experts to study the tax problem it would be a moral certainty that in every respect but legally, the board of assessors would be the state board of equalization.

The first appointments were apparently well made. The board set itself with zeal at the task of studying tax conditions in general and the local situation in particular, acting upon the conviction — novel enough for the time — that "a perfect system of equalization will only be established by a careful examination, not only of every county, but of every township therein."[1] The principal method of securing the data necessary for judging the local results was an examination and classification of the land. The sales method was considered but was regarded at that time as unsatisfactory, a justifiable conclusion in view of the inadequate facilities at their disposal for securing accurate data.[2] Three classes of farm lands were distinguished:[3]

Class I. Counties in which winter wheat was the staple crop;
Class II. Counties adapted to the spring grains and the dairy;
Class III. Counties given over to grazing and the dairy.

In the first two classes sub-classes were recognized, in which were placed the counties producing these staples, but with less desirable climate, less fertile soil, or less accessible location with regard to markets. By 1863 the entire state had been covered and the lands systematically classified by townships on the basis of the number of "eighths" of each class of land contained in it.[4] In addition to

[1] New York Board of State Assessors, *Report*, 1859–60, p. 6.
[2] *Ibid.*, p. 5.
[3] *Ibid.*, 1860–61, pp. 3–6.
[4] *Ibid.*, 1863, *Special Report of Commissioner T. C. Peters.*

this mass of data relative to crop and soil conditions, the state assessors compiled various other statistics, mainly of an agricultural character. Thus, in the first equalization, the state board of equalization had before it tables showing the acreage under cultivation, the total and per capita value of crops and the cash value of the farms in each county, from the state census of 1855; and also comparative tables showing the local assessors' valuations of farms and crops in 1858.[1] Other material was prepared which need not be detailed. The general result of these first equalizations was to increase valuations in the counties which had been placed in the sub-classes of the first and second groups. For this rather surprising action two possible explanations appear. One is that the lower burden of local expenditures in the outlying counties was less of a check upon undervaluation than the higher expenses of the fertile and populous counties. The other is, that the ex officio members of the board of equalization, coming from the more wealthy and prosperous sections of the state, preferred to raise the state duplicate by increasing the sections in which they were not directly interested. The later procedure of the board makes the second alternative seem the more reasonable explanation.[2]

Since equalization was from the first confined to real estate assessments the state board was deprived of the prospect of remedying one of the most serious sources of inequality, the inadequate assessment of personal property. This incongruity was early observed by the state assessors who declared the existing system to be "unequal, unjust, and partial, placing the burden upon real estate, while personal property everywhere escaped taxation."[3] It is interesting to note that the first state assessors suggested the elimination of the abuses of the personal property tax by the substitution therefor of a general tax on incomes, which they proposed to capitalize at 7 per cent. They assumed that the problem of adequate assessment of income would occasion no difficulty.[4]

[1] New York Board of State Assessors, *Report*, 1859–60, pp. 6 ff. Also, pp. 27–29, Table B.

[2] Cf. below, pp. 64–66.

[3] New York Board of State Assessors, *Report*, 1859–60, p. 12.

[4] *Ibid.*, 1860, pp. 18–24; *ibid.*, 1862, p. 5.

On the whole, the work of the board of state assessors in this early period must be characterized as earnest, extensive, and so far as their powers extended, fairly successful. Lacking the power to deal with personal property, they accomplished nothing to check the escape of this class of property from taxation; but the systematic study and classification of the lands of the state was undoubtedly a preventive against further inequality in apportioning the state tax upon real property.

No reports were published by either board during the decade 1863–73, and this period must be passed over. There is little doubt, however, that assessment conditions grew steadily worse during these years. The subject received some discussion in the constitutional convention of 1867–68 and the existing situation was condemned by several speakers, but nothing was done to alter the fundamental conditions.[1] The special tax commission of 1871 observed that local assessments were in no way improved. In the commission's first report occurs this statement:[2]

> There cannot possibly be found a single instance in the whole state, unless possibly in the case of certain unoccupied lands, the property of non-residents, where the law as respects the valuation of real property is fully complied with, and where the oaths of the assessors are not wholly inconsistent with the exact truth.

When the reports of the board of state assessors next appeared, in 1873, the personnel of the board had entirely changed and new methods of performing the work had been introduced. The earlier methods and results had been entirely discarded. Instead of the

[1] Cf. speech of M. I. Townsend, *Proceedings of the New York Constitutional Convention*, 1867–68, iii, p. 1945, especially the following oft-quoted remark: "I insist that a people cannot prosper whose officials either work or tell lies. There is not an assessment roll now made out in this state that does not both tell and work lies." Cf. also iii, pp. 1987, 2269, 2270.

[2] *Report of the Special Tax Commission of New York*, 1871, pp. 30, 31. A year later, in its second report, the commission repeated this conclusion: "It would be difficult, nay probably impossible, to find any two contiguous towns, cities or counties of the state, in which the valuations of property approximate in any degree to uniformity. So far as the commissioners can ascertain, the average aggregate valuation varies from twenty per cent of actual value as a minimum to fifty per cent as a maximum; with a probable total average for the whole state of not in excess of 40 per cent." *Second Report*, 1872, p. 10.

elaborate grading of lands according to a fixed schedule, which was the characteristic feature of the earlier equalization, the "sales method" had come into prominence as the means of ascertaining the quality of the local assessors' work. The plan of obtaining the data upon which to calculate the ratios, and the other materials which were relied upon, were thus described:[1]

> No attention was given to the equalizations of earlier years. Meeting the representatives of the towns and cities, we have endeavored to ascertain the percentage at which real estate was assessed, based upon sales made in the usual manner; the percentage on personal property of the sum given the assessor; also the percentage of banking capital, the assessed value of railroads per mile, as well as the full value of the farm land per acre. From these statements . . . we have ascertained the percentage at which real estate was assessed on its fair value.
>
> In the same manner, from the ratios of each county, an average rate per cent was obtained for the state. Counties have been increased or reduced in the assessed value of real estate as they were found below or above the state ratio.

In the course of these inquiries every county was visited in 1873 and about 1300 persons examined, though in that year no sworn testimony was taken.[2] On account of criticisms the oath was administered in the investigations of subsequent years. The admission of hearsay evidence impaired greatly the value of ratios compiled for the purpose of that careful adjustment among counties which is necessary in equalization. The trend of the ratios as a whole indicates a widespread belief that the work of the local officials was of a very low order. The figures ranged from 24 per cent to 50 per cent, and 26 out of 60 counties were given ratios below 40 per cent.[3] With so low a ratio of assessed to true values in 1873 as these percentages indicated, there ensued in the next few years, according to the state assessors, the rather remarkable phenomenon of a steady approach of the level of assessments toward full value. This change was not the result of improved local performance but of the decline in farm values after the panic of 1873. Accepting this decline as a fact, the state assessors were able to say in 1876:[4]

[1] New York Board of State Assessors, *Report*, 1873, p. 11.
[2] *Ibid.*, 1873, p. 5.
[3] The figures are published in *ibid.*, 1874, p. 4.
[4] *Ibid.*, 1876, p. 3.

. . . in some counties the local assessors have in whole or in part complied with the requirements of the law, and assessed all real estate as they would appraise the same in payment of a just debt due from a solvent debtor, and all personal property at its full and true value.

The last part of this statement was clearly an exaggeration, as it is impossible that all personal property had even been listed, to say nothing of having been valued according to law. Entirely too great virtue is ascribed to the inertia of the local assessors, who apparently stood as fast when real values were receding toward them as when these were advancing far beyond their position. Some assessors were found who had been in office for upwards of twenty years and who had not changed their figures materially in that time. Many of them had never seen the tax laws which could not then be obtained without purchasing the revised statutes.[1]

The work of such a board could not long continue without encountering the opposition of either the urban or the rural interests of the state. As it happened, a majority of the board were "upstate" men and the annual equalizations uniformly resulted in material additions to the valuation of New York City. The tax department of that city waged incessant war against the findings of the state board and spent considerable energy in seeking to overthrow the results of state equalization. An especial effort was made in 1874 and a review of the criticisms then made will bring out some of the alleged defects in the work of the state assessors.[2] The chief points of attack and defense may be stated thus.

The principal accusation was that the increases made were unfair and imposed an unjust tax burden upon New York City. To this the board replied that according to its ratios the city was about 2½ per cent below the state average, and the method of equalization required that it be brought up to this average. Such close calculation meant a very definite reliance upon

[1] New York Board of State Assessors, *Report*, 1873, p. 5.

[2] The city's case is found in a *Report of the Committee appointed to attend the Meeting of the State Board of Equalization*, presented to the Board of Aldermen, October 14, 1875. The board of assessors presented their case in their *Report* for 1875, pp. 12, 13.

the accuracy of the ratios and it has already been shown to be quite doubtful if sufficiently high standards of acceptable material had been maintained in the collection of data to warrant this dependence.[1] Therefore, while the city officials produced no evidence to prove any other percentage more accurate than the one actually assigned to New York, the justice of the particular basis upon which the board took its action is open to question.

It was contended, further, that the state assessors used for the counties ratios higher than those sworn to by the local assessors, while in New York City the ratio established was lower than that alleged to have been used by the city tax commissioners. To this it was replied that the decline in farm values had produced a higher level of actual percentages than those claimed by the local assessors, since many of the latter had been assessing upon certain traditional percentages of full value when, in fact, the decline of land values had raised the level of the ratios actually used. Definite evidence of the extent of this change in true valuations is wanting in the official reports. The tendency towards lower real values was probably in operation at this time but the ability of the state assessors to ascertain the necessary correction in local assessors' stated ratios may be seriously questioned. On the other hand, as to the ratios established for New York City, the assessors cited the evidence of recorded sales, the data from investigations among men acquainted with real estate values, and the arguments of the city's attorneys in a recent tax case. Whatever may have been the facts concerning the board's knowledge of conditions in the remainder of the state, it seems that a fairly careful study had been made of the assessments in New York City before reaching the decision.

Various other minor charges were made, all of which reflected the bitterness of the dispute which was continually waged between the rural and the urban interests in the state. The state assessors had not presented a unanimous report but had divided along the traditional lines of conflict, the two members from Seneca and Cayuga counties advising and voting for the increase, and the member from Kings county urging acceptance of the New

[1] Cf. above, p. 61.

York figures.[1] There was undoubtedly prejudice on both sides, emphatic disclaimers to the contrary notwithstanding. The dispute serves to emphasize the general need of rigidly impartial study of facts and of adequate equipment in the state tax department to make an investigation that will be absolutely convincing. Furthermore, it reveals the sore need of greater supervisory authority over the local assessment process as well as of certain vital reforms in the whole tax system. Not until these reforms have come can such episodes, with the resultant bitterness which they engender, be even approximately eradicated.[2]

The state assessors' interest in equalization began to decline in the later eighties, and inasmuch as they had always been the only members of the state board of equalization to take any substantial interest in the subject, equalization of the state tax settled more and more into a formal routine.[3] The collection of sales data and the compilation of ratios practically ceased. The ratios prepared in 1893 were the only percentages published from 1874 to 1896, though percentages were calculated in 1894 and 1895. The method of compilation used in 1894 was to select certain tracts or parcels of property in each city or town visited, appraise these, and compare the appraised with the assessed value. These were not actual sales, it should be noted; and, furthermore, even though the method of checking up the local assessor's judgment by "sampling" his work is in theory sound, the number of parcels used was in but few cases sufficient to serve as an adequate test of the local valuations. For example, in Niagara city, only twelve properties were examined; in Lockport, eleven properties were appraised and six sales collected. In the rural towns there were sometimes eight or ten inspections made, possibly enough for the smaller towns, but in others not more than two to four samples were taken.[4] In 1895 the equalization was said to be based upon the percentages of assessed to true value, data for which had been collected as in former years. Yet the counties which were

[1] Cf. *Report of the Committee*, pp. 6, 7.

[2] Cf. below, pp. 187, 192, for evidence of this conflict in recent years.

[3] Cf. equalization data in *Reports*, 1884–89. The volume of changes is decreasing. The same counties are changed each year and by about the same amounts.

[4] New York Board of State Assessors, *Report*, 1894, p. 11.

increased were, with one exception, those that had been raised in 1889, and the amounts added were practically the same as in the earlier year, though the aggregate valuation of the state had naturally advanced.[1] The percentages which resulted from materials collected in such a hasty and superficial manner cannot be regarded as a fair basis for a just equalization among the counties. The board was not unfamiliar with the dangers of improper data and in 1886, on the occasion of refuting some figures which had been prepared by New York City in an appeal case, it stated certain of these dangers very clearly:[2]

1. The sale might include personal property which would invalidate it for the ratio.
2. The stated consideration might be nominal, or purposely fictitious.
3. Partition sales should be rejected.
4. Foreclosures, gifts, trades and forced sales of all kinds should be excluded.
5. Sales to relatives were also untrustworthy.

Though these cautions were appreciated by the state assessors of the middle eighties, it seems impossible that they could have been observed by the men who occupied that office in 1893 when the second set of ratios was published. This doubt is confirmed by the marked changes which occurred in the ratios in the twenty years. In the figures for 1874 no counties were found to be assessed above 50 per cent and many were below 40 per cent; but in those prepared in 1894, no county was rated below 50 per cent, while thirty-one out of sixty counties were given 70 per cent or above. The board still believed that the real value of land was declining; but no other evidence was cited in confirmation, and the census figures showing the average value of farm lands in New York indicate so slight a decrease from 1870 to 1890 that it would have been unappreciable by the crude methods used by the state assessors for measuring changes in valuations.[3]

[1] New York Board of State Assessors, *Report*, 1895, p. 15. Cf. also the criticisms made by Fairlie, *The Centralization of Administration in New York*, pp. 164–166.

[2] New York Board of State Assessors, *Report*, 1886, p. 27. Cf. below, ch. 8, especially pp. 239, 240, for review of Professor Adams' discussion of the cautions to be observed in the collection of sales data.

[3] The average value per acre of farm lands and buildings from 1850 to 1890

In conclusion, it must be said that by the nineties or even earlier, the usefulness of the board of state assessors had about come to an end. Its interest in its work had been steadily diminishing, due in part no doubt to the entirely inadequate powers possessed by it. The equalization process had always been incomplete because of the exclusion of personal property. The changes in real estate assessments were becoming more and more formal. They had been confined for years to a rather small group of counties and the amounts added were so nearly identical from year to year as to suggest the possibility, or even probability, that they had been copied, with minor alterations, from the figures of preceding years. At any rate, the successive equalization tables show very distinctly and unmistakably the influence of the board's action in preceding years, and it is obvious from the reports of the state assessors that they were becoming less active in the study of tax conditions over the state. The time was ripe for a change and the special tax commission of 1893 advocated many important reforms.[1] Certain of these recommendations were adopted in 1896, and the further history of centralized control of assessments in New York will be taken up below in Chapter VI.

The Illinois State Board of Equalization

The first step toward state control over the administration of the general property tax in Illinois was taken in 1867 by the creation of the state board of equalization.[2] Under the original act this board was composed of the state auditor and one member

were as follows: 1850, $29.00; 1860, $38.30; 1870, $45.89 (gold); 1880, $44.41; 1890, $44.08. Twelfth Census, v, pp. 695–697.

[1] The situation was well summed up by the Counsel appointed to revise the Tax Laws, in its report of 1893: "No power exists at present in any body of the government to supervise in any way the action of local assessors, which is frequently arbitrary and unjust." *Report of Counsel appointed to revise the Tax Laws*, 1893, p. 18.

[2] The *Report of the Special Tax Commission of Illinois*, i, 1910, has covered the work of the board of equalization, and this account is therefore somewhat abbreviated. Cf. also Fairlie, "Taxation in Illinois," *Amer. Econ. Rev.*, i, pp. 519–534.

The board was established by *Laws of Illinois*, 1867, p. 105.

from each senatorial district, appointed by the governor for a term of two years. Thereafter the members were to be elected for four years. In 1872 the basis of selection was made the congressional district, thereby reducing the membership from 26 to 20, but the growth of population had advanced the number to 26 by 1904. Salaries were paid on the per diem basis previous to 1908, but beginning with that year each member has received $1000 per annum with mileage and stationery allowances. The only duty originally required of the board was the equalization of local assessments, but with the rise of problems of corporate taxation, its jurisdiction was extended to include the administration of these taxes.

In performing the equalization, the board was empowered to raise or lower the valuation of any county, but was not allowed to reduce the aggregate valuation of the state; nor could this aggregate be increased by more than one per cent. In 1898 this restriction was modified and permission was given to vary the total assessment by as much as 10 per cent in either direction. Since 1869 the board has been required to equalize separately farm lands, town and city lots, personal property and railroad property.

The procedure of equalization was early settled upon and but few changes have since been made in it. Each class of property has been assigned to a committee which has reported to a general committee on equalization; and by the latter a general report has been submitted to the board for final action. Though these committee reports are open to amendment, the custom has long since become established of adopting them without alteration and usually without discussion. In 1913 the rule providing for debate was suspended in order to vote through without discussion the report of a certain committee.[1] This practice renders very difficult any coördination of the work of the different committees, even if the board were seriously inclined to seek a harmonious relation of assessed values among the several classes of property. In 1868 there was a vigorous protest by the minority of the committee on personal property, but the grievance related more to the majority's construction of the law than to the principle of proper

[1] Cf. below, pp. 71, 72.

equalization between this and other classes of property.[1] The disfavor with which a recent protest against the board's indifference was received is referred to later.[2] In general, both the board as a whole and the several committees have dodged the responsibility for painstaking equalization. Some instances of the results of this carelessness will be briefly described.

The first of these occurred early in the board's career. The committee on farm lands in 1868 classified the counties into fifteen groups with a rigid scale of average values per acre, but no data were published in the annual report to indicate the basis of classification.[3] In 1870 values were assigned to these groups ranging from $8.20 per acre in the highest, to $2.60 in the lowest group, through gradations of 40 cents per acre. This arbitrary method not only diminished the value of the equalization process; it became the source of considerable injustice. For instance, in 1868 no county in the lowest group had been assessed, on the average, as low as $2.60 per acre. The average assessed values for the five counties in this group were, respectively, $2.98, $3.70, $3.95, $4.56, and $5.87. The injustice of lumping together land assessments having a range of $2.98 to $5.87 is apparent, while the policy of deliberately encouraging undervaluation has sorely plagued the state to this day.

This policy was distinctly antagonistic to improvement in the assessment of personal property also.[4] Although personalty has usually been assessed on a more inadequate and depreciated basis than real estate, it has been the common practice of the Illinois board of equalization to make still further reductions in the aggregate of personal property for the purpose of making compensatory increases upon lands or lots. With equal inconsistency, the assessments of live stock have frequently been increased, although the aggregate of personal property was reduced. This change only intensified the inequality of tax burden, since live stock has

[1] Illinois State Board of Equalization, *Report*, 1868, pp. 63–65.

[2] Cf. below, pp. 71, 72, note.

[3] Illinois State Board of Equalization, *Report*, 1868, p. 66. *Ibid.*, 1870, pp. 54–56.

[4] Cf. *Report of the Special Tax Commission of Illinois*, 1910, p. 65, for an account of the practice in 1900 and 1909. In both of these years the actual equalization was made in absolute disregard of the board's own classification.

usually been among the best assessed classes of all tangible personalty. Further, the board has made very little use of the one per cent limit for the purpose of raising valuations, but has kept the aggregate as nearly unchanged as possible. The figures for 1876 and 1886 will serve to illustrate the point.[1]

ASSESSED AND EQUALIZED ASSESSMENTS OF PROPERTY, 1876 AND 1886
(000 OMITTED)

Class of property	1876 Assessed	1876 Equalized	1886 Assessed	1886 Equalized
Farm lands	$582,394	$488,484	$371,940	$351,373
Lots	218,055	259,028	303,835	226,364
Personalty	212,893	205,908	147,998	146,458
Totals	$953,342	$953,420	$723,773	$724,195

In both of these years the committees on farm lands and personal property are seen in their favorite rôle of reducing the assessed valuations of their respective classes of property. It is impossible now to ascertain by what means the decision was reached that the equalization of real estate in 1876 required a reduction of approximately $34,000,000 from lands and an addition of about $41,000,000 to lots. But granting the necessity of these changes in the interest of proper equalization, the use of the one per cent increase in the aggregate valuation would have permitted this adjustment without changing the aggregate assessment of personal property at all. Similar doubts may be felt as to the propriety of the methods of reaching a like decision with regard to real estate ten years later. In this case the reduction of the personalty assessment was less than in 1876, but the influence of the board's policy may be seen in the declining assessment of this class. The decrease of the total assessment of property in this decade is eloquent testimony of the inefficiency of the whole assessment process in Illinois. The special tax commission of 1886 spoke as follows concerning the results of the state equalization:[2]

> Equalization would seem to be plainly necessary. But how does it work under the present system? The State board deals with the aggregate assessment of lands, lots, and personal property — three classes — and adds

[1] Figures taken from the reports of the board.

[2] *Report of the Special Tax Commission of Illinois*, 1886, p. 3.

to or subtracts from each class, a fixed and arbitrary percentage; thus raising or lowering all property in each class in equal proportion. Thus, upon pieces of property already assessed at a large fraction of their value, frequently an increase of valuation is made, which carries them above their market value.

The board was in the grip of the system, to the vicious tendencies of which it had never offered strong resistance. The 10 per cent limit on changes in either direction, authorized in 1898, gave greater freedom but its waning interest in equalization prevented any use of this freedom except to make further reductions. In 1899 there was no change in the aggregate of personal property; lands were reduced by $1,454,000, and lots $19,520,000.[1] In the following year personal property was reduced $10,613,000, and lands $34,022,000 while lots were increased $2,083,000.[2] These erratic changes are illustrative of the board's action in recent years. It is seen again in its favorite rôle of lowering the aggregate valuation.[3] The suit brought by the Chicago Teachers' Federation forced more effective action for a time; but it was the final galvanic shock to a body from which the capacity to perform its vital function had departed, for in 1906 it was possible for the committee on personal property to pass the following resolution:[4]

> We have considered the relative value of personal property in each county and it is the opinion and judgment of this committee that the personal property in the various counties in the state should remain as assessed by the local assessors and county boards of review, believing said values to be just and equitable as between the several counties of the state.
>
> We therefore recommend that no additions to or deductions from the assessed value of personal property be made, in order that an equalization by the board may be maintained.

This resolution has become the established formula of the committee on personal property. Under its cover the board has made no effort to equalize personal property, not hesitating to add to the offense of inaction its solemn assertion of belief that the

[1] Illinois State Board of Equalization, *Report*, 1899, pp. 37 ff.

[2] *Ibid.*, 1900, pp. 82 ff.

[3] Complete figures, 1868–1913, are given by Fairlie, *Report on Revenue and Financial Administration*, 1914, pp. 25, 26.

[4] Illinois State Board of Equalization, *Report*, 1906, p. 13.

local personalty valuations were just and equitable between the counties. An incident of the session of 1906 will illustrate further the board's methods. A resolution was introduced to the effect that personal property had been valued for taxation at 70 per cent of its true value. After amendments to substitute 100 per cent, or 90 per cent, or to lay on the table, had been defeated, the original motion was carried, approving the 70 per cent basis.[1] While the equalization process has never been one of scientific inquiry into assessment conditions, it is here shown to have become the most ordinary form of political juggling to reach a compromise acceptable to the majority.

The conclusions of the Commission of 1910 may be summarized as follows:[2]

1. No attempt had been made to study actual conditions.
2. There was no assurance that the members elected possessed knowledge of conditions over a county or a congressional district.
3. The board had failed to follow its own standards since 1900.[3]
4. Members had worked for low assessments in their own districts, and almost never made increases in their home counties.

The board's behavior in 1913 again illustrates the sort of political juggling to which it has descended. The only addition on lands was a 30 per cent increase in Lake county, which was represented by a member who had made some effort to secure better methods of procedure and more effective results. In order

[1] Illinois State Board of Equalization, *Report*, 1906, p. 11.

[2] *Report of the Special Tax Commission of Illinois*, 1910, pp. 63–65.

[3] The general equalization committee and the full board have been very unwilling to accept radical recommendations from the subcommittees. In 1900 the committee on personal property reported increases in 56 counties, ranging as high as 40 per cent in some cases; and decreases in 42 counties, one of 24 per cent. Out of this mass of corrections, the only advance which survived was a 16 per cent advance in Cook county. All other counties but eight were reduced 15 per cent. Similar treatment has been accorded the recommendations of the committee on real estate, and the recent inactivity of these committees may be attributed, in some degree, to the great unpopularity of reports which have displayed some effort to make a real equalization.

The Special Tax Commission of 1910 concluded that "the membership of the board, its elective character, its inadequate powers, and the short time which is allotted to it to perform its duties prevent it, and would prevent any similar board from becoming an efficient agent in the administration of the tax laws." *Message of Governor Deneen*, 1910, p. 10.

to prevent discussion of this action, the rule was suspended which required that all committee reports lie open to debate and amendment for forty-eight hours before going to the general committee on equalization.[1]

Centralized Administration of Corporation Taxes[2]

Railroads. — The use of special administrative methods for the taxation of corporations in Illinois began with the revenue law of 1872, according to which the assessment of the "railroad track" and "rolling stock" of railroads was transferred from the local assessors to the state board of equalization. To the latter was given also the duty of assessing the "corporate excess" of railroad and other corporations when such excess was found to exist. All other corporate real estate and personal property were left within the local jurisdiction.[3] Corporations were required to make returns of their property and capitalization to the state

[1] The member in question gave a lengthy newspaper interview on his experiences, from which the following description of committee procedure is taken: "Take the meetings of the committees as an illustration of the farcicalities. During the entire three months' session of the board which met two or three days a week from Aug. 12 until Nov. 20, no one of three committees that I particularly watched was in session more than five hours.

"As a member of the personal property and town and city lots committees I can testify that they were called together by the chairman only three times during the three months' session for one hour to an hour and a half each time. In the personal property committee the chairman glanced over the figures for each county and said, county by county: 'Oh, I guess that 's all right; what do you say, boys?'

"Some one would reply, 'Move it be accepted as sent in' and it was carried at once.

"At times some one would say, 'I wonder why that county is so low in personal property?' And some one would answer, 'Oh, the floods this spring.'

"Another county would be called and some one would say, 'I wonder why that county is so high?' 'Oh, the floods did n't touch it,' some would remark.

"'All right, let it go,' the chairman would remark.

"Some one would say occasionally, 'We 'd better take more time; go slowly and meet this afternoon.' 'No, sir-ee,' some one would reply, 'I want to get home this afternoon, let 's go ahead, we can't change any of it anyway.'"

Remarks of H. T. Nightingale, in *Chicago Herald*, Jan. 2, 1914. Cf. also Illinois State Board of Equalization, *Report*, 1913, p. 16. A similar suspension of the rule requiring opportunity for inspection occurred in the case of the reports from the committees on railroads and capital stock. Cf. *ibid.*, p. 94.

[2] Cf. Moore, *Taxation of Corporations other than Railroads since 1872.*

[3] *Laws of Illinois*, 1872, p. 1. The corporate excess was to be taken as the excess of the value of the capital stock over the valuation of the tangible property.

auditor by whom these data were laid before the state board. The latter was not confined to the statements made by these companies, but might make further investigations though it had no power to compel the appearance of witnesses or the production of books or papers. The valuations when determined were certified back to the local districts for the application of the local rates.

The railroad assessment for 1873 was more than five times the total returned by the local assessors in 1872, advancing from $25,568,784 as equalized, to $133,520,633. This immensely increased amount was composed of $59,317,408 on track and rolling stock, and $64,611,071 on capital stock. The figures speedily declined after 1873, due to large reductions of 40 per cent and 50 per cent in equalization, and by 1876 the total assessment of railroads was only $44,329,489, of which $10,106,258 was the corporate excess levied on capital stock. No assessments of railroad capital stock appear to have been made again until 1900, and the maximum assessment thereafter was $3,313,415 in 1914.[1] The assessment of physical property reached in 1878 the low level of $40,461,865, or less than 5 per cent of the total assessed valuation of the state. Until 1890 the railroad assessments increased faster than those of other property, comprising in the latter year 9.4 per cent of the total assessment of property. In the next twenty years the relative assessment of railroad and other property was practically constant, the former rising in 1900 as high as 11.1 per cent of the total, but declining by 1909 to 9.6 per cent. In 1914 it was less than 8 per cent of the total. All of the evidence goes to show that railroads in Illinois are being taxed less heavily than other property, and that there are considerable differences among the railroads themselves. The declining proportion of railroad to total assessment has already been noted. The percentage of railroad taxes to gross earnings has declined from 4.75 per cent in 1890 to less than 3.5 per cent in 1911. Compared with net earnings the railroad taxes declined from 13 per cent in 1890 to 11 per cent in 1911, while for the country as a whole, the ratio of taxes to

[1] Complete figures, 1873–1914, are given by Fairlie, *Report on Revenue and Finance Administration*, 1914.

gross earnings rose from 8 per cent in 1902 to 16 per cent in 1914.[1] Wide variations occur also in the ratio of taxes to earnings. In a few cases the gross earnings have been less than the taxes paid in Illinois. On the other hand, one important system has been paying little more than 2 per cent of gross earnings in taxes, while some other roads have paid not more than 6 per cent to 7 per cent of net earnings in taxes.[2]

The revenue law of 1872 made all domestic corporations liable to taxation on that part of the value of their capital stock in excess of the value of physical property owned, commonly called the "corporate excess." This margin of taxable value was to be determined by the state board of equalization. In 1873 the board assessed a total of $21,898,451, of which $6,325,216 was upon the stocks of public service corporations other than railroads.[3] The assessments steadily declined to 1880 when only 29 corporations were assessed for a total of $2,191,408. The aggregate assessment fluctuated from $2,000,000 to about $7,000,000 until 1901 when the activity of the Chicago Teachers' Federation forced an increase to $21,477,943, levied on 749 corporations. But this stimulus was soon spent, and, though the board's net caught 1988 corporations in 1902, the average assessment was $11,421, as against an average of $28,675 in 1901. The total assessment thereafter declined until in 1907 it was only $10,608,000. By 1909, with a basis of 33⅓ per cent of full value, the figure was $35,394,441, assessed upon 1168 companies. In 1913, 708 corporations were assessed for an aggregate of $29,373,194, or an average of $41,487.[4]

The earlier fluctuations may be explained in part by changes in the manner of equalization by the state board, and also by the partial abandonment of the policy of administrative centralization which the state assessment involved.[5] In 1875 companies organized for manufacturing, printing or publishing newspapers,

[1] Fairlie, *Report on Revenue and Finance Administration*, p. 29, and note.

[2] *Ibid.*

[3] Figures are given in the *Report of the Special Tax Commission of Illinois*, 1910, p. 224.

[4] Illinois State Board of Equalization, *Report*, 1913, pp. 24–43.

[5] *Report of the Special Tax Commission of Illinois*, 1910, pp. 85, 86.

and stock-breeding were restored to the jurisdiction of the local assessors. In 1893 companies for mining and selling coal were withdrawn from the state assessment, and in 1905 the privilege was accorded to corporations organized for mercantile purposes.[1] The legislature further attempted in 1905 to exempt from all taxation the stocks of these classes of companies withdrawn from central assessment, but this was rejected by the courts under the uniform rule of the constitution.[2] The court held that the stocks which were removed from the jurisdiction of the state board were still assessable by the local assessors, but in fact the laxity of the local assessment amounts virtually to exemption for these companies.[3] The same may even be said for many of the companies still centrally assessed, as more than three-fourths of the total corporate excess is regularly levied on a small group of public service corporations in Cook county. In 1909 the total assessment outside of Cook county was $950,000, and of this $753,000 was upon local public service companies. In this year only 15 companies were assessed for $100,000 or above, and only 95 for as much as $10,000. In other words, the assessment of corporate excess, like the equalization process, has become a formal routine, the results of which are modified only by the political exigencies of the case. The board has long outlived its usefulness, and the time is overripe for a change.

The need of reform is illustrated by the outcome of the Chicago Teachers' Federation case. This suit was brought by the Federation to compel a better assessment of the corporate excess of the Chicago public utilities. After proceedings had been instituted the board changed its rules and assessed a few companies for small amounts of corporate excess. The state courts authorized the issue of mandamus enforcing the proper assessment of these companies for 1901, and the figures for that year show a marked increase over preceding years. The collection of the increased taxes was enjoined by the United States Circuit Court on the ground that the assessment had been made under duress; and further-

[1] *Laws of Illinois*, 1875, p. 35; *ibid.*, 1893, p. 172; *ibid.*, 1905, p. 353.

[2] 236 *Illinois*, 86.

[3] Fairlie, *Report on Revenue and Finance Administration*, p. 31.

more, not on the proper basis, which should have been the capitalized net earnings instead of on the value of the stocks and bonds minus the valuation of the tangible property.[1] The United States Supreme Court sustained the lower federal court, but on the ground that the corporations involved had been assessed on the full value of their capital stock while other corporations had been assessed on a 65 per cent basis.[2] After seven years of litigation the efforts to secure the adequate taxation of some of the most powerful and productive corporations in the state were frustrated by the backward character of the tax system and the results of judicial review.

Enough has been said, perhaps, to demonstrate the utter failure of the Illinois state board of equalization in both of the administrative functions assigned to it. The special commission of 1910 recommended the abolition of the state board of equalization and the substitution therefor of a state tax commission, modelled along the lines of recent administrative development.[3] No further progress has been made, as bills for the creation of a tax commission were defeated in 1911 and 1913. The agitation was again renewed in 1915 and grand jury indictments were returned against prominent citizens of Chicago for making improper tax returns. This method of creating sentiment against the general property tax is not conspicuously successful, though it should prove the utter futility of that system. The proposal for a tax commission was renewed by the Committee on Revenue and Finance Administration, in 1914, with the broader suggestion that a state finance commission, with powers over both revenues and expenditures, would afford a more complete remedy for the present situation.[4]

[1] *State Board of Equalization* v. *People*, 191 *Illinois*, 529. Also *Chicago Union Traction Company* v. *State Board of Equalization*, 112 *Fed. Rep.* 557.

[2] 112 *Fed. Rep.* 607. Cf. Haig, *History of the General Property Tax in Illinois*, pp. 206–209.

[3] A state tax commission had been proposed by the Illinois Revenue Commission of 1886, *Report*, p. 13. Cf. *Report of the Special Tax Commission of Illinois*, 1910, p. 201. In 1913 the board of equalization appointed a committee to formulate suggestions for tax reform. The only change which the committee could think of was that the board of equalization be made a perpetual body with longer tenure of office for members. *Report*, 1913, p. 21.

[4] Fairlie, *Report on Revenue and Finance Administration*, 1914.

The Utah State Board of Equalization

History has been repeating itself in very interesting fashion in the fiscal experiences of the newer states. Without exception the more recently formed commonwealths adopted the general property tax as the chief source of state and local revenue, and their briefer experience has been an epitome of the longer history of this tax in older sections. In primitive frontier societies this system of taxation found congenial soil; it was fairly well adapted to such simple economic and social conditions as there prevailed and was perhaps fairly equitable in its burden. But such conditions rapidly disappeared with the passing of the frontier, and the general property tax speedily degenerated after the opening up of these newer sections to closer contact with the East. Many of these features are illustrated in Utah, the experiences of which will be briefly described.

The first legislature established a state board of equalization in 1896.[1] There had been a territorial board of equalization but no data are available concerning the results of its work. The new state board was composed of four persons appointed for four years by the governor with the consent of the senate. The chief functions of the board were the annual equalization of the local assessments, some very slight supervisory duties, and the assessment of certain inter-county public service corporations.

Equalization and Supervision. — The authority, possessed by the Utah board, to make unlimited changes in the county totals and to reconvene at will the county boards of equalization, offered in theory some opportunity to correct the errors of the local officials. In practice, however, this has not been achieved. The standards of assessment have steadily declined and little has been accomplished toward a more equitable distribution of the tax burden. The figures below present a view of the results since 1896:[2]

[1] *Laws of Utah*, 1896, ch. 129.

[2] From the biennial reports of the board of equalization. The large increase of 1916 was due to a tax limit law passed in 1915. *Report*, 1916, p. 72.

ASSESSMENTS OF REAL AND PERSONAL PROPERTY (MILLIONS)

Year	Real estate	Improvements	Live stock	Merchandise, etc.	Machinery, tools	Moneys, credits	Other personal	Total personal
1896.....	$48.6	$20.4	$6.0	$4.4	$2.3	$8.0	$2.2	$22.9
1900.....	43.8	22.2	8.6	5.1	2.8	3.5	3.7	23.7
1904.....	49.0	27.3	8.2	7.6	4.8	5.0	6.0	31.6
1908.....	55.5	34.9	10.2	10.5	7.6	4.5	6.7	39.5
1912.....	66.1	43.3	10.8	11.0	6.8	7.5	7.4	43.5
1914.....	73.3	45.6	11.6	10.0	6.9	10.0	8.1	48.7
1916.....	186.3	101.4	28.2	26.0	17.3	17.6	23.3	112.4

The bulk of the assessments are seen to consist of tangible property. While the wealth of the state is still largely of this character, it is difficult to believe that the total of moneys and credits was larger in 1896 than in any subsequent year to 1913.[1] County recorders are required to transmit to the county assessors lists of mortgages held by residents of the several counties,[2] but this provision has apparently had little effect on the volume of mortgages assessed. The special tax commission of 1913 remarked that the state would "lose no appreciable part of its income by abandoning all attempt to collect taxes on this class of property."[3] The courts have held that the board might not increase all of the personal property of a county, including moneys.[4] The board's supervisory powers have never been adequate to induce in the local officials a proper observance of the tax laws; and a weak and decentralized administrative organization would naturally fail to cope effectively with that most difficult problem presented by the general property tax — the proper assessment of intangible wealth. Conferences of assessors have been held,[5] the counties have been visited by members of the board of equalization, and a persistent campaign has been waged for the compulsory use of land maps by the local assessors. By 1904 these maps were re-

[1] The total bank deposits on June 14, 1912, were $52,665,959.

[2] *Revised Statutes of Utah*, 1898, § 2531.

[3] *Report of the Special Tax Commission of Utah*, 1913, p. 21.

[4] *State ex rel. Cunningham et al.* v. *Thomas et al., State Board of Equalization*, Oct. 2, 1897. In *Edition of Tax Laws, 1898*, pp. 65 ff.

[5] Utah State Board of Equalization, *Report*, 1901–02, pp. 7, 8.

ported to be in general use.[1] The most important recourse open to the board to correct the results of the local assessment has been reconvening the county boards of equalization. This power has not been consistently exercised, in view of the well-known inconstancy of the assessors. Thus, in 1896, advances of 15 per cent to 25 per cent were ordered in 11 counties,[2] and in 1898 an increase of 5 per cent was ordered on all the property except money in 11 counties.[3] Whether these were the same counties that had been increased in 1896 is not indicated. A period of comparative inactivity followed to 1903 when advances were again made in 11 counties.[4] In the following year one county was increased and the opinion was expressed that all property had been "uniformly and equally assessed."[5] The board has frequently recommended full value assessment and tax rate limitation but its latest actions indicate some reluctance to make progress to that end. In 1913 the levy for state tax on the aggregate valuation was insufficient to meet the appropriations for that year. The board hesitated to advance either levy or valuation on account of the dissatisfaction that would follow, and trusted to the inheritance tax and other sources of state income. In 1914 the board was compelled to add some $3,000,000 to the assessed valuation. This increase was said to have been based upon careful investigation, but no details were given as to the data collected or the character of the changes. The maximum levy allowed by the constitution on the equalized valuation was not sufficient to cover the appropriations made in 1913.[6]

The earlier optimism concerning equality of assessment was not shared by the members of the board in later years and in 1908 the appointment of a special tax commission for the investigation of the tax system was officially recommended. Two years later assessments were declared to be far from uniform and it was proposed that the assessors should be appointed.[7] Such an advanced

[1] Utah State Board of Equalization, *Report*, 1903–04, p. 4. Previous to the adoption of these maps there was no assurance that all of the property had been listed. Cf. *ibid.*, 1901–02, pp. 7, 8.

[2] *Ibid.*, 1896, pp. 5, 6.

[3] *Ibid.*, 1897–98, p. 4.

[4] *Ibid.*, 1903–04, p. 5.

[5] *Ibid.*, p. 5.

[6] *Ibid.*, 1913–14, pp. 62, 63.

[7] *Ibid.*, 1909–10, p. 6.

suggestion was hastily recanted and the people were assured that there was no intention of depriving them of self-government.[1] The principle of appointment was approved by the special tax commission which reported in 1913, though the recommendation of that body extended no further than to advise close central control over a locally chosen official.[2] State equalization, as conducted by the present board, was declared to be a farce.[3] Wide differences were found in the basis of assessment in different counties. Assessments of section property ranged from 18 per cent to 56 per cent of true value, while town lots varied from 21 per cent to 55 per cent of true value.[4] The remedy proposed by the special tax commission was a strong administrative centralization of the whole tax system in the hands of the board of equalization which was to be reorganized along the lines of the modern tax commission.[5] The problem of assessing moneys and credits was admitted to be incapable of solution under the general property tax and classification was recommended with a rate of three to five mills.[6]

The Administration of Corporation Taxes. — The first revenue act of the new state provided that the property and franchises of railroads, street railroads, telegraph and telephone companies operating in more than one county should be assessed by the state board of equalization.[7] The basis of this assessment was to be a sworn statement by the president or other competent official, returning all of the property, real, personal or otherwise, owned in the state, including the mileage in each county. These returns were also to include such other information as the board might require, though in fact there is little evidence that the board's inquiries were very widely extended. In 1899 central assessment was introduced for intra-county telephone and railroad companies, and the net proceeds of mines, but a court decision of 1903 withdrew these properties from the central juris-

[1] Utah State Board of Equalization, *Report*, 1911–12, p. 6.
[2] *Report of the Special Tax Commission of Utah*, 1913, p. 14.
[3] *Ibid.*, p. 10.
[4] *Ibid.*, pp. 15–17.
[5] *Ibid.*, pp. 9, 10.
[6] *Ibid.*, pp. 21–23.
[7] *Laws of Utah*, 1896, p. 439.

diction. A constitutional amendment placed the net proceeds of mines under the authority of the state board in 1907.[1]

The board has been more successful in administering the corporation taxes than in its efforts at equalization, though its methods in the assessment of railroads were not approved by the special tax commission. The latter found that the assessments had been confined too closely to a physical valuation basis; and that the board had sought to reach a portion of the difference between physical and actual value by assessing this difference separately as the franchise value. This attempted separation was declared to be "inaccurate, misleading, and unscientific"; but on the whole the commission expressed itself as satisfied with the results of corporate taxation under existing laws, whereby approximately one-third of the cost of reproduction had been attained.[2] The good was not permitted to defeat the best, however, and recommendations were offered for an extension of the board's authority to require returns on the following subjects:[3]

(*a*) the actual cash value of the tangible property;
(*b*) the average market price of the stocks and bonds during the year;
(*c*) the total amounts paid in dividends, and to the surplus, reserve and sinking funds;
(*d*) the gross and net earnings.

The special commission's proposals were in line with its advocacy of greater administrative centralization. One exception to this position is found in its attitude on the assessment of the net proceeds of mines, which it believed could be more satisfactorily and effectively assessed by the county assessors, especially if the work could be done under the direction and supervision of the state board. This anomalous recommendation was sustained by the following curious reasoning. The present law requires the board to assess improvements and machinery as well as net proceeds of mines. For this purpose the owners are required to report on the value of their improvements and machinery, and the county assessors are required to visit the mines and

[1] Utah State Board of Equalization, *Report*, 1906, p. 8; *ibid.*, 1908, p. 7. *Constitution of Utah*, Art. XIII, § 4.

[2] *Report of the Special Tax Commission of Utah*, pp. 20–63. [3] *Ibid.*, pp. 34–37.

make an independent report on the value of this property. Since the reports of owners and assessors often vary widely, and inasmuch as the county assessor is required by law to visit the mines anyway, the commission concluded that it would be more satisfactory to allow them to perform the whole assessment. The experiences of the past seem to condemn this conclusion. The following table shows the comparative results of local and state assessment since 1896:[1]

ASSESSMENT OF NET PROCEEDS AND MACHINERY OF MINES (MILLIONS)

Local assessments		By State Board of equalization			Total
Year	Valuation	Year	Net proceeds	Improvements and machinery	
1896.....	$2.0	1900.....	$2.4		
1897.....	1.7	1901.....	3.1		
1898.....	1.3	1902.....	4.3		
1899.....	1.8	1903.....	4.5		
1904.....	3.7	1907.....	7.3		
1905.....	4.8	1908.....	5.3		
1906.....	3.2	1909.....	4.2	$2.8	$7.0
		1912.....	7.5	3.6	11.0
		1914.....	9.6	3.9	13.6
		1916.....	21.6	8.3	29.9

While it is not held that the board's figures represent the full value of the net proceeds, it seems evident that the central assessment has succeeded better than the local assessment in sustaining the level of valuation. It is natural that the progress of the mining industry should result in an advance in the total; but it is significant that in both periods of local assessment the tendency of the valuations was downward, while in both periods of central assessment the opposite tendency has prevailed. Notwithstanding this gain under state administration there is need of further improvement, especially in the facilities for grading the mines according to quantity and quality of output and the conditions of opera-

[1] Compiled from the biennial reports of the Board of Equalization. Cf. J. J. Thomas, "Taxation of Mines in Utah and Nevada," *Proceedings of the National Tax Conference*, 1908, pp. 431, 440.

tion. The board recommends the establishment of a bullion commission, following the practice of Nevada.[1]

In the assessment of car companies the board has made valuable gains. The state treasurer was originally designated as collector of these taxes; but the neglect of delinquencies led to the appointment, in 1900, of the secretary of the state board as the collector of these taxes, with marked improvement in the collection.[2]

Enough has been presented, perhaps, to indicate the scope of the activities of the Utah board of equalization, and to reveal the weaknesses of decentralized administration in that state. They are the characteristic difficulties — equalization has become a farce, weak advisory supervision has availed little, and there is much room for improvement in the conditions of corporate assessment. The board has been growing less active in recent years. On the other hand, it has accomplished some valuable results. It has compelled the use of land maps, it secured the special commission of investigation, and it has become somewhat more awake to the necessity of administrative reform. It is possible that this board may develop into a regular tax commission along the lines suggested by the special tax commission.[3]

[1] Utah State Board of Equalization, *Report*, 1910, p. 7.

[2] *Ibid.*, 1901–02, p. 4.

[3] Cf. the remarks of the Utah delegates at the Eighth National Tax Conference, Denver, 1914, *Proceedings*, pp. 110–114.

CHAPTER III

STATE BOARDS OF EQUALIZATION AND ASSESSMENT
(CONCLUDED)

THE CALIFORNIA STATE BOARD OF EQUALIZATION

THE first state board of equalization in California was created in 1870.[1] It was composed of the state comptroller and two members appointed by the governor for four years at a salary of $3000. The board was to assemble for monthly meetings and was to continue in session until disposition had been made of all the business before it. Its chief duties related to the state equalization which was provided by the act, and in connection with which the board was to conduct inquiries along the following lines:[2]

(*a*) . . . as to the mode and manner in which the assessors and collectors of revenue perform their duties . . . ;
(*b*) as to whether the assessment made by the local assessors of the several counties are equal and uniform according to location, soil and improvements, production and manufactures.

In cases of gross neglect on the part of the local assessors, the board was to report the matter to the district attorney through whom action for removal was to be taken. For some perverse reason, the state equalization was to be made *before* that of the county boards, an illogical arrangement which left the state board at a great disadvantage. The law also provided that members of the latter board should visit the counties if this proved necessary.

Needless to say, such a tour did speedily prove to be necessary as the county assessors were either unwilling or unable to make the returns asked for by the state board. Some indication of the conditions which by their prevalence over the state had given rise to this board may be seen from the specific objects sought on the

[1] *Laws of California*, 1870, ch. 489. Fankhouser's *A Financial History of California* contains valuable historical material.
[2] From the law creating the board.

first expedition through the counties. Among these were the following: [1]

1. To obtain county maps; 2. to obtain from each assessor his definition of full cash value and the per cent thereof used in assessing property; 3. to instruct assessors not to discriminate between large and small tracts of the same character; 4. to ascertain the causes of the great disparity of the valuations of personal property in the several counties; 5. to correct the neglect to assess furniture, watches, libraries and money, all of which some assessors regarded as not worth looking after; 6. to arrange for a return of a copy of the assessor's roll in 1871; 7. to have improvements listed separately; 8. to induce the local boards to be more strict in granting reductions.

The situation which had developed in California under a completely decentralized administrative system was probably one of the worst in the United States. Few of the counties had land maps and it was uncertain in many counties whether all of the real estate was even listed for assessment.[2] Merchandise was seldom assessed and live stock was always underassessed, while many classes of personal property were entirely overlooked by the assessor. There was absolutely no uniformity in the definition or the application of the term "full cash value," with the result that "the rich counties were shielded and benefited, while the poorer counties, less fertile in resources and burdened with debt, bore relatively the larger burden of taxes." [3] Competitive undervaluation was present in California as in Ohio and New York. One of the worst abuses was in the unlimited power of the county boards to reduce valuations. An extreme instance of the unwarranted exercise of this power occurred in 1871. The board of San Mateo county reduced valuations in 1233 cases, though applications for relief had been made by only 19 taxpayers in person and by only 37 through attorney. Of the 56 applicants, 35 gave no reason at all for the desired reduction and none of the others alleged overassessment. The total valuation of the county was lowered by these reductions from $4,301,196 to $1,897,200.[4] Another source of improper and incomplete assessments, especially in the larger

[1] California State Board of Equalization, *Report*, 1870–71, p. 6.

[2] *Ibid.*, pp. 8, 9. The special tax commission created in 1915 found some land not yet on the tax rolls. Cf. its *Foreword on Taxation in California*, 1916, p. 7.

[3] *Ibid.*, p. 13.

[4] *Ibid.*, p. 16.

counties, was the practice of "farming out" the actual work of assessment to deputies. The assessor's salary did not permit him to engage deputies by the day and if he wished to obtain any income for himself from the office he was obliged to sublet the actual assessment work on contract. Between the thrifty assessor and his subcontractors there was little room for considerations of equity and general welfare in the labors of the assessment season.

Such was the chaos into which the California tax system had fallen and from which the state board of equalization was expected to rescue it. The board was unable to perform an equalization in either of the first two years because of its inability to secure returns from the county assessors before the date set for the meetings of the county boards.[1] No authority existed to compel the county assessors to coöperate with the state board to this extent and some of them took this means of defeating the purposes for which the state equalization had been established. In addition, the county boards blocked the efforts to secure the county returns by refusing to sanction the work of the assessors in preparing the necessary statements. An effort was made in 1870 to enlist the sympathy and support of the assessors by assembling them in a state convention; but about the only gain from this meeting, which was largely attended, was the display of absolute non-uniformity of action among the assessors both in their construction of the law and of their methods of applying it. Though the meeting adopted a definition of "full cash value" which it was agreed should be used by all, it was impossible to show that the conference had in any way affected the work of the assessors in 1871.[2] As little could be shown for the other elaborate preparations for a more uniform assessment in this year. Instructions had been issued to the assessors, suggesting a classified instead of a lump sum assessment of personal property, and asking for an estimate of the full value with the percentage used by the assessor. Very incomplete returns were received but from such replies as were made to this request a table of percentages of assessed to true

[1] California State Board of Equalization, *Report*, 1870–71, pp. 3, 21.

[2] *Ibid.*, p. 4.

value was compiled, the range of which revealed the hopelessness of attaining any material uniformity without greater control over the acts of the local assessors.[1] The estimates ranged from one-third to full value for personal property and from 40 per cent to 80 per cent for real estate, but with absolutely no tendency to a common basis anywhere within these limits.[2]

The authority of the board was extended somewhat by the Political Code of 1872, by which power was given to prescribe rules and regulations to govern both assessors and county boards. Local officials were required to observe the regulations prescribed under this section.[3] The effect of this additional authority was at once felt throughout the tax system. The board remarked, with more enthusiasm than regard for literal truth, that "all assessors did their work with faithfulness, industry and ability."[4] However, the achievement certainly did reflect credit upon those in charge, as the figures show:[5]

TOTAL ASSESSMENT OF PROPERTY, 1870–73

Year	Assessment	Year	Assessment
1870.....	$277,538,127	1872.....	$636,378,114
1871.....	268,709,133	1873.....	527,203,982

The feeble authority of the board under the original act is shown by the decline of the total assessment in 1871 in the face of its efforts to secure better returns. Since no state equalization was made, its labors served principally to call public attenton to the need of much stronger measures, of which the provisions of the Code were only a beginning. The slight additional authority given to the board by the new legislation produced gratifying results, representing an advance of 136.8 per cent over 1871. No reduction was made in the rate of the state tax on account of the higher valuation as the new Code had shifted a greater portion of the state expenses to that source by reducing poll taxes and

[1] California State Board of Equalization, *Report*, 1870–71, pp. 20–22.

[2] *Ibid.*, pp. 30, 31.

[3] *Political Code of California*, 1872, ii, pp. 50 ff. The board had urged this revision in its report, 1870–71, p. 23.

[4] California State Board of Equalization, *Report*, 1872–73, p. 6.

[5] *Ibid.*, pp. 10, 11.

eliminating some of the license taxes.[1] By these changes equalization was rendered even more important than before, though the limited powers given to the board and the narrow views taken by the courts implied little enough appreciation of this fact. There were some significant reductions in county rates, specimens of which are given below.[2] No details of the actual equalization are presented in the reports and it is quite probable that the board's efforts were still confined chiefly to the advisory work of the preassessment season.

Its triumph was but short-lived, however. The total assessment for 1873 shows a decline of about $90,000,000 from the level of 1872 in explanation of which at least two circumstances should be noted. In the first place, the amount of mortgages returned for taxation in 1873 was much less than in the preceding year. The taxable status of mortgages had been quite uncertain for some years owing to various legislative acts and to certain court decisions. In the session of 1869–70 mortgages had been exempted, but the Code of 1872 restored them to the taxable list.[3] This action was sustained by the court in 1873 but the general impression of the force of the decision was that mortgages had been thereby exempted.[4] The wish was evidently father to this interpretation, the effect of which was a marked decline in the volume of mortgages returned. In 1876 the courts held that mortgages were not property in the meaning of the constitution [5] and the dissatisfaction with this interpretation of the organic law, to-

[1] California State Board of Equalization, *Report*, 1872–73, p. 14. The Code had imposed upon the board the duty of calculating the rate of the state tax.

[2] Some typical reductions of local tax rates were as follows:

County	Tax rate in		County	Tax rate in	
	1871	1872		1871	1872
Alameda	$2.21½	$1.00	Santa Clara	$2.46½	$1.20
Sacramento	2.47	1.50	San Joaquin	2.21	1.05
San Mateo	1.92	.92			

[3] *Laws of California*, 1869–70, ch. 485; *Political Code of 1872*, Title IX, ch. 1; 43 *Calif.* 331; *People* v. *Eddy*.

[4] Plehn, "The Taxation of Mortgages in California," *Yale Review*, viii, p. 36. Also, 46 *Calif.* 416.

[5] 51 *Calif.* 243.

gether with the desire to provide for mortgage taxation, were important motives for the revision of the constitution in 1879.[1]

The second factor in the decline of the total assessment in 1873 was the emasculation of the board's powers by the courts.[2] The leading case involved the power to equalize valuations. It was held that the constitution required property to be assessed by an officer elected by those whose property he was to assess. The process of equalization was a part of the function of assessment since to raise the valuation of a county was virtually to make a new assessment. This process could not, therefore, be delegated to an appointive board of equalization. Following this construction of its functions, the board "lost even a moral power over the assessors," [3] and from 1873 to the adoption of the new constitution in 1879 its functions were limited to ascertaining and stating the rate of the state taxes.[4] The withdrawal of the slight supervisory control which the board had exercised resulted in a rapid degeneration into the old conditions of underassessment, marked especially by diminished assessment of personal property. Between 1876 and 1879 the total assessment of money dropped from $16-904,218 to $9,866,986; of these amounts almost the whole was listed in San Francisco.[5] From 1872 to 1880 the assessment of property of the same kind increased only 14.6 per cent, while population increased 39.2 per cent. It was obvious to the board in 1880 that all of the property of the state had not been listed and that assessments had not been made at full cash value.[6]

The second board of equalization was provided for by the new constitution of 1879.[7] It was to consist of one member elected from each congressional district for four years with the comptroller of state as an ex officio member. According to the original language of the constitution the board was "to equalize the valuations of the taxable property of the several counties in the state

[1] Plehn, *loc. cit.* [2] 47 *Calif.* 651.

[3] California Board of Equalization, *Report*, 1880, p. 27.

[4] *Ibid.*, 1883–84, p. 3.

[5] *Report of the Commission on Revenue and Taxation of California*, 1906, p. 56. Also Plehn, *loc. cit.*, pp. 36, 37.

[6] California State Board of Equalization, *Report*, 1880, p. 35.

[7] *Constitution of California*, 1879, Art. XIII, §§ 9, 10.

for the purpose of taxation." Another section required it to assess railroads, a duty which will be discussed below.[1] The new board began at once, with considerable vigor, an investigation of tax conditions in the several counties and visited all but 15 of them. The troubles of the assessors had been increased by the addition of mortgages, franchises, capital stock, and solvent credits to the taxable property. In the local visits sales data were gathered, assessors quizzed as to the basis of valuation used, and the general mechanism of equalization set in operation again.[2] Consideration of the first data gathered led to the conclusion that the assessments of lands and sheep in 29 counties should be raised from 10 per cent to 50 per cent, but in view of another court decision which cut deeply into the board's powers the increases were not made.[3] This decision hinged upon the interpretation of the new constitution as to the power of the board to change individual assessments.[4] The board had taken the position that it possessed such powers and had begun a vigorous equalization which would have been of considerable significance had it been completed along the lines contemplated. It was estimated that the power to change individual assessments would alone have added $10,000,000 to the rolls.[5] The court held, however, that absurd and injurious consequences would follow if the state board of equalization were allowed to change individual assessments, but that the administrative portion of the tax system would be a harmonious whole if the county board equalized among individuals while the state board equalized among the counties only. Such a view was based, as the board observed, upon an ignorance of the history of the state revenue system.[6] The performances of the San Mateo county board in 1871 should have exposed the fallacy of the court's reasoning;[7] and had this not sufficed the case of the San Francisco banks in 1872–73 should have been convincing. In 1872

[1] See below, pp. 94–96.
[2] California State Board of Equalization, *Report*, 1880, pp. 6, 9.
[3] *Ibid.*, pp. 10, 27.
[4] *Wells Fargo* v. *State Board of Equalization*, 56 *Calif.* 194.
[5] California State Board of Equalization, *Report*, 1880, p. 24.
[6] *Ibid.*, p. 20.
[7] Cf. above, p. 85.

17 savings institutions in San Francisco had been assessed at a total of $40,918,000, but the county board, acting under special pressure, cancelled the assessment. After two appeals to the highest court the board succeeded in restoring the assessments to the rolls but in 1873 the banks virtually cancelled their own assessments as the total for the 17 institutions was only $1,530,000.[1] This experience led the board to demand some means for the proper punishment of officials who evaded the law in the interest of large corporations, but little was to be accomplished in that generation toward breaking the hold of corporate interests on the administration of every branch of the state government. In addition to the court's unfamiliarity with past conditions which had already demonstrated the impossibility of the judicial suggestions, it was apparently ignorant also of the spirit of competitive undervaluation which had made state and local equalization necessary and of the tremendous temptation to introduce local inequalities through favoritism. The decision meant virtual demoralization of the tax system, evidence of which was at once apparent in the assessed valuations. The total assessment of property (including real estate, personal property, and money, the characteristic California grouping) declined from $628,800,000 in 1880 to $579,000,000 in 1882.[2] In the following year the board determined upon a vigorous equalization by counties, the only power which was left to it. The first detailed results of equalization were published in this year, showing advances of 10 per cent to 20 per cent in twenty counties, with a total increase of $71,429,268.[3] In 1884 the action was somewhat less drastic, but it resulted in thirteen advances and one reduction, with a net increase of $37,777,682.[4]

This vigorous policy was of short duration, for beginning with the later eighties the equalization became more irregular and less determination was displayed in handling the returns. In 1889 only six counties were changed, of which five were lowered, with a net reduction of $28,128,000. In 1890 the only change was a 10

[1] California State Board of Equalization, *Report*, 1872–73, pp. 15–19.
[2] *Ibid.*, 1883–84, p. 5.
[3] *Ibid.*, pp. 24, 25.
[4] *Ibid.*, p. 37.

per cent reduction amounting to less than $1,000,000.[1] The next year advances of 5 per cent to 10 per cent were made in nine counties, totalling $112,418,398. Again, in 1892, four counties, all of which had been included in the advance of the previous year, were increased by a total of $76,603,649.[2] This activity was only spasmodic and the board again subsided into a policy of mere formal adjustments. Such alternation between vigorous and indifferent action, but with gradually lessening fervor on the whole, has been the experience of almost every state board of equalization, as its narrow authority has proved increasingly inadequate to correct obvious inequalities. In 1892 the board admitted that it had knowledge of many inequalities but was without power to correct them.[3] This inability goes back to the Wells Fargo decision of 1880.[4] The virtual effect of this decision was to restrict the equalization to an adjustment between the rural and the urban counties and the board alternately lowered the one or raised the other group in the effort to attain a crude equality of burden. Thus, in 1895, compensation was sought by ordering a flat reduction of 10 per cent in twenty-six counties, giving a total decrease of $36,696,340.[5] In the following year five counties containing urban centers were increased $74,113,818, and two were reduced $3,086,821.[6] In 1897 reductions were ordered in forty-two rural counties, and in 1898 the whole assessment roll was left unchanged. The detailed action of the board was published only twice in the years 1899 to 1910. In 1903 a substantial advance of $178,423,555 was made by raising eighteen counties from 10 per cent to 20 per cent.[7] Nine of the counties in this list, and nine others, were advanced from 10 per cent to 100 per cent in 1909, giving a total increase of $321,532,596.[8]

The special tax commission of 1906 condemned the whole equalization theory, and incidentally, the California application

[1] California State Board of Equalization, *Report*, 1889–90, p. 13.
[2] *Ibid.*, 1891–92, p. 8.
[3] *Ibid.*, 1891–92, p. 4.
[4] Cf. above, p. 90.
[5] California State Board of Equalization, *Report*, 1895–96, p. 6.
[6] *Ibid.*, p. 46.
[7] *Ibid.*, 1903–04, p. 5.
[8] *Ibid.*, 1909–10, p. 17.

of it, without qualification.[1] Its criticism was not wholly well-founded, for it has been seen that the originally inadequate powers of the state board had been largely whittled away by the courts. The critical attitude of the commission stimulated the board, apparently, for it gave evidence in the years following this report that it desired more power and proposed to push more vigorously for better conditions of assessment.[2] In the second report of the special commission, published in 1910, the attack upon the board was continued and numerous instances were introduced of obvious injustice in the tax burden, though again there was not sufficient recognition of the board's inadequate powers as a cause for these conditions. The special commission was interested in securing separation of sources of state and local revenue, under which it believed that equalization by a state board would no longer be necessary.[3] Its arguments proved effective and the new revenue system was adopted in 1910.[4] The direct state tax was relinquished except as an emergency measure, to supplement the regular sources of state revenue. The function of state equalization has become therefore relatively unimportant, being confined to the annual review of the locally assessed real estate of banks and insurance companies for the purpose of preventing the encroachment, by the local assessors, upon the state's revenues from these corporations through overvaluation of the real property locally assessed.[5]

[1] Cf. the following statement: "Equalization, so-called, does not equalize, and in the nature of things, cannot equalize. After the officers have exhausted their best efforts in this direction, there are inequalities—glaring ones—between real and personal property; between different classes of personal property; between county and county; between city and city; between city and country; between man and man. All of which are rarely removed, and often intensified, by so-called equalization." *Report of the Commission on Revenue and Taxation of California*, 1906, p. 10.

[2] For instance, cf. the vigorous discussion and recommendations for further administrative centralization in its report for 1907–08, pp. 12–18. The board recommended extension of its power to permit the change of any individual assessment, or that of any class or subdivision of a class of property; and for the centralized administration of the assessment of more classes of corporations. The decision of the Wells Fargo case was again severely criticized.

[3] Cf. *Report of the Commission on Revenue and Taxation of California*, 1906, p. 11.

[4] The amendment became Art. XIII, § 14, of the constitution.

[5] Cf. California State Board of Equalization, *Report*, 1912. Potentially the

Central Administration of Corporation Taxes — Previous to the changes of 1910 centralized administration had been applied only to the taxation of railroads. The trials and discouragements of this experiment were quite sufficient to dampen any enthusiasm for extension, regardless of the defects of local administration. Originally all corporations were taxed locally under the general property tax, as a matter of course. The circumstances under which the early railroads of California were built gave rise to a question of jurisdiction — had the state the right to tax a railroad chartered by the federal government, or subsidized by it, or engaged in interstate commerce? This right was affirmed in 1872.[1] The first step toward administrative centralization was taken at this time, in the provision that the state board of equalization should assess rolling stock and apportion it to the counties on a mileage basis.[2] All other railroad property remained locally assessable until the constitution of 1879, which required the state board of equalization to assess the "franchises, roadway, roadbed, rails, and rolling stock of all railroads operating in more than one county."[3] The Pullman Company was included in the state assessment by construction, but all other corporations remained within the local jurisdiction and consequently escaped with very light taxes. The railroads fought vigorously the transfer of taxing authority and for fifteen years succeeded in hindering the state's efforts at adequate taxation.[4] After a large number of cases had cleared the bewildering jungle of technicalities that had been raised, the final question was whether the taxation of a federal franchise were involved. It was admitted that the assessment

board still possesses all of the power of equalization given in 1879, but the complete change in the method of raising state revenues has placed this power in abeyance, except for the equalization to be made in the case of the real estate of certain corporations, and the equalization of all property for the purpose of distributing the small direct tax which was to be levied until 1915 for the purpose of financing the Panama-Pacific International Exposition in San Francisco in 1915.

[1] *People* v. *Central Pacific Railroad Co.*, 43 *Calif.* 398.

[2] *Political Code of California*, 1872, § 3663, as amended by *Laws of 1872*, ch. 417.

[3] *Constitution of California*, 1879. Art. XIII, § 10.

[4] The leading federal case is in 162 *U. S.* 91, decided in 1895. Also, 105 *Calif.* 576. Cf. *Report of the Commission on Revenue and Taxation of California*, 1906, pp. 105–107, and Plehn, *The General Property Tax in California*, pp. 178–182.

would be legal if it did not involve a federal franchise, and the litigation was ended when it was held that the state did not tax that franchise. The railroads paid up the back taxes which they had withheld during the period of litigation and the legislature ordered the state board to reassess certain lines, the former assessment of which had been declared illegal.[1] The distinction between the federal and the state franchise seems a purely technical matter and it is extremely doubtful if the final decision had any practical effect upon the actual assessment.[2]

The methods used by the board are nowhere described in its own publications. They were alluded to as follows by the rather critical Commission on Revenue and Taxation, in 1910:[3]

> Until recently the board counted the number of locomotives and cars, and guessed at their value, then guessed again at the value of the franchises and reached a total — such as it was. What wonder that they gladly adopted the suggestion of this commission that if they made such a valuation that the total taxes would equal four per cent of the gross earnings they would be doing effective justice. Since 1906 the assessment of railroads has been made by the application of a mathematical rule, and guesswork has stopped.

It is quite probable that no great development of method had occurred and the commission's charge of guesswork doubtless had foundation; though, as will be seen, this commission's later recommendations have not entirely eliminated guesswork from corporate assessment.

The results of the state assessment suggest a lack of system and a depression of spirit due to the vigorous protests of the railroads. The aggregate figures rose from $27,602,313 in 1882 to $50,746,500 in 1884. Thereafter they dwindled to $40,408,652 by 1890; then an equally slow advance began and in 1901 the aggregate had reached $49,121,485.[4] From this point the board was more aggressive and by 1910 it had added $58,411,702 to the assessment.[5] There was naturally considerable inequality be-

[1] *Report of the Commission on Revenue and Taxation of California*, 1906, pp. 106, 107. *Laws of California*, 1893, ch. 207.

[2] This was the view also of the special revenue commission of 1906.

[3] *Report of the Commission on Revenue and Taxation of California*, 1910, p. 35.

[4] The figures to 1906 are given in *ibid.*, 1906, p. 107.

[5] California State Board of Equalization, *Report*, 1909–10, p. 39.

tween classes of corporations. In 1906 the special commission presented figures to show that the railroad tax represented a rate of 3.64 per cent on gross earnings, while the taxes on the utilities locally assessed ranged from .514 per cent in the case of express companies to 7.09 per cent for water companies.[1] The inequality of tax burden here disclosed could have been remedied, of course, by an extension of the authority and jurisdiction of the state board of equalization. But the commission of 1906 preferred to incorporate the gross earnings tax as the basis of its revised system of corporate taxation.

This revision of the state revenue system, in which separation of the sources of state and local revenue was the central feature, was made effective by a constitutional amendment of 1910. The state revenues were to be obtained from a series of gross earnings and franchise taxes on various classes of corporations. The localities were to retain the general property tax, in the administration of which they were to be free from central supervision except in so far as the local assessment might affect the basis of the state revenues.[2] The administration of the corporation taxes laid upon the state board a considerable range of duties, varying from the clerical labor of computing the amounts due in taxes on gross earnings to the valuation and assessment of corporate franchises.[3] It was evidently the conviction of the commission of 1906 that this reform, for which it had so zealously wrought, would end the guesswork and uncertainty of the former methods of corporate assessment. It believed also that greater equality of tax burden would result among classes of corporations, and between corporate and other property. But these anticipations have not been fulfilled; indeed, the state tax commission which reported in 1917 condemned the results of this plan in no uncertain terms.[4]

The tax on gross earnings, which is levied upon certain classes of public utilities, has occasioned little administrative difficulty, but it has already been found to be rigid and inflexible and in a time of

[1] *Report of the Commission on Revenue and Taxation of California*, 1906, p. 68.

[2] Cf. above, p. 93.

[3] Cf. California State Board of Equalization, *Report*, 1911–12, p. 9, for a description of its varied duties.

[4] Cf. *Report of the California State Tax Commission*, 1917, pp. 8–13.

rapidly increasing tax burden this rigidity confers a distinct advantage upon the property taxed under it. In 1913 and again in 1915 the legislature readjusted the rates on gross earnings in order to equalize the tax burden and secure additional revenue.[1] In any case legislative equalization of this sort is purely experimental — it does not and cannot really equalize and its advantage over the ad valorem method is exceedingly doubtful. The requirement of legislative sanction (two-thirds affirmative vote of each branch) gives such an equalization unnecessary political significance, and may prove in the future an effective bar to further changes in these rates. These objections — inelastic yield, rigid rates and legislative control over the rates — have been encountered in Minnesota.[2] Together they constitute a strong case against this system of corporate taxation.

On the other hand, the system of franchise taxes which was introduced by the amendment of 1910 has presented very serious administrative problems, toward the solution of which the board has up to the present (1917) made little progress. The legislature shares the responsibility here because of its blunder in prescribing the powers of the board. Entirely inadequate provision was made originally for securing the information requisite to proper franchise valuation. This oversight was corrected in 1913 and the board now possesses ample authority to compel the production of any data desired and to reassess any franchise valuations which have been ruled out by the courts.[3] The law lays down no procedure for franchise valuation though the courts have often ruled that the value of the franchise is equal to the " corporate excess." [4]

[1] A stock and bond valuation of public utilities was made for the special tax commission of 1917, in which it was found that the utilities are just now bearing a slightly higher rate of ad valorem tax than the average state rate on general property. The commission felt, however, that no reduction in the gross earnings rates was called for since this excess did not offset the advantage which the utilities had been shown to enjoy in the investigations of 1913 and 1915. *Report*, pp. 50, 51.

[2] Cf. below, pp. 411–413.

[3] *Laws of California*, 1913, ch. 320. State Board of Equalization, *Report*, 1914, pp. 16, 17.

[4] *Spring Valley Water Works* v. *Schottler*, 62 *Calif.* 69. Cf. *Report of the Commission on Revenue and Taxation of California*, 1906, pp. 267, 268, and Plehn, " The Taxation of Franchises in California," *National Municipal Review*, i, pp. 337–354.

The board has been groping amid the problems of franchise valuation and its results are admittedly only rough approximations.[1]

The special tax commission made a very thorough study of the operation of this part of the tax system also, and prepared tables which revealed wide differences in the ratio of franchise tax to gross and net receipts.[2] After six years the board of equalization has made no headway toward an adequate classification of the corporations subject to the franchise tax. The result of the present methods of assessment has been to increase the proportionate burden of the smaller companies and to distribute the tax burden very inequitably among different classes of corporations.

The outcome of these six years of corporate taxation under the amendment of 1910 seems therefore to be a very unsatisfactory equalization of assessments and distribution of the tax burden. This burden is not properly distributed to those corporations subject to the franchise tax; the legislative adjustment of the rates on gross earnings is a very rough mode of equalization between the utilities and other corporations; and no provision exists for an equalization between corporate and other property because of the lack of central control over the local assessments of general property. The elimination of this control over local assessments which was involved in the separation of the sources of revenue has had very unfortunate results. From every investigator, and from the board itself, comes the testimony that these assessments are very unequal and discriminatory.[3] Some means must be provided of bringing local assessments to a fairly uniform basis before any thorough readjustment between corporate and other property can occur. The state's revenue crisis makes this equalization very necessary for it is evident that some one must pay more taxes, and

The board recently defeated an effort to legislate a fixed rule of franchise valuation. *Report*, 1914, pp. 16, 17.

[1] Cf. the discussion of California tax problems at the Washington tax conference, *Taxation in Washington*, 1914, pp. 116–124; and at the National Tax Conference, 1914, *Proceedings*, pp. 105–107.

[2] *Report of the California State Tax Commission*, 1917, pp. 54–57.

[3] Cf. *ibid.*, pp. 250–253. This view was expressed by various speakers at the National Tax Conference of 1915. Cf. *Proceedings*, pp. 48, 64. Cf. also California Tax Association, *The Tax Problem in California.*

distribution of the increase cannot justly be made until the tax system has been thoroughly overhauled and more effective provisions introduced for securing elasticity of revenue and equality of tax burden among various classes of taxpayers.[1]

The revenue emergency has brought a prompt response. The problem was first attacked by the State Tax Association, an unofficial organization called into existence by the critical condition of the public finances. The bulletins published by this association criticized not only the taxation of corporations, but the whole plan introduced by the amendment of 1910. It demonstrated also that separation of sources had stimulated local extravagance and that the promised reduction of tax rates for local purposes had not materialized.[2] Moreover, separation of sources had not prevented local inequalities though it had promoted indifference to state expenditures.[3] The state board of equalization had faced the problem of revenue shortage in its report of 1914 and had discussed the various possible new sources of revenue.[4] It did not, however, go to the root of the matter as did the tax association, which recommended a sweeping reorganization of the tax system. Among the specific suggestions advanced by this association were the establishment of a state tax commission with strong supervisory powers over the local assessor, a full value assessment with limitation of the tax rates, provisions for greater elasticity in the state revenues and a more adequate equalization of tax burden between the properties taxed under different systems.[5]

The new special tax commission created in 1915[6] has just

[1] Controller of California, *Report*, 1914, pp. 11–18.

[2] Cf. especially the bulletin, *The Tax Problems of California*, February, 1915. The San Francisco tax rates have been:

1908–09 State and Local.....	$1.90	1912–13 Local only.....	$2.05
1909–10 " " "	1.96	1913–14 " "	2.20
1910–11 " " "	2.00	1914–15 " "	2.25
1911–12 Local only.....	2.00		

California Tax Association, *ibid.*, p. 4.

[3] Cf. Bullock, "The Separation of State and Local Revenues," *Quart. Jour. of Econ.*, xxiv, pp. 437–458. These criticisms of separation from California are a significant confirmation of Professor Bullock's objections to the plan.

[4] California State Board of Equalization, *Report*, 1914, pp. 32–58.

[5] California Tax Association, *The Tax Problem in California.*

[6] Established by *Laws of California*, 1915, ch. 194.

issued its final report, and again the amendment of 1910 has received very severe criticism. Many of the conclusions reached by the state tax association were repeated in this report. The document is too long to be reviewed here, but the chief impression from reading it is that the California revenue system should go into the melting pot. The recommendations embody proposals for this general reorganization of the tax system and for a stronger central administration of the new laws.[1]

State Boards of Equalization and Assessment in New Jersey

During the first half of the nineteenth century the specific property taxes which had constituted the fiscal system of New Jersey during the colonial period had been expanding into the fully developed general property tax, an evolution which was completed in 1851.[2] The administrative organization throughout this development was highly decentralized. A direct state tax had been apportioned among the counties since colonial times, and in the absence of equalization competitive undervaluation had flourished. Even the machinery for local equalization came slowly. A county board of equalization was provided for Mercer county in 1846 and for Hudson county in 1873, but the other counties remained without such boards until 1883.[3] State equalization was proposed by the governor in 1851 [4] but the suggestion was unheeded and the increasing confusion of the tax system led to a series of special commissions of investigation. The first of these, reporting in 1868, failed to sense the fundamental difficulty[5] and

[1] *Report of the State Tax Commission of California*, 1917. This report is reviewed in the *Bulletin of the National Tax Association*, ii, pp. 205, 206.

The board of equalization anticipated the conclusions of the special tax commission, in its report of 1916, by a weak defense of the present tax system. The new tax system — that of 1910 — was said to be "a fine revenue producer," it was "working smoothly," "conditions were satisfactory," and "business had become adjusted to it." *Report*, pp. 13–15.

[2] *Laws of New Jersey*, 1851, p. 271. This evolution is traced by Mathews, "Tax Administration in New Jersey," *Jour. of Pol. Econ.*, xx, pp. 716–737.

[3] *Laws of New Jersey*, 1846, p. 46; 1873, ch. 697; 1883, ch. 144.

[4] Mathews, *loc. cit.*, p. 729.

[5] These reports are reviewed by Chapman, *op. cit.*, pp. 506, 507. They have not been available to the writer.

recommended increasing the severity of the assessor's oath. A state board of equalization was proposed by the commission of 1879 and again by the commission of 1890; it was finally established in 1891.

Meantime administrative centralization was proceeding in the field of corporate taxation. The usual order of development was reversed in New Jersey and state corporation assessment antedated state equalization by some years, but not because of the greater need of the former. The administration of the taxes on corporations will accordingly be taken up first in this review.

State Administration of Corporation Taxes — The State Board of Assessors. — During the early period of railroad building in New Jersey it had been the practice to incorporate railroad companies by special act and to include the tax provisions in the separate charters. Railroads were brought under the general property tax in 1851 and continued to be taxed by that system until 1873. In this year the policy of separating the main stem from the other railroad property was introduced.[1] The latter was to be taxed for local purpose at one per cent of the assessed value; the former was to be taxed for state purposes on the "cost, equipment, and appendages" at such rate as had been fixed, or in default of such a rate, at one-half per cent. A railroad commissioner was provided who was to assess the property used for railroad purposes once in three years. In 1876 the basis of assessment of the main stem was changed to "true value," for the determination of which a board of railroad commissioners was created.[2] In 1884 the law was rewritten and the foundations of the present system were laid.

The act of 1884 applied to railroad and canal property, which was arranged for purposes of taxation into four classes:[3]

I. Main stem, including the roadbed and right of way for a total of 100 feet (for waterways it included the towpath and berme bank).
II. Real estate used for railway and canal purposes, other than the main stem.
III. Tangible personal property.
IV. Franchise.

[1] *Laws of New Jersey*, 1873, ch. 450.
[2] *Ibid.*, 1876, ch. 101.
[3] *Ibid.*, 1884, ch. 101.

By an amendment of 1888 the title of the fourth class was changed to "the remaining property including the franchise."[1] These four classes of property were to be valued by the state board of assessors, a new administrative board established by the act, composed of four members appointed by the governor with the approval of the senate. The state tax of one-half per cent was to be levied on the valuation as determined by the state assessors and in addition the local taxes were to be imposed on the property of class II, though in no case was the total rate on this class to exceed 1½ per cent. The board of assessors was also placed in charge of the franchise taxes laid upon the stocks of other corporations in 1884, and some additional duties were added later.

The short time available for making the first valuation led the board to take advantage of the authorization to make a survey of the properties if dissatisfied with the results otherwise obtained.[2] This expedient doubtless influenced the board's subsequent method, which has been that of physical valuation supplemented rather inadequately by data relative to earning capacity. The valuations were vigorously contested by the corporations in complaints before the board sitting in review of its own assessments and before the courts. The law and the board's methods were both sustained in the judicial reviews.[3] The complaints to the board may be arranged in four classes, as follows:[4]

1. Complaints that corporate property had been overvalued in comparison with other property. Special attention was given to such appeals and efforts were made to equalize the property in class II to the same proportion of full value as the property locally assessed.[5] In the absence of adequate means for ascertaining the basis of local assessments, however, this equalization could not have been properly made. A long struggle has been waged between the taxing districts, especially the cities, and the corporate interests over the question of relative tax burden. The board of assessors was originally of the opinion that the railroads were

[1] *Laws of New Jersey*, 1888, ch. 208.
[2] *Ibid.*, 1884, ch. 101, § 20.
[3] *Central Railroad of New Jersey* v. *State Board of Assessors*, 19 *Vroom*, 146.
[4] New Jersey State Board of Assessors, *Report*, 1884, pp. 22 ff.
[5] *Ibid.*, 1886, pp. 33 ff.

paying proportionally more taxes than any other class of property in the state but this view has not been generally accepted. On the contrary, much of the later agitation over tax reform was inspired by the desire to increase the railroad taxes.[1]

2. Exemptions were claimed under former contracts with the state, especially the older corporate charters. The board claimed the power to determine whether any property was by contract beyond the power of the state to tax and it held that all property was taxable in the absence of court decisions rendering it exempt.

3. Complaints that the act was unconstitutional. These were referred *in toto* to the courts where the law was fully upheld.

4. Improper valuation of the franchise. This line of objection formed the last stand of the corporations in contesting the applicability of the act. In the leading case the board gave its rule for franchise valuation, which may be summarized as follows:[2] Deduct the total value of the tangible corporate property from the total value of the stocks and bonds, and take 60 per cent of the remainder as the value of the franchise. If the tangible property exceed the value of the stocks and bonds, 20 per cent of the gross earnings should be taken as the value of the franchise. The court refused to express an opinion upon the board's formula for franchise valuation, declaring that its only concern was whether the property, including the franchise, had been put at its true value. It added:

> . . . there is a salable value in railroads that carry on a profitable business that is far beyond the naked value of the real and tangible property used for railroad purposes, . . . and it does no harm to anyone to call such additional value, or some part of it, the franchise.

The court's impatience with matters of definition and method is hardly in keeping with its concern that these corporations be taxed upon their whole taxable capacity. As many commissions have since learned, the proper appraisal of the "salable value" of prosperous railroads in excess of the tangible property is by no

[1] Cf. *Report of the Special Tax Commission of New Jersey*, 1897, pp. 12, 64. Also, *ibid.*, 1905, p. 117. Cf. also New Jersey State Board of Assessors, *Report*, 1884, p. 42.

[2] 19 *Vroom*, 146; also, 21 *Vroom*, 1, and New Jersey State Board of Assessors, *Report*, 1886, pp. 8, 9.

means an easy matter and questions of method of valuation have become of the greatest importance. The amendment of 1888 lessened the significance of the franchise as such but it did not lighten the task of valuing the property in Class IV.

Central administration of railroad taxes so increased their yield that the direct state tax was abolished after 1884, except for school purposes.[1] In order to increase their sources of revenue, the cities possessing the immense terminal facilities secured, in 1897, a relinquishment of the taxes on second class property to the districts wherein this property was located.[2] In 1906 the assessment of second class property was transferred to the local assessors but the act was held unconstitutional and the legislature ordered the board of assessors to reassess such property for 1906 and 1907.[3] This brief attempt at administrative decentralization was thus checked before it really became effective but there can be little question of the greater fitness of the state board for the task of valuation, even though it may be conceded that a part or the whole of the taxes on property of a definitely localized character should be surrendered to the local units.[4] At this time also the rate applied to Classes I, III, and IV was changed from one-half per cent to the average rate for the state.[5] This increased the receipts materially but the excess above one-half per cent was devoted to the public schools.[6] Notwithstanding these modifications the feeling continued that these corporations were inadequately taxed and in 1909 the legislature created a special commission to reappraise all railroad and canal property at its true value. This commission, which reported in 1911, advanced the valuations materially as the following comparative figures for the assessment of 1910 and the revaluation of 1911 show:[7]

[1] *Report of the Special Tax Commission of New Jersey*, 1905, p. 32.

[2] *Laws of New Jersey*, 1897, ch. 69. Also, *Report of the Special Tax Commission of New Jersey*, 1897, pp. 5, 13–15.

[3] The special tax commission of 1905 proposed to retain central assessment, though it favored local distribution of the taxes on classes II and III.

[4] Cf. below, ch. 8, on the policy of Wisconsin.

[5] *Laws of New Jersey*, 1906, ch. 82.

[6] New Jersey State Board of Assessors, *Report*, 1908, Part I, p. 9.

[7] C. F. Hansel, *Report on the Revaluation of Railroads and Canals in New Jersey*, p. 168.

COMPARISON OF RAILROAD VALUATION BY BOARD OF ASSESSORS AND REVALUATION COMMISSION (MILLIONS)

Year	Class I Main stem	Class II Other real estate	Class III Tangible personal property	Class IV Other property including franchise	Totals
Assessment 1910.....	$130.2	$73.6	$31.3	$51.6	$286.5
Revaluation 1911.....	132.1	89.7	76.1	76.9	374.8
Increases.....	1.9	16.1	44.9	25.3	88.2

The comparison indicates that the state assessors had been most effective in their assessment of the main stem, the valuation of which was increased less than $2,000,000 in the special appraisal. On the other hand, the heavy increases made especially in Classes III and IV reveal the weakness of the methods formerly pursued. The state assessors are here seen to be following the trail of the local assessors by attaining a much higher percentage of full value in the case of real estate than in the case of personal and intangible property. One explanation of this fact is to be found in the inadequate character of the reports required from the corporations. Their inadequacy is clearly seen from the following criticisms offered by the valuation commission:[1]

> The state does not require the railroads to furnish statements of car miles, or of the time that rolling stock equipment is in the state. . . .
>
> Reports are made to the comptroller under an ancient act of 1852, amended in 1873. This act calls for a brief statement of income under three headings: "Passenger," "Freight," and "Other Sources"; also for a statement of expenditures under the titles: "Repairs," "Maintenance of Way," "Motive Power," and "Contingencies."
>
> There is no analysis of these reports, and there is no means of knowing whether betterments and additions are included in "Expenditures."
>
> Since all of the railroad systems are interstate roads, there is nothing to show what the earnings and expenses are in the state.

These data are in sharp contrast to the detailed physical survey of Class I, which had been made by a thoroughly organized engineering staff and there is little wonder that the results obtained from methods so antiquated have been keenly criticized. For the

[1] C. F. Hansel, *Report on the Revaluation of Railroads and Canals in New Jersey*, pp. 169, 170.

appraisal of Class IV the special commission employed the formula developed by Professor H. C. Adams in the Michigan railroad appraisal of 1901, with some modifications chief of which was the allowance of 5½ per cent instead of 4 per cent on the investment.[1]

The state board of assessors has also been required to administer various other corporation taxes which have been added from time to time. In 1884 a franchise tax was imposed upon the stock of corporations organized under New Jersey laws.[2] The example set by the New York special franchise tax was followed in 1900 in an act levying a tax on the gross receipts of all corporations occupying or making use of the streets and public highways. The proceeds of this tax were to be distributed among the taxing districts in proportion to the value of the property located in or upon the highways of each district. Since the amount of tax apportioned to any district was made dependent upon the local valuation of corporate property, it was necessary for the state assessors to equalize and revise the local assessments of special franchises. This was really a conflict of jurisdiction with the board of equalization, but neither state board was able to influence materially the course of local assessments. The logical amalgamation occurred in 1915, when the state board of assessors was combined with the state board of equalization.[3]

State Board of Taxation. — Proposals for a state board of equalization in New Jersey date at least to 1851, as has been shown above.[4] The special tax commission of 1880 had suggested that the county assessors which it proposed to create be constituted a state board of equalization.[5] This device, which was not adopted, would have been practically worthless as experience has conclusively condemned the ex officio board. The special tax commission of 1890 renewed the proposal for state equalization and in 1891 the state board of taxation was established " for the equali-

[1] Hansel, *op. cit.*, pp. 43–61.

[2] New Jersey State Board of Assessors, *Report*, 1884, p. 9.

[3] *Laws of New Jersey*, 1915, ch. 244. This had been recommended by the special commission of 1912. Cf. *Report*, pp. 30–42.

[4] Cf. above, pp. 100, 101.

[5] Chapman, *op. cit.*, pp. 55–57.

zation, revision and enforcement of taxation."[1] This board was composed of three members appointed by the governor for five years at a salary of $2,500. The number was increased to four in 1894, of whom not more than two were to be appointed from any one party. In 1905 the law was rewritten and the state board of taxation was supplanted by the board for the equalization of taxes.[2]

The state board of taxation was given the usual powers of calling witnesses, compelling the production of books and papers, and taking testimony under oath. It was empowered to review and correct, by reduction, any local assessment upon verified and sworn complaint of grievance; and, in its discretion, to order the assessors to value land and improvements separately. It was also required to investigate the methods adopted by the local assessors in the assessment of real and personal property, to examine cases of alleged evasion, and to make to the legislature such recommendations as should appear to be proper.

The practices and influences typical of decentralized conditions were found to be prevalent among the local assessors who had been copying the rolls of former years, failing to make adequate study of the properties in their districts, and yielding in various ways to local influences. Similarly, the county boards of review, composed of the assessors acting as a body, were often divided by politics, by local jealousies, and by the dishonesty of some assessors. Their reviews were hasty and inefficient and the practice of reducing every valuation appealed was common.[3] On the other hand the tax law was confused and uncertain, there was great diversity of procedure in different counties, and the local tax rates revealed extreme variations in the basis of assessment.[4] From

[1] *Laws of New Jersey*, 1891, ch. 114.

[2] *Ibid.*, 1894, ch. 271; *ibid.*, 1905, ch. 67.

[3] New Jersey State Board of Taxation, *Report*, 1891, p. 13. Unlawful coalitions of assessors were often formed for the purpose of securing a majority on the county boards and approving improper lists. It was a usual thing for the assessors to prepare several lists and submit the lowest that the board would accept. Cf. 21 *Vroom*, 50 — a case in which eight out of nine assessors reported lower values than the totals of their duplicates, while the township of the ninth assessor was increased by the board, over the protests of this assessor and in violation of law.

[4] In 1890 the tax rates had ranged from $0.74 to $4.70. New Jersey State Board of Taxation, *Report*, 1891, pp. 16–19.

every point of view there was sore need of a central authority with sufficient power to reduce these confused and disorganized parts to some semblance of order. Though no tax for state purposes had been levied since 1884 the system of redistributing that portion of the state school tax known as the "Reserve Fund," amounting to 10 per cent of the total, was provocative of the same spirit of competitive undervaluation as the direct state tax had produced in other states.[1] Public sentiment approved the sharp practices of the assessors and even demanded them. One newspaper in the state remarked, after an assessor had done his duty, "We want an assessor who is sharp enough to take care of his constituents."[2]

The state board of taxation was created primarily to introduce greater equality in the assessment of property, but the powers given it were really very inadequate to secure this end. Its only opportunity of action was through the appeals which might be brought before it. There was no authority to initiate action or even inquiry into conditions.

The appeals were of three principal classes.[3] The first and most important class consisted of those appeals brought by one or more taxing districts against another or others in the same county. The method developed for dealing with such cases was thus described in 1891:[4]

> Multiply the assessed valuation of each district by the amount of percentage less true value, which each taxing district has been assessed, thus giving the corrected valuation, or true value of each district; add these and divide by the sum total of county and State school tax each district was required to raise under the valuation as actually assessed; the result, multiplied by the corrected or increased valuations, will give the equalized or just amount of county and State school tax required of each district.

[1] Cf. History of the school funds in New Jersey State Board of Taxation, *Report*, 1893, pp. 41–56. The state charged five dollars for each child of school age and spread the total over the assessed value of property. Of this tax 90 per cent was returned at once to the district that paid it and the remaining 10 per cent, known as the "Reserve Fund," was apportioned "equitably and justly" by the state board of education. The undervalued counties contributed less to the total and the methods of apportionment used by the board of education often favored these counties in the distribution of the reserve.

[2] *Ibid.*, 1891, p. 18.

[3] *Ibid.*, p. 68.

[4] *Ibid.*, p. 69.

This procedure was further described and the method of compiling the data more fully detailed in a set of instructions which was issued to the tax districts in 1896, relative to the manner of making an appeal to the board.[1] After outlining the formal steps in the process of appeal, the localities were instructed to verify the figures of assessed value and apportioned tax and then to ascertain

> . . . the percentage of valuation which the amount of property returned by the assessor of each taxing district, as shown by the duplicate, bears to the true value of all the property of each district. . . . this percentage is easily and readily shown by a comparison of the assessed valuation of individual pieces of property with their ascertained or cash value.

No intimation is given of the weight that the board would attach to data thus prepared by the complainant districts. The use of such careful instructions suggests that data compiled in accordance with them would have been accepted, with a possible verification to eliminate errors of a clerical sort. The slight regard entertained by the board for the difficulties encountered in preparing accurate percentages of assessed to true value lends support to this view but the experience of Wisconsin and some other states has shown that the compilation of satisfactory ratios has been by no means an easy matter.[2]

Notwithstanding possible defects in the preparation of ratios, the equalizations effected through these appeals promoted somewhat greater equality of tax burden than had previously prevailed. The board fortunately took vigorous action in an early appeal case and the moral effect was felt throughout the state. In this case Camden county was increased in 1891 by $4,809,661, or about 17 per cent, and the board stated that its action had broken up almost completely, in nearly every county, the vicious and fraudulent practice of undervaluation.[3] This sweeping assertion is unconvincing, but the improvement is evidenced by the apportionments of the "Reserve Fund." In 1892 an excess of $9,373 was distributed to two counties, whereas in 1891, five counties had been beneficiaries to the extent of $24,495.[4]

[1] New Jersey State Board of Taxation, *Report*, 1896, pp. 143, 144.

[2] Cf. below, ch. 8.

[3] New Jersey State Board of Taxation, *Report*, 1891, p. 42; *ibid.*, 1892, p. 16.

[4] *Ibid.*, 1892, pp. 74–76.

On the other hand, it is doubtful if the general level of assessments was greatly affected by the appeal of one district against another. The board's statements were somewhat contradictory. In 1897 it admitted that the state was not then assessed, on the average, at 65 per cent of full value.[1] Two years later a list was published containing eleven counties in which, with certain exceptions, all property was said to be assessed at full value.[2] Seven of the eleven counties were mainly agricultural, three were partly seashore and partly agricultural, and one was largely urban. This showing loses most of its point when the character of the exceptions is considered. These included most of the cities, leaving only the agricultural and summer resort property for which full value was really claimed. Farm lands have usually been better assessed than city real estate, and the seashore properties, especially when owned by non-residents, were likely to be fully assessed. Further, there is no assurance that the assessment of personal property was uniform even in the purely agricultural counties. In such counties, in which the prevailing forms of wealth are of the same general character, there should be a fairly uniform relation of the value of the personal property to the value of the real property; at least, there should not be wide variations, and if these are found they form presumptive evidence of inequality of assessment. Excluding such portions of the agricultural counties as were admitted to be underassessed, the percentage of personal to total assessment varied from 22.9 per cent to 35.3 per cent, entirely too wide a range to substantiate the claim of uniform assessment of all personal property in these counties. The board attempted to explain the low assessment of personal property by referring to the large amount of exempt personalty, and even asserted that as much as 90 per cent of this class had been exempted.[3] No data were presented to support this estimate and it is entirely too high to accept without strong substantiating evidence. The explanation is unsatisfactory, also, without proof that there were considerable variations in the proportion of exempt to total personalty in different counties.

[1] New Jersey State Board of Taxation, *Report*, 1897, p. 40.
[2] *Ibid.*, 1899, pp. 35 ff. [3] *Ibid.*, 1900, p. 17.

Equalization by appeal had the further difficulty of being confined to the districts of a county, and previous to 1898 there was no way of adjusting grievances between counties. In that year counties were given the right to appeal against other districts or counties which were practicing undervaluation.[1] An early case under this act illustrates the method used in dealing with such appeals.[2] Somerset county appealed against Ocean county and the board conducted a review of the latter. It held that substantially all of the property in Ocean county had been listed and had been valued at substantially full value. This decision was based partly upon the testimony of the assessors, who were at best prejudiced witnesses since an admission of undervaluation would have been a confession of official misconduct. Moreover, if valuations were raised, the county stood to lose a part or all of the $53,000 which it was then receiving from the school fund. The board also collected some information through a personal inspection of some of the property in the county, though there is no statement of the proportion of the total that was viewed in this sampling process. And finally, the board relied upon the fact that the assessment of Ocean county had been largely increased over the preceding year, a fact that was of no value whatever to prove either that all property had been listed or that it had been assessed at full value in 1898.[3] On the contrary, it had been brought out in an appeal from the town of Beach Haven in Ocean county, in 1896, that the town assessors, with the approval of the borough council, had used 33⅓ per cent as the basis of assessment and the twenty-three appellants in this case were aggrieved at being assessed somewhat higher. The board was convinced of the soundness of their claims, but left them *in statu quo* since part of the taxes levied on the original assessments had already been paid.[4] It is exceedingly doubtful if all assessments had been advanced from this level to 100 per cent of full value in two years.

Further evidence against the assertion that full value had been attained anywhere in the state was produced by the special com-

[1] *Laws of New Jersey*, 1898, ch. 63.
[2] New Jersey State Board of Taxation, *Report*, 1898, p. 21.
[3] *Ibid.*
[4] *Ibid.*, 1896, pp. 39, 40.

mission appointed by Governor Griggs in 1897 to investigate the cities' complaint that the railroads were not being sufficiently taxed. This commission found that railroad real estate was assessed at full value, but that all other taxable real estate was assessed at 50 per cent to 65 per cent of full value, while almost all personal property (except that of railroads) escaped taxation, " and little official effort seemed made to reach it." On the average personal property was said to be assessed at about 20 per cent of full value.[1]

The second class of appeals before the board involved the assessment of the property of an individual or a corporation above its true value. Since the board had from the beginning possessed the power to review and reduce individual assessments when overvalued, these cases never occasioned serious difficulty.[2]

The third class of appeals included complaints from individuals and corporations that they had been assessed, not above full value, but above the average of other property in the same district.[3] Previous to 1891 there had been no remedy for this grievance, since the courts had held in numerous cases that relative over-assessment constituted no valid ground for judicial relief as long as the property of the complainant was not absolutely overvalued.[4] The board soon discovered that in order to deal adequately with this class of cases the power to raise individual assessments was essential if the correction were not always to counteract other efforts toward full valuation.[5] After much urging the legislature amended the law in this particular in 1894, but the board never made more than a very conservative use of the additional authority.

The cause of proper equalization in New Jersey has been greatly delayed by the curious restriction of the board's jurisdiction to appeal cases. Governor Stokes, in his inaugural message of 1904,

[1] *Report of the Special Tax Commission of New Jersey*, 1897, p. 64, especially the minority report of Mr. Black, who had served on the State Board of Taxation.

[2] New Jersey State Board of Taxation, *Report*, 1891, p. 68.

[3] *Ibid.*

[4] *Ibid.*, also, 21 *Vroom*, 50.

[5] New Jersey State Board of Taxation, *Report*, 1891, pp. 68, 71, 72; also, *ibid.*, 1894, p. 22.

declared that competitive undervaluation still existed notwithstanding the fact that the number of counties receiving more from the school fund than they contributed had been lessened during the board's existence.[1] His suggestion for dealing with the problem was an "equalization court." The form of the suggestion was unfortunate, for the idea of a court had been at the bottom of much of the mischief in the past. The board itself confessed somewhat ruefully that it had become much more of a judicial than an administrative body and admitted its virtual failure in duties of the latter sort.[2] Considering the nature of its authority such a result is not strange, though it is regrettable, for the process of equalization is essentially administrative in character and demands above all the exercise of initiative. This restriction of the board's authority has confined action to the most intolerable cases. The board endeavored to make the procedure of appeal as simple and as free from technicalities as possible and encouraged resort to it by appointing sessions to be held in each county.

The original act provided that the board, at its discretion, might order the assessor to separate the assessment of lands and improvements as a means of bettering the assessment of real property. Such a rule was promulgated in March, 1892, for all cities of the first and second classes, some twelve in number.[3] In 1903 seven of these cities had not yet begun to separate lands and improvements, "there always being some reason why it could not conveniently be done in those places."[4] The weakness of the board is nowhere better illustrated. Instead of enforcing a rule which it was especially authorized to adopt, the legislature was asked to enact the rule into law. It was not yet in universal use in 1914.[5] The desultory and dilatory policy, of which this episode is an example, was due primarily to the peculiar limitations upon the board's authority. It was due also to the fact that the pioneer educational work had been, in New Jersey, as elsewhere, a slow and difficult task. Credit should be given the

[1] *Legislative Documents*, 1904, i, pp. 10–12.
[2] New Jersey State Board of Taxation, *Report*, 1897, p. 9.
[3] *Ibid.*, 1892, pp. 25, 26. [4] *Ibid.*, 1903, p. 20.
[5] New Jersey State Board of Equalization, *Report*, 1914, pp. 21, 22.

board for demonstrating the serious inequality of the old system and for effecting considerable improvement over the earlier conditions.

The demand for a more efficient administrative control of the tax system was whetted both by the things accomplished and those left undone. The first step was the creation of a special investigating commission in 1904 with instructions to "investigate the whole subject of the assessment and taxation of property in this state, real, personal, and corporate." Though these instructions covered the entire field, attention was directed chiefly to railroad and canal taxation because of the general interest in this particular topic.[1] The wide differences between the standards of the local assessors and those of the state board of assessors rendered imperative an extension of central authority over the local assessment process and to this end the reorganization of the state board of taxation was recommended.[2] Instead of investing the new board with the formal characteristics of a court, as Governor Stokes had suggested, the special commission advised that it should be organized as a board or commission with more effective executive powers.[3] The law was accordingly rewritten and a new "State Board of Equalization of Taxes" was established.[4] It was composed of five members, to be chosen for five years by the governor with the consent of the senate. The president of the board, who was to be a counsellor-at-law, was to receive an annual salary of $5000, and each of the associates $3500.

The State Board of Equalization of Taxes. — The powers and duties of the new board were chiefly corrective and supervisory in character, despite the changes in the law. The official title to the contrary notwithstanding, no direct equalization was to be performed among districts or classes of property; nor was the board given power of original assessment over any classes of property. Equalization between districts or counties was to be conducted upon appeal. The board was further required to investigate the methods of the assessors, to furnish information to them, and to

[1] *Report of the Special Tax Commission of New Jersey*, 1905, pp. 3, 4.
[2] *Ibid.*, p. 35. [3] *Ibid.*, pp. 34, 35.
[4] *Laws of New Jersey*, 1905, ch. 67.

recommend such new legislation as would diminish the evasion of taxes or effect other improvements. The most significant supervisory authority was that of ordering or conducting a reassessment whenever such action appeared necessary. Careful attention was also to be given to all appeals from individual taxpayers.

These increased powers have been an invigorating tonic, under the effects of which a much more vigorous policy has been pursued than was possible for the former board. The improvement is shown in the rapid advance of the assessments since 1905, presented in the following table:[1]

ASSESSMENT OF REAL AND PERSONAL PROPERTY, EXCLUSIVE OF SECOND-CLASS RAILROAD PROPERTY (MILLIONS)

Year	Real	Personal	Percentage, personal to total
1905	$999.1	$162.1	13.9
1906	1,366.0	208.4	13.3
1908	1,569.4	223.4	12.4
1910	1,776.4	271.9	13.3
1912	1,899.0	297.0	13.5
1914	2,084.7	293.8	12.3

These results are strikingly similar to those found elsewhere under the general property tax. The total assessment of both personal and real property has increased but the proportion between the two has remained virtually constant. With its broader powers the board has been incapable of unearthing the hidden wealth of the state under the rule of uniform taxation. The board has been under no delusion regarding the situation, and it has consistently advocated the modification of the tax laws relating to personal property, though thus far without success. In 1910 it remarked that the returns of personalty were "suggestive rather of the amount that evaded the assessor than of the amounts that they found," and it pertinently added that the situation was far more apparent than any effective remedy to cure it.[2] The board's remedy was a classified property tax, or — a less desirable alternative — more stringent rules for the listing of such property.

[1] From the annual reports of the State Board of Equalization.

[2] New Jersey State Board of Equalization, *Report*, 1910, pp. 18, 19; *ibid.*, 1911, pp. 20, 21.

It has been more successful, however, in securing legislation along the line of the second alternative. A law of 1913 ordered that tax maps be completed for the entire state within five years.[1] In 1914 two laws were passed affecting the assessment of personal property but they were not sufficiently broad in scope to afford great relief. The first permitted deduction of debts from intangibles only instead of from all property.[2] The deductions claimed shrank from $5,403,521 in 1913 to $1,030,421 in 1914.[3] The second required bank and trust company stocks to be assessed to the owner at true value, as determined by deducting the assessed value of the real estate from the combined capital, surplus, and undivided profits, instead of being assessed at the owner's estimate.[4] The bank officials might covenant to assume the taxes in which case they were to be exempt in the hands of the owner. A special tax rate of three-fourths per cent was provided for this class of property. These changes increased the assessment of bank stocks from $9,727,596 in 1913 to $94,173,459 in 1914.[5]

In its task of supervision the board was materially assisted by the new county boards which had been established in 1906.[6] These boards consist of three persons in each county, appointed by the governor. They inspect the work of the assessors and have been of especial assistance in the valuation of large manufacturing plants and mercantile establishments. Much of the credit for the marked improvement in the basis of assessment must be given to these county boards, and their efficiency is a strong argument for a connecting link of this sort between the state and the local officials. After complaint from the county board and a hearing, the state board now has power to remove any assessor found guilty of neglect or refusal to comply with the tax laws.[7]

[1] *Laws of New Jersey*, 1913, ch. 175. [2] *Ibid.*, 1914, ch. 191.

[3] New Jersey State Board of Equalization, *Report*, 1914, p. 14.

[4] *Laws of New Jersey*, 1914, ch. 90.

[5] New Jersey State Board of Equalization, *Report*, 1914, p. 18. The assessment of bank stock declined to $88,425,306 in 1915.

[6] *Laws of New Jersey*, 1906, ch. 120.

[7] The board recommended in 1910 that it be allowed to remove assessors found guilty of "gross incompetence." *Report*, 1910, pp. 16, 17.

The State Board of Taxes and Assessments. — The anomalous situation of the coexistence of two strong state boards was ended in 1915 by a law which combined the board of assessors with the board of equalization.[1] The new board was to be known as the state board of taxes and assessments, and was to be composed of five members appointed by the governor for a term of three years. Not more than three members may belong to the same political party and one must be a counsellor at law. The salary is $3000. The act of 1915 did not extend the powers of the new board beyond those possessed by the former separate boards and its functions therefore consist of the assessment of certain classes of corporations and such supervision of the local assessments as had already been developed in New Jersey. For the administration of these functions the new board has organized three separate departments corresponding to the following duties: the assessment of railroads and canals; the assessment of miscellaneous corporations; and the assessment of general property.

Since no extension of power was made by the new law, the board has conducted its work along the lines already established. No significant changes have as yet been introduced in the method of assessing corporations, and the valuation of railroad and canal property has increased $10,200,000 over the total for 1914. On the other hand, the board did indicate in its first report that it expected a higher standard of compliance with certain statutory requirements on the part of local officials than had formerly been the case. The immediate fruit of this attitude was an increase in 1915 of $162,348,000 over the local aggregate for 1914. Of this total, 12.9 per cent consisted of personal property. A comprehensive set of rules of procedure was formulated with a view to facilitating the administrative business of the three departments of the work.[2] It was also announced that the construction of tax maps

[1] *Laws of New Jersey*, 1915, ch. 244. This reform was strongly recommended by the Commission to Investigate Tax Assessments, appointed in 1912. In addition, this commission proposed to create a State Supervisory Officer, whose duty should be the continuous supervision of the local assessors, subject to the direction and control of the State Board of Equalization. Cf. *Report*, pp. 30–33.

[2] New Jersey State Board of Taxes and Assessment, *Report*, 1915, Part I, pp. 6–10. The reports of the new board are to be issued in three parts, corresponding to the principal departments of administrative activity.

was to be pushed forward as rapidly as possible, and that the rule for the separate assessment of lands and improvements was to be strictly enforced.[1]

It is too soon for a judgment of the results of the new arrangement. The unification of the administrative authority and responsibility was unquestionably a step in the right direction, but until the powers of the new board are expanded beyond the sum of those formerly possessed by the older boards, the control over general assessments must remain inadequate for the accomplishment of the best results.

The Board of State Assessors of Maine

The constitution adopted by Maine in 1820 provided for an assessment and equalization of real estate at least as often as once in ten years,[2] and until 1890 the maximum period permitted by the constitution elapsed between the appraisals of real estate. These decennial revaluations were equalized by a legislative committee. There was no other inspection or control of local assessments and the conditions which were everywhere common by the third quarter of the nineteenth century emerged also in Maine. Property was undervalued, districts competed with each other in shifting the state tax, and very serious abuses developed, especially in the evasion of certain classes of personal property.[3] Various governors had emphasized markedly iniquitous or oppressive features of the tax system.[4] Particularly strong was Governor Plaisted's message of 1881 upon the fundamental necessity of a greater equality in the distribution of the public burden. Six years later Governor Bodwell attacked the defective administration, commenting upon the methods of equalization as follows:[5]

[1] New Jersey State Board of Taxes and Assessment, *Report*, 1915, Part I, pp. 12, 13. Ch. 186, *Laws of New Jersey*, 1915, authorized townships to defray the cost of tax maps by the issue of bonds. Boroughs might borrow for this purpose by issuing certificates of indebtedness payable in one year and due in seven years.

[2] *Constitution of Maine*, 1820. Art. IX, §§ 7, 8.

[3] *Report of the Special Tax Commission of Maine*, 1890, pp. 10–12.

[4] Cf. list of extracts from gubernatorial messages, *ibid.*, pp. 26–28.

[5] *Ibid.*, pp. 26, 27.

A board, composed of one commissioner from each county, hastily summoned at the close of each decade, with each member naturally endeavoring to have his own county valued as low as possible, would not seem to be the best method advisable. And yet that is the character of our present system. A smaller number of commissioners, say not exceeding three, at work for a longer period, chosen not as the representatives of their counties, but for the whole state, would be less cumbrous, less expensive, and in many ways more efficient.

The limit of tolerance was reached in 1889 and a special tax commission was appointed for the purpose of devising a more just and equitable system of taxation.

This commission was impressed by the extent and nature of the practices which appeared to be common. The decennial equalization was condemned as the source of constant inequalities in the distribution of tax burdens. For instance, the report of the equalization committee in 1890 showed a total gain over 1880 of nearly $31,000,000 for the state, but this advance was confined to eleven counties, while five counties had actually declined in valuation.[1] The state tax, established for ten years, was an increasingly unfair exaction from the declining counties and a progressive premium upon prosperity. The commission had been instructed to recommend a more equitable tax system, but had no thought of suggesting abandonment of the general property tax, and the proposals made were confined to administrative changes in the direction of greater centralization. One of the first and most important recommendations was the creation of a board of state assessors. It was expected that such a board as was recommended would promote equality of assessments and secure a substantial reduction of the tax rate.[2]

The board of state assessors was accordingly created in 1891.[3] There were to be three members elected by the legislature on joint ballot for terms of two, four, and six years, respectively. Thereafter the full term was to be six years. The salary was to be $1500 per annum. The chief duties were to serve as a state board of equalization and to assess those corporate taxes which had formerly been assessed by the governor and council. As will be

[1] Cf. list of extracts from gubernatorial messages, *Report of the Special Tax Commission of Maine*, 1890, p. 32.

[2] *Ibid.*, p. 39.

[3] *Laws of Maine*, 1891, ch. 103.

seen, the supervisory powers actually given to the board were in reality of very little importance.

The function of state equalization was made significant by providing a biennial assessment of real estate, and requiring the board to equalize both real and personal property. In collecting the necessary data for the equalization, the members of the state board were to visit each county at least once in two years and to hold meetings which the town assessors were obliged to attend, on penalty of having their towns charged with the expense of a special visit from a member or special agent of the board.

The first members of the state board appear to have had an intelligent conception of the conditions confronting them. Their discussion of the situation in the earlier annual reports indicates a desire to attack the problem of proper equalization in a thorough and businesslike manner and they made several valuable suggestions looking toward the elimination of administrative defects.[1] For instance, it was recommended that uniform assessment blanks be provided by the state in order to secure a more equal assessment of property.[2] In the interest of uniformity, also, was the proposal for a uniform classification of farm lands, for which was suggested the grouping: tillage, pasture, wood, and timber lands.[3] In order to promote the acceptance of the same standards of value in different counties, the board suggested county conventions of assessors,[4] thus elevating the dignity of the biennial meetings at which attendance was compulsory. The need of greater uniformity may be illustrated by a few of the many variations which were found in the basis of assessment, often in adjoining towns of the same county. In one county the average assessed value of horses in different towns ranged from $24 to $133.55; the average assessed value of cows ranged from $10 to $30; and similar discrepancies occurred in the valuations of other classes of farm animals. Bank stocks of the same real value were found to be assessed at from 50 per cent below to 25

[1] This was especially true in the earlier years.

[2] Board of State Assessors, *Report*, 1891, p. 136.

[3] *Ibid.*, 1892, p. 176. Cf. Report of the Committee on Classification of Real Estate, *Proceedings of the National Tax Conference*, 1911, pp. 333–343.

[4] Board of State Assessors, *Report*, 1891, p. 133.

per cent above actual value. "Some towns were using one-half, some two-thirds, some three-fourths, some 90 per cent, and some made a difference between real and personal property in the percentage used as a standard." [1]

The board's vigor and initiative were of short duration, however, and after these early suggestions it appears to have lapsed into inaction, lacking the power to deal effectively with the improper practices of the assessors and viewing with resignation the actions which it was powerless to prevent. In this respect the Maine board was true to type — almost every other state board of equalization began in all hopefulness to exercise such powers as it possessed; and it steadily declined, upon finding these powers insufficient, to the unfortunate pass where even the authority possessed was but imperfectly exercised. In order to show that such has been the experience of the Maine board the results of assessment and equalization will be presented in such detail as is possible: [2]

ASSESSED AND EQUALIZED VALUATIONS OF PROPERTY IN MAINE
(MILLIONS)

Year	By the local assessors			By the Board of State Assessors					
	Real	Personal	Total	Real, except wild lands	Personal	Total, real and personal	Wild land	Grass and timber on public land	Grand total by the Board of State Assessors
1892	$174.8	$70.1	$265.0	$217.9	$78.2	$296.1	$17.8	$0.415	$314.2
1894	204.1	68.1	272.3	232.0	74.8	306.8	17.1	.418	324.5
1896	213.4	64.9	278.4	239.9	71.1	311.0	17.0	.444	328.5
1898	221.3	63.1	284.5	244.2	68.7	312.8	16.2	.424	329.5
1900	229.2	64.8	294.6	248.8	68.3	317.1	19.1	.504	336.7
1902	241.2	67.3	308.5	256.8	69.2	325.4	25.5	.751	352.2
1904	252.5	71.2	323.7	262.6	74.0	336.6	29.0	.890	366.5
1906	265.9	74.4	340.3	278.5	78.7	357.2	36.4	1.136	394.7
1908	285.9	79.0	364.9	303.0	82.6	385.6	41.3	1.310	428.2
1910	310.6	83.4	394.1	320.9	85.6	406.5	43.9	1.400	451.8
1912	329.6	87.3	416.9	341.6	89.6	431.3	45.5	1.439	478.2
1914	346.7	93.8	439.5	352.5	97.2	449.7	47.3	1.473	498.5
1916	358.6	97.8	456.5	364.8	102.9	467.7	51.9	1.678	521.4

The significant comparison to be made in this table is that of the result of the local assessment and the state equalization. In

[1] Board of State Assessors, *Report*, 1891, p. 134.

[2] Compiled from the reports of the Board.

the first place it will be noted that the board's action has been more vigorous in dealing with real than with personal property, as is shown by the greater relative additions to the former class of property. This action has tended to promote rather than lessen the inequality of the tax burden, for it has been the universal experience, to which Maine is no exception, that real property has been better assessed than many classes of personal property.[1] In the second place the relative increases made in both real and personal property have steadily decreased as the local assessments increased, notwithstanding the board's unlimited power to alter valuations in the process of equalization.[2] In 1892 real property was increased 24.6 per cent and personal property 11.4 per cent; but in 1916 the increases were only 1.72 per cent and 0.52 per cent respectively. This diminishing increase given to the local figures in the state equalization has not carried the state very far toward a higher basis of valuation, considering the natural increase in the amount and value of the taxable property. Accurate checks on this point are not available, but it may be pointed out that the Census valuation of farm lands and buildings increased 65.3 per cent between 1900 and 1910, while the local assessment of all real property increased only 35.5 per cent, and the equalized valuation only 24.9 per cent in the same time. It was admitted in 1900, for instance, that the increase in that year over the figures of 1898 was due to the erection of new mills, additions and improvements to property, rather than to a higher valuation of existing property.[3]

The results of the board's efforts to induce the local assessors to raise their standards of valuation are thus seen to have been small. In connection with every biennial revaluation the latter have been urged to make a careful revision of their figures, but these exhortations have fallen, for the most part, on barren ground; at least they have brought forth but little fruit. One reason for this failure, of course, has been the lack of adequate authority. But it is doubtful if the board has always displayed

[1] Admitted by the Special Tax Commission of Maine, *Report*, 1890, p. 11.

[2] *Revised Statutes of Maine*, 1903, as amended, ch. 8.

[3] Board of State Assessors, *Report*, 1900, p. 5.

the firmness and insight necessary to make the most of its limited powers. Thus, in 1896, after an actual decrease in the local assessment of personal property, the board said:[1]

> The returns received from the hands of the local assessors in the past two years have as a whole been highly satisfactory to this board, and much credit is due them for the faithful and efficient manner in which they have performed their work.

Such excessive amiability was in keeping with the sentences which immediately followed, in which the board urged the assessors to improve on their past achievements:

> We desire, however, that more of them in the future will include bicycles in their personal property, and use the same effort to obtain in full this property and enter it on their lists as other classes.

The rapid increase of the number of such vehicles during the "bicycle craze" was probably not accompanied by a parallel growth of the assessments of bicycles; but if the comparison were made with the assessment of moneys, for example, the relative advantage would probably be found to be in favor of the bicycles. With very inadequate taxation of intangible property, mills, and other great interests, to spend a paragraph of the two pages of text on the assessment of bicycles smacks of the ridiculous![2]

But the board has disclaimed the intention of securing large increases *in toto*, preferring rather "to make a fair equalization on a conservative basis."[3] What can be said of its efforts to promote greater equity of tax burden among districts or classes of property? In the first place the table above shows that from 1892 to 1908 the local assessment of personal property advanced 12.7 per cent, and of real property, 63.5 per cent.[4] The equalized figures

[1] Board of State Assessors, *Report*, 1896, pp. 270, 271.

[2] The Maine Special Tax Commission of 1908 estimated that about 10 per cent of the total taxable mortgages and other intangible property was assessed in 1907. The proportion could not have been much greater, if any, a decade earlier. *Report*, p. 50.

[3] Board of State Assessors, *Report*, 1898, p. 255.

[4] 1908 was the last year in which the board's powers were comparable with those possessed in 1892. The proportion of personal property to total in 1908 was 21.4 per cent, so the later extension of authority has not improved the situation greatly.

show somewhat slower rates of increase but the real property assessments have increased several times as fast as those of personalty. The latter forms a smaller proportion of the total assessed valuation of the estates today than in 1892, its percentages of the total declining from 26.4 per cent to 22.0 per cent until 1916.

In the second place there has been no shift of the burden borne by personal property to the more intangible forms. The classification followed since 1892 does not permit an extensive comparison of the same kinds of property, but one important item of intangible property — money at interest — appears in the returns for 1892 and 1908. In the former year $11,000,000 were returned, and in the latter year $11,800,000, and the intermediate variations have never gone as high as $12,000,000.[1] Bank stock, including trust company stock, was returned at $8,800,000 in 1892 and at $10,000,000 in 1908; the capital stock of other than banking corporations was assessed at $1,000,000 in 1892, but was not assessed for more than $600,000 in the ten years preceding 1908. Such slight increases as have been made in the total valuation of personal property have been borne mainly by stock in trade, household furniture and machinery. The list of items assessed as personal property has been extended somewhat, but the greater part of the gain has come through minute additions to the tangible classes, while the intangible classes have scarcely more than held their own.

Finally, there has been little readjustment of the relative burden borne by rural and urban property. The escape of intangibles, owned for the greater part in the cities, gives the urban interests an advantage. From 1900 to 1906 there was a reduction of about $20,000 in the amount of state tax levied on the farming towns, and of $18,629 on the cities. With such a small difference in favor

[1] The Maine Tax Commission of 1908 estimated, on the basis of data collected at that time, that the total amount of "money at interest" was in excess of $110,000,000 in 1907. *Report*, p. 50. In 1915 the board stated that during the past twenty years the increase in the assessed valuation of all property had been approximately 40 per cent, of real estate alone 65 per cent, of wild lands 175 per cent, and of intangibles, including bank stocks, only about 5 per cent. *Report*, 1915, p. 19. The amount of "money at interest" assessed in 1916 was $12,882,000.

of the rural towns, extending over six years, it is safe to say that the net result of these six years was to maintain the *status quo*, and to perpetuate whatever inequality had existed previous to 1900.[1] A typical illustration of the operation of the assessment process in increasing the tax burden upon rural communities is found in the returns for 1903. In that year twenty cities, with 45.5 per cent of the total valuation of the state, contributed but 28.4 per cent of the increase over 1902 while the towns and plantations, with 54.5 per cent of the total valuation, contributed 71.6 per cent.[2] One observer of actual conditions in Maine has collected data which show that the farmers are paying from 6 per cent to 7 per cent of their net income in taxes, while wage-earners, professional men and those engaged in mercantile pursuits in the cities are paying from .3 per cent to 1.25 per cent of their net income in taxes.[3] He concludes:

> The heaviest burden falls upon the part of the population least able to bear it, and constitutes one of the forces that are driving the men and women off the Maine farms, and causing the depopulation of rural communities.

The reduction in the quotas of state tax levied on rural and urban estates was accomplished by increasing the valuation of the wild lands, in the survey and valuation of which the board's most aggressive and effective work has been done.[4] The board was given direct supervision of the assessment of these lands in 1891 and the legislature has at different times insisted on a higher assessment.[5] Because of this legislative insistence, representing a popular demand that these lands be more heavily taxed, and because sufficient authority has been vested in the board to execute this intention, the assessed valuation of wild lands has steadily increased. The ease and accuracy of the assessment have been facilitated by the construction of land maps based upon timber cruises and surveys. Such maps are now complete for all

[1] Board of State Assessors, *Report*, 1906, p. 12.

[2] *Ibid.*, 1903, p. 5.

[3] R. J. Sprague, Tax Problems in Maine, *Proceedings of the National Tax Conference*, 1907, p. 465.

[4] Sprague, *ibid.*, pp. 467–470, discusses the taxation of wild lands in Maine.

[5] *E. g.*, Board of State Assessors, *Report*, 1902, p. 7.

unorganized townships.[1] The chief arguments for increased assessment have been those aimed at the absentee capitalist who is exploiting the state's resources.

But the very vigor of the board's work in the wild lands assessment only makes more unfavorable the comparison with its results in dealing with other property. To take only one instance of the difficulty of improving assessment conditions without proper supervisory authority, the valuation of 1908 will be cited. In 1907 the board announced that special efforts were to be made to secure an efficient revaluation in 1908, since the prosperity of the past few years had caused many changes in property values and an extremely careful revaluation was most essential. Conferences were held in each county, and various other means were used to arouse the assessors; but despite these efforts the aggregate of cities, towns, and plantations increased only 8 per cent over 1906, while the wild lands showed an increase of 13.5 per cent.[2] The greater rate of increase for the wilderness than for the centers of population and industry is an evidence of the board's ability to accomplish results when sufficient authority is given; but it is also a striking commentary on the results of the local assessor when not subject to any will but his own.

The special tax commission of 1908 concluded that competitive undervaluation was due to the desire to shift the state tax, which was not being levied "justly and equitably" under existing conditions. It summed up the situation thus:[3]

> Under the present law the State Board of Assessors is supposed to equalize values between towns and report such equalization to the legislature. We feel that they have failed in obtaining the desired results, although without doubt they have obtained more uniformity than prevailed before the Board was created. Their failure to our mind is due rather to the absence of efficient laws than to the composition of the Board. The members of the Board should be better paid, and clothed with more authority.

[1] Board of State Assessors, *Report*, 1906, p. 11. More accurate surveys have increased the acreage. *Ibid.*, 1911, p. 10. In 1915 the legislature doubled the previous appropriation for surveying and estimating timber lands. *Ibid.*, 1915, p. 21.

[2] *Ibid.*, 1908, p. 11.

[3] *Report of the Tax Commission of Maine*, 1908, p. 7.

This analysis of the situation was correct. The board had failed precisely because its powers were inadequate to compel the assessors to work in that harmony and unity which the commission of 1890 had supposed would result in the establishment of a board equipped with even such limited powers as were given to the board of assessors in 1891. But an examination of the results shows that comparatively little was actually accomplished toward a real solution of the problems of equitable taxation. In the light of these revelations the legislature of 1909 inaugurated a series of changes which marked a very interesting step in the evolution of the Maine board toward the tax commission stage. The chief modifications were these:[1]

a. The members were to be appointed by the governor, with the advice and consent of the council and the governor was to name the chairman. Appointment was to be made upon the basis of fitness through special knowledge and skill in matters pertaining to taxation. Members were to give their entire time to the work, and the board was to be in continuous session from day to day.

b. General supervision over the whole tax system was again conferred upon the board; but it was made much more effective by authorizing the reassessment of any property at the discretion of the board.

c. The salary was increased to $2,000. This meager advance was quite inadequate — the salary should have been increased to a figure somewhat more nearly commensurate with the service which the state was expecting to receive under the new law.

This extension of supervisory power stimulated the local assessors to greater efforts and in 1910 they added to the duplicate $30,000,000 — the largest increase ever made in a single year. While this rate of increase was not maintained in the two following revaluations, the local returns displayed greater improvement than had characterized them previous to 1909. The extension of authority was undoubtedly wise and has been justified by the results. But the gains have been confined largely to real

[1] *Laws of Maine*, 1909, ch. 220. Cf. *Report of the Tax Commission of Maine*, 1908, pp. 79–84.

estate and it cannot be said, therefore, that the mere increase of central authority has solved the difficulties which had emerged under the former regime. In the years 1910–16, which included four biennial revaluations, the assessment of real estate was increased $48,000,000 and of personal property $14,400,000. Money at interest was assessed at practically the same figure in 1914 as in 1892, and there is no evidence that the assessment of any other class of intangible property has been improved since 1909. Realization of this failure led the board to suggest in 1912 that classification of personal property should be investigated with a view to legislation in case the plan should prove expedient.[1] The special commission of 1908 spoke with approval of classification, and in 1913 a constitutional amendment permitting classification of intangible property was adopted; but no further action has as yet been taken, and the escape of intangibles still continues.

The Taxation of Corporations. — The system of specific corporate taxation which has been developed in Maine has relegated the board of assessors to a rather subordinate, though not unimportant position. Its duties in this connection are almost entirely clerical, and may, therefore, be passed over with very brief notice.

The board is required to make a formal " assessment " of the excise taxes due on the amounts of gross receipts which have been returned to it or to some other state officer. It is usually provided that if any corporation fail to make the appropriate returns required, the board shall make an assessment upon which the taxes are to be calculated. The only other opening for the exercise of administrative judgment is in connection with the distribution of a portion of the excise tax upon railroad, street railroad, telegraph and telephone companies to the localities in which holders of the stock reside. There is apportioned locally an amount of the total taxes equal to one per cent of the true value of the capital stock upon April 1, as ascertained by the board. The special commission of 1908 argued mildly for the abandonment of the system of gross earnings taxes, citing the recent action of

[1] Board of State Assessors, *Report*, 1912, p. 13. Renewed in *ibid.*, 1914, p. 21. Cf. also *Report of the Tax Commission of Maine*, 1908, pp. 18, 19.

Wisconsin and Michigan.[1] The legislature was led to order the board to ascertain the actual value of all railroad property in Maine for purposes of taxation, but as no provision was made for expert assistance little can be expected from this source regarding the actual distribution of the present burden of taxes between corporate and other property.

[1] *Report of the Tax Commission of Maine*, 1908, pp. 31, 32.

CHAPTER IV

ORGANIZATION AND EQUIPMENT OF THE STATE TAX DEPARTMENTS

THUS far in this study of state control over the assessment of property we have been concerned principally with the historical evolution of the administrative side of American taxation. The ground covered may be reviewed, in a series of generalizations regarding the earlier state boards of equalization and assessment. This summary will also serve as a fresh point of approach to the more recent phases of central administration of the tax system.

The organization of state boards of equalization was the first attempt that was made, on a statewide scale, to counteract undervaluation and evasion; and especially to effect a fairer distribution of the direct state tax. The initial performances of these boards were sometimes beneficial and in a few states their presence infused new vigor into tax administration. The improvement was only temporary, however, for the administrative activity of these boards tended gradually toward a formal routine approval of the local returns. The state of mind which accompanied this decline may be characterized as one of mingled feelings of indifference and impotence. The restricted original powers, often still further lessened by a hostile judiciary, were too narrow to permit the state boards of equalization to cope effectively with the local assessor in his stronghold; and state legislatures were slow to authorize an invasion of the local official's domain.

Further contribution to the decay of the state board of equalization was made by the shift in emphasis from the state to the local taxes on property. The development of corporation and other special taxes has lessened in some states the relative importance of direct state taxation, while in a few cases the latter has been entirely abandoned. On the other hand the tremendous increase of local expenditures in the last generation has transferred

the storm center of the general property tax to the local units, wherein have recently been displayed all of the evils that once characterized the operation of uniform taxation on a wider scale. The remedy called for by this new situation has been state supervision, rather than state equalization; and the older administrative bodies, created for the latter purpose only, have given way or have been superseded by new state tax departments created especially for supervisory functions.

The growing importance of corporate assessment led to the transfer of this function to central boards, often the state boards of equalization. These boards usually proved incapable of dealing with the corporations, and the results of corporate assessment by ex officio boards display the same languorous decline that marked the work of equalization boards. The emergence of the state tax commission came as a welcome relief for all interests except those which had been profiting by the slovenly and inefficient work of the older boards. Attention will now be turned to these new tax departments.

The great diversity of conditions under which these tax commissions have developed has naturally produced wide variations in their structure and powers. These variations have reflected alike the public temper toward fiscal reform, the willingness to delegate effective supervisory powers to an administrative body, and greater freedom from political and local influences. Before proceeding to a detailed study of particular tax commissions, the whole field will be surveyed and some features common to all such bodies will be indicated. This is best done by a tabular exhibit (see below) which shows for each state the date of organization, the number of commissioners, the term, salary, method, and basis of appointment. Some data on financial support are also given.

1. *The board vs. the single official.* — The first point to be noticed is the board of commissioners as against the single official. The majority of the states have created a commission of three members. Oregon has a board of five, composed of two appointive and three ex officio members while Indiana has reversed these proportions, giving the appointed members a majority. A few states have been content to provide for a single official and in

STATE TAX DEPARTMENTS

State	Date of Creation	Number of Commissioners	Term of Years	Salary	Method of Selection[1]	Basis of Selection, if indicated in the Law[2]
Massachusetts	1864	1	4	$5,000	Appointed by governor	
Indiana[3]	1891	3	4	3,000	" " "	Bi-partizan
Vermont	1892	1	2	....	" " "	....
New York	1896	3	3	6,000	" " "	....
Wisconsin	1899	3	8	5,000	" " "	Knowledge of taxation
Michigan	1899	3	6	2,500	" " "	....
North Carolina[4]	1901	3	6	500	Ex officio	Partizan
Connecticut	1901	1	4	3,000	Appointed by governor	Knowledge of taxation
West Virginia	1904	1	6	2,500	" " "	" " "
Washington[5]	1905	3	4	3,000	" " "	" " "
Kansas	1907	3	4	2,500	" " "	" " "
Minnesota	1907	3	6	4,500	" " "	" " "
Alabama	1907	3	4	2,400	" " "	" " "
Texas	1907	1	2	2,500	" " "	" " "
Oregon[6]	1909	2	4	2,500	" " "	" " "
Wyoming	1909	1	4	2,500	" " "	" " "
Arkansas	1909	3	6	2,400	" " "	Bi-partizan
Ohio	1910	3	6	5,000	" " "	" "
Colorado	1911	3	6	3,600	" " " and treasurer	Knowledge of taxation
New Hampshire[7]	1911	3	6	3,000	" " supreme court	" " "
Rhode Island	1912	3	6	3,000	" " governor	Bi-partizan
North Dakota	1912	3	6	3,000	" " "	Knowledge of taxation
Arizona	1912	3	6	3,000	Elected	Partizan

Nevada	1913	3	4	3,000	Two appointed by governor; one ex officio	Appointive members to have knowledge of taxation
Florida	1913	3	4	3,000	Appointed by governor	Knowledge of taxation
Georgia	1913	1	6	2,500	" " "	Citizen and freeholder
Montana[8]	1913	1	6	3,600	" " "	Knowledge of taxation
Idaho[9]	1913	3	6	none	Ex officio	....
South Dakota	1913	3	6	2,000	Appointed by governor	Knowledge of taxation
Maryland	1915	3	6	3,000	" " "	....
South Carolina	1915	3	6	2,500 for chairman, $5.00 per diem for associate members	" " "	....
New Mexico	1915	5	5	$10.00 per diem	Appointed by governor	Partizan
Mississippi	1916	3	4	2,500	" " "	....
Missouri	1917	3	6	4,000	" " "	Knowledge of taxation
Kentucky	1917	3	4	3,600	Two appointed by governor; one ex officio	Partizan

[1] The appointments made by the governor are commonly approved by the senate or executive council. In New Hampshire, the appointment is made by the supreme court and the appointees are commissioned by the governor.

[2] The law may require two standards, one of efficiency and one of partizanship. If one only is required that is given; but if both are required, the efficiency standard is given as the more important.

[3] In Indiana the auditor and secretary of state are members ex officio.

[4] The corporation commission acts also as a tax commission and the members receive $500 additional compensation for this service.

[5] Cf. below, ch. 11.

[6] The governor, treasurer and secretary of state are members ex officio.

[7] The secretary of the New Hampshire tax commission is the active head. He receives $3,000, and each of the other two members, $2,500.

[8] The governor, secretary, auditor, treasurer and attorney-general of state are members ex officio.

[9] The Idaho tax commission law was repealed in 1915, *Laws of Idaho*, 1915, ch. 30.

Massachusetts and West Virginia the tax commissioner has also been made the commissioner of corporations. Overloading of the department in this way will probably lead to inferior work unless the pressure be removed by corresponding enlargement of the organization.

The advantages of the board plan are numerous. In the first place the amount of work to be done is greater than can well be performed by one man and a board of at least three permits a valuable division of labor. The scope of duties varies somewhat but as has been noted, there is everywhere the tendency to add additional duties. A board of more than three members would probably be less desirable on account of the greater unwieldiness of the larger body. Neither Oregon nor Indiana secure any advantage from this source. In the second place, the board plan enables the benefits of experience to be preserved and made cumulative. The terms of office can easily be arranged so that there will normally be two experienced members and the loss of time in drilling the newcomer is minimized. The states with single officials lose valuable time and almost inevitably retrograde somewhat while the new appointee is groping his way, often unassisted, through the accumulated practice and procedure that had become routine for his predecessor. Further, the possible errors made during this novitiate period in the valuation of railroads or the equalization of assessments may be the source of serious criticisms against the whole system of centralized administration. In the third place, the commission permits of a certain amount of discussion and the reinforcement of a member's judgment by that of his colleagues. Much of the action of the tax commissions rests upon the judgments of the members. Greater stability is assured and greater confidence will be reposed in the concerted decision of three men than in the conclusions of a single individual.

The success of the federal department of internal revenue may be cited, however, as evidence in favor of the single commissioner type. The efficiency of the federal department cannot be denied but the parallel hardly holds between this department and the state tax commissions. In the first place, the internal revenue

commissioner is amply provided with the funds necessary for the organization of an efficient department, while many of the state tax commissions have been seriously handicapped in this respect. Adequate finances have permitted an efficient internal organization, with elaborate grading of responsibility. On the other hand, the state tax commissioners are compelled, in all but the most advanced states, to assume much responsibility and to perform considerable amounts of detailed, even of routine labor. In the second place, the character of the federal internal revenue system gives greater definiteness to the work of the revenue commissioner. The specific taxes on commodities, such as characterized the internal revenue system of the United States previous to the income tax, imposed no such heavy demands upon the deliberative faculties as are involved in the valuation of railroads or the equalization of local assessments. The federal income tax makes larger demands and the extension of this and similar federal taxes may require a corresponding reorganization of the internal revenue department. Thirdly, under the federal system results are assured by the unlimited authority which is given for the enforcement of federal laws. If state tax commissions were to order the listing of intangibles by the same methods that have been employed for the enforcement of the tax on whisky, the taxation of credits would be as unpopular — and as unhealthy — as prevention of "moonshining." In the one case public opinion favors enforcement and tolerates even the resort to arms; in the other it encourages evasion and views with indifference the amazing spread of perjury and false swearing. Finally, many responsible subordinates of the internal revenue department hold their positions under the civil service and are assured tenure relatively more stable than the irregular apprenticeship which has proved so costly in some states.

2. *Term of Office.* — A second feature to be noticed is the long term. Wisconsin leads with an eight-year term, while nineteen states have a six-year period, twelve a four-year term, and in only two states is the tax commissioner chosen for less than three years. In both of these states, Texas and Vermont, the modern tax department has not yet been developed. This tendency

toward a fairly stable tenure of office affords opportunity for the members to become thoroughly familiar with the work to be done. A majority of the board will normally be experienced members and the importance of thoroughly consistent action renders the cumulative experience of these hold-over members very significant for successful administration. Further, the long term removes the commission from the pressure of current political movements and leaves it free from the changing fortunes of political parties. This advantage can only be stated as a tendency since much will depend upon the political ideals and the standards of public service which prevail in the state. The injection of politics into the recent Michigan case demonstrates the desirability of complete freedom from partizan influences.[1] The governor must, of course, possess the authority to remove his appointees upon proper cause shown. But unless this authority is checked by requiring cause to be shown, all incentive to progress may be destroyed, as in Alabama.[2] Aside from such direct action, however, which is ordinarily resorted to only in the most extreme cases, the longer term tends distinctly to lessen the dependence upon the ebb and flow of public opinion and to give strength for the fearless performance of duty, a task none too easy at best in the field of tax administration where capacity and moral courage are equally essential factors.

Finally, the long term and stable tenure of office are valuable and even necessary inducements to men who have acquired the special knowledge essential for the proper administration of the tax laws. The certainty of tenure may permit the payment of somewhat lower salaries though the time is rapidly passing when a state can afford to economize by employing cheap men, or by expecting that good men will consent to serve the public for much less than they can command elsewhere. The period of apprenticeship which many political appointees serve while drawing the salaries of capable experts will be minimized by adopting new standards of capacity and a new conception of the qualifications for public office. Until comparatively recent times fitness for public service has been one of the least essential qualifications of a

[1] Cf. below, pp. 139, 293.

[2] Cf. below, pp. 559, 560.

candidate. This idea has begun slowly to give way under the pressure of accumulated inefficiency in public administration. Nowhere has it been more firmly fixed nor its consequences more injurious, than in taxation. The local assessing officials have long been notoriously inefficient; the sentiment that anyone can administer the tax laws has just begun to decline; and the theory that this duty should be committed to men equipped by special training and experience is correspondingly new. The remarkable success that has been achieved by the Interstate Commerce Commission and by certain state administrative boards has done much to bring about this change in public sentiment. The day of the expert administrator is dawning, and with the growing complexity of the problems of modern life a steady advance in the character and qualifications of the men who are called to fill positions of administrative responsibility may certainly be expected.

With regard to the tenure of office, the situation of the tax commissioners has been very wholesome and the long legal term has actually been served by the majority of the appointees. Michigan presents a rather anomalous situation of which the tangle of 1912 was an example. Of a certain period in the history of the Michigan Tax Commission it has been said:[1] "Ten men received appointment as tax commissioner in seven years, in only four of which did the number of commissioners exceed three. . . ." In consequence, the average length of term has been about three years instead of the legal term of six years. West Virginia has attempted to prevent the office from becoming the property of one man by the absurd provision that a commissioner shall be ineligible to succeed himself at the end of a six-year term, whether he has served six years or not. As a matter of fact, in the first period of six years, three men served as tax commissioner and the last incumbent had hardly acquired sufficient experience to perform efficient service for the state when he was compelled to step out.[2] In Connecticut for years the tax commissioner has fought a running fight with certain interests which have been determined to oust him and his recent reappointment by a politically hostile gov-

[1] Hedrick, *History of Railroad Taxation in Michigan*, p. 48.

[2] West Virginia Tax Commissioner, *Report*, 1909–10, p. 70.

ernor and council was not only a personal triumph but a victory for administrative efficiency everywhere. The most capable of the first three appointees on the Ohio commission was chosen for the shortest term and the commission's work suffered materially by his early retirement. While it cannot be said that in all states political motives have entirely disappeared in the selection of men for this important office, yet it is true that to a considerable extent the long legal term has meant stable tenure of office.

3. *Salary.* — The standards of administrative efficiency which have been found to be essential for the best performance of the complex and increasingly important duties of tax administration demand an adequate salary in addition to a fairly stable tenure of office. Low salaries draw only the swarms of professional office-seekers, the bane of efficiency in American public life. Higher salaries will not diminish the number nor the insistence of the job-hunters but they will also call forth men of greater ability to whom the public service may safely be entrusted. With respect to the salaries paid the states fall into two groups. One group of about nineteen states pays fairly attractive salaries ranging from $3000 to $6000; the other group pays $2500, with the exception of Arkansas, in which the compensation is only $2400, and South Dakota, where only $2000 is paid. The New Mexico tax commissioners are allowed $10 *per diem* with reasonable travelling expenses, but they are not permitted to remain in session for more than ten days at a sitting, nor shall they receive compensation or expenses for more than ninety days in the aggregate in any one year.[1] Admitting that the salary is a relative matter, yet it can hardly be questioned that the salaries in the second group are too low. The great marvel is that for the small salaries paid men can be found to render as faithful service as has been given in administering the tax laws.

4. *Method and Basis of Selection.* — In every state the power of appointing the members of the tax commission is vested in the governor, though in Colorado the governor and treasurer act together. The selections are to be ratified in most instances by the senate or the executive council. The governor has also the author-

[1] *Laws of New Mexico*, 1915, ch. 54.

ity to suspend a commissioner, and after filing charges which constitute a true bill against the incumbent, to remove him from office. In Oregon and Michigan the governor has been made a member of the commission for the performance of certain functions. In neither state can it be shown that his presence on the board has been of any advantage, while it has probably been a positive detriment at times. It was asserted that the Governor of Michigan did not attend any of the meetings of the state board of assessors and refused to sign the assessment rolls until assured by the attorney-general that the state could collect no taxes from the public service corporations until he had complied with that legal formality.[1]

Even more fundamental than this control by the governor over the members of the commission is the statutory basis of appointment, according to which is determined the active personnel of the board. Again the states fall into two groups, one making fitness and knowledge of tax matters the chief basis, and the other leaving the question of qualifications to the antiquated basis of political affiliation. After all, it is the equipment, mental and moral, of the administrators which determines their success in applying any laws. The political "spoils system" is the fountainhead of governmental inefficiency. In tax administration there is an especial need of the elemental virtues of honesty, impartiality, moral courage and good sense, as well as a more technical preparation for the special work to be done. It is hopeless to expect these qualifications in any unusual degree from the political favorite whose claims to the position are based upon entirely different grounds. It has been an exceedingly fortunate circumstance that so few of the states permit, or at least require, a selection upon a partizan basis alone. Indiana and Ohio illustrate the partizan basis of selection, and the work of these commissions has not heightened the respect in which such a basis of appointment is held.

The conditions which prevailed in Colorado at the time of the enactment of the tax commission bill may serve to illustrate the

[1] Cf. Reply of Commissioner Shields to the charges of Governor Osborn, *Detroit Free Press*, June 13, 1912.

possible influence of political manipulation. Certain persons had been prominent in promoting the bill for a state tax commission, but after the legislative support had been organized the proceedings halted and interest flagged, to the peril of the bill at that session. Upon inquiry it developed that certain leaders in the campaign for the bill had aspirations for appointment to the new commission. As they were personally objectionable to the legislative steering committee, the latter had abandoned the measure to its fate. The state treasurer gave his guarantee that the objectionable persons were not to be appointed and to hold him personally to this promise the state treasurer was made responsible with the governor for the appointment of the tax commissioners.[1]

The principal features of the organization of state tax commissions, as outlined thus far, are the product of a considerable period of evolution, in the course of which the states have emerged from the jungle of a "spoils" regime and entered upon the broad highway of the merit system. While not all states have made equal progress in the elimination of the purely political appointee, there are few that do not offer some encouraging signs while many have shown marked improvement. The tendencies that have been in evidence in the development of fiscal administration have been manifested also in other lines, as the following summary of recent tendencies in the organization state of railroad commissions shows:[2]

> Lastly, there are definite tendencies in the organization of the new commissions. The movement is away from the single commissioner to a commission of three or more. Fourteen of the commissions (*i. e.*, of the fifteen established between 1902 and 1907) consist of three members, and New York's statute provides for two commissions, each consisting of five members. The movement is also toward a long tenure of office, eight of the statutes providing for a six-year term, two for five years, four prescribe a four-year term, and but one clings to a term of three years. Contrary to what the tendency was in 1902, ten of the new commissions are appointive and five elective.

[1] *Personal Interview with the Secretary of the Colorado State Board of Equalization*, Aug. 3, 1911. Cf. also *Laws of Colorado*, 1911, ch. 216, § 3.

[2] Huebner, "Five Years of State Railroad Legislation," *Ann. Am. Acad.*, 1908, xxxii, p. 143.

5. *Appropriations and Equipment.* — There remains one topic, which was not suggested by the tabular view given above. To a very considerable degree the efficiency of an administrative body depends upon the facilities provided for the proper performance of its work. In many branches of the public service the characteristic American way has been to alternate the most reckless extravagance with a pinching economy, with equally disastrous results from both policies. The financial support which has been afforded the tax commissions in different states has ranged through all gradations from the *carte blanche* of the Wisconsin commission to the failure of the Arkansas legislature to provide an appropriation for its new commission.[1] In general the policy has been too economical, though the Arkansas incident was evidently an oversight. In Indiana each commissioner is allowed $1000 for travelling expenses, a total of $3000. Practically no other office expenses are incurred beyond the employment of a few stenographers and the printing of the blank forms and the various reports. The deputy auditor of state serves as secretary of the board. In Kansas the tax commissioners were found in 1911 to be performing routine work which could have been done by any ordinary clerk, and in the rush season of corporation assessment the members were compelled to work late at night as well as all day because of deficient appropriations for clerical assistance. In Washington, Oregon, and Minnesota reliance has been placed upon the results of investigations into real estate values from which very important conclusions have been drawn, though the method of compiling these ratios reveal fundamental weaknesses which the inadequate financial resources make it impossible altogether to eliminate. For this false economy the commission is itself sometimes to blame. The Ohio commission rejected the Wisconsin "sales method" ostensibly on account of the expense, though the statistician of the Wisconsin commission estimated that the system could be installed in Ohio for $6000 per year if kept free from the meddling interference of the politicians.[2] The Indiana

[1] Arkansas Tax Commission, *Report*, 1910, p. 45.

[2] *Personal Letter from A. E. James, Statistician to Wisconsin Tax Commission*, June 19, 1912.

board offered the desire to economize as the reason for not printing valuable statistics in 1910.[1] The taxpayers have not yet fully appreciated the irony of creating departments of high-salaried men and failing to provide them with the proper equipment for their work. The earlier Wisconsin policy of *carte blanche* is in principle equally bad, and it has recently been abandoned for a system of definite appropriations based upon the estimates of the commission. It cannot be said that the grant of free rein was abused in that state, since the result was the development of one of the most efficient administrative organizations in the United States, at an expense that was not excessive. It is entirely possible, however, that the same efficiency could have been attained at even a lower cost under a system of definite appropriations. At any rate the blanket appropriation is crude and unscientific and is an evidence of the backward condition of the budget system of an otherwise fairly progressive state.[2]

The two most elaborately equipped and organized tax departments in the United States at the present time are those of New York and Wisconsin. Of these the former has the more complete and expensive organization, but because of the better tax law and more progressive public opinion under which the latter has operated it has accomplished broader results. In addition to the general office the New York board has organized six distinct bureaus, each in charge of a responsible head, and has apportioned the work among them thus: 1. Mortgage tax; 2. Electricity, Gas and Water (special franchise); 3. Railroads (ditto); 4. Telegraph and Telephone (ditto); 5. Local supervision; 6. Filing. This arrangement emphasizes the relative importance of the commission's activities. Three bureaus are assigned to the assessment of special franchise taxes and one to the mortgage tax. The department for the supervision of local assessments has been most recently added, but with the vigorous use now being made of its supervisory powers by the New York Commission this branch of the work promises to become one of the most important. The

[1] Indiana State Board of Tax Commissioners, *Report*, 1910, p. 5.

[2] Cf. Agger, *The Budget in the American Commonwealths*, for a description of the condition of state budgets. Also below, ch. 8, for the improvements in state finance introduced by the Wisconsin commission.

principal duty of this department at present is the supervision of the local assessment and equalization methods.[1]

The expense has grown by leaps and bounds until today the New York Commission is spending more, with one exception, than any other tax department in the country.[2] The phenomenal increase is shown by the figures below, for various annual periods:[3]

APPROPRIATIONS FOR THE NEW YORK TAX COMMISSION

Year	Appropriation	Year	Appropriation
1898.....	$18,200	1914.....	$201,711
1902.....	60,500	1916.....	255,302
1911.....	118,030		

Some explanation for this high level of outlay may be found in the fact that all expenses for such services are normally higher in the East.

The Wisconsin commission has organized four main bureaus — general, statistical, income tax, and inheritance tax. In the general office, which is under the direct supervision of the commission, there is provided a secretary, a chief clerk, and the necessary stenographic assistance. The heads of the other bureaus are each provided with assistants and the necessary office and field forces. The statistical department keeps from three to fifteen men in the field collecting sales data and supervising the installation of local uniform accounting systems. The income tax bureau has supervision over the forty-one assessors of incomes. The cleavage lines run somewhat differently in the two organizations. In Wisconsin the commission has retained under its own direction the more general aspects of each function, and has delegated to the different bureaus the more direct supervision of the departmental duties; in New York the various phases have been more completely delegated to the several bureaus and the com-

[1] Cf. below, ch. 6.

[2] This exception is the Massachusetts tax department, which has received the large appropriation of $310,000 for 1917, for the administration of the new income tax. The addition of the regular appropriation of $108,750 for ordinary expenses places the Massachusetts tax department in the lead in total expenditures.

[3] Compiled from the annual reports of the Comptroller. The amount requested for 1917 was $301,195.

missioners are relieved from the necessity of direct contact with the actual operations of the tax system, a relief which may lead to avoidance of the intensive study of the problem which has been continued by the members of the Wisconsin commission.

The material equipment of these two commissions is no less extensive and complete than the personal organization. Both have excellent libraries on finance, with skilled librarians in charge.[1] Cases and cabinets for filing records and correspondence, adding machines, rapid calculators, and numerous other devices have been provided. The correspondence of the Wisconsin commission has been indexed by subjects and the library has been catalogued. The whole mass of information which is being accumulated is constantly ready at hand with a minimum of delay for the investigator as well as the members of the commission.

Several other state commissions are fairly well equipped, but none were found to be so well provided for as those of New York and Wisconsin. West Virginia was the only state west of the Appalachians to employ a permanent statistician. The Minnesota commission has had the assistance of statisticians from the University in various stages of its work. The statistical work of the other western commissions has been done by the chief clerk, the secretary or a member of the commission who has happened to have a bent for figures. The library of the Minnesota commission was found in 1911 to be the largest of the special libraries, but it was uncatalogued and there was no special librarian in charge. Aside from these three instances, no other collections of literature on public finance of any significance have been made. Many of the western commissions were found to be inadequately quartered and suffering from insufficient financial support. The Indiana board possessed the most limited equipment and quarters of any of the commissions visited in 1911. It occupied one room in the capitol building. This room adjoined the offices of the auditor of state, by whose clerks the necessary statistical and stenographic work was done. The deputy auditor has always served as secretary of the commission. There were no adequate

[1] The library of the New York commission was damaged by the fire in the capitol building in 1912.

facilities for the collection and preservation of data, and the biennial reports were not to be found except in the archives of the state library.[1]

[1] The writer visited Indianapolis for the purpose of gathering data for this study in 1911. Subsequent visits were made in March and September, 1916. The quarters had not been extended in 1916.

APPENDIX TO CHAPTER IV

SOME STATISTICS ON THE COST OF VARIOUS TAX COMMISSIONS

The expenditures of a few of the representative tax commissions are herewith given. These figures are not always published in the periodical reports, and in few cases is there a detailed analysis of the outlays.

THE WISCONSIN TAX COMMISSION[1]

Year	Total expenses	Year	Total expenses
1900	$16,412	1912	$121,204
1904	45,011	1913	173,464
1908	56,173	1914	185,805
1909	47,009	1915	196,192
1910	57,378	1916	180,587
1911	56,764		

The marked increase after 1903 was due to the assumption of the railroad assessment. The additional cost of the income tax department and the administration of the local accounting systems have been most responsible for the increases in recent years. For 1916 the detailed expenditures were as follows:

General office	$27,989
Statistics and accounts	27,891
Joint engineering department	14,843
Inheritance tax	5,866
Income tax	
General office	8,002
Field	95,993
Total	$180,587

In 1916 the tax commission appropriation was credited with $8,757.87 as reimbursements for installing systems of accounts and auditing records for municipalities. The cost of reassessments and reviews of assessments are no longer charged to the commission.[2] The field expenses for the administration of the income tax include the salaries of the income tax assessors.

The expenses of the Michigan board of tax commissioners since 1913 have been as follows:

Year	Expenditures
1913	$165,001
1914	173,885
1915	151,328
1916	205,405

[1] Wisconsin Tax Commission, *Report*, 1914, pp. 2–8; *ibid.*, 1916, p. 2.

[2] *Laws of Wisconsin*, 1915, ch. 627.

The biennial appropriations for the Washington Board of Tax Commissioners have been as follows:[1]

Biennium	Appropriation
1905–06	$27,000
1907–08	42,000
1909–10	37,600
1911–12	40,600
1913–14	43,600
1915–16	41,000

Appropriations for the Kansas Tax Commission, by principal items of expenditure, have been as follows:[2]

Year	Salaries	Contingent	Extra clerk hire	Travelling expense	Accounting system	Totals
1908	$10,700	$5,197.26	.....	.....	.....	$15,897.26
1909	10,700	4,228.60	.....	$1,000.00	.....	15,928.60
1910	10,700	1,982.80	$1,838.00	1,355.66	.....	15,876.46
1911	10,700	1,050.13	2,775.23	982.91	.....	15,508.27
1912	10,700	1,956.80	3,485.88	1,647.29	$1,027.84	10,817.11
1913	10,700	1,647.00	3,675.00	1,571.00	.....	17,594.00
1914	10,700	1,277.00	3,123.00	1,500.00	27.	16,628.00
1915	10,700	1,310.00	3,093.00	1,135.00	35.	16,274.00
1916	11,839	1,452.00	1,846.00	1,858.00	.....	16,996.00

The expenditures of the West Virginia Tax Commissioner have been as follows:[3]

Year	Expense	Year	Expense
1905	$8,437	1911	$25,070
1906	13,896	1912	24,122
1907	16,645	1913	19,310 (9 months)
1908	18,635	1914	31,290
1909	26,220	1915	56,701
1910	34,709	1916	63,368

[1] From the reports of the tax commission.

[2] Data supplied by the chairman of the tax commission.

[3] From the reports of the tax commissioner. The figures include the cost of the department of public accounting after 1908.

The Ohio Tax Commission presents the following summary of its expenditures:[1]

	1910 (6 months)	1911	1912	1913	1914	1915
Salaries, clerks, etc.	$13,948	$54,329	$50,006	$48,687	$55,893	$42,911
Rent of offices	928	3,865	4,230	4,072	3,800	3,999
Contingent	1,577	4,643	2,540	2,269	3,598	2,546
Travelling	484	1,396	1,525	1,137	4,048	1,403
Furniture, carpets	1,500	1,854	200	3	10	298
Steel file cases	290	310	516	402	251	82
Quadrennial appraisal	....	416	....	....	....	....
Totals	$18,729	$66,816	$59,018	$56,573	$67,601	$51,242

[1] Ohio Tax Commission, *Report*, 1915, p. 29.

CHAPTER V

THE STATE BOARD OF TAX COMMISSIONERS OF INDIANA[1]

THE significance of the law passed by Indiana in 1891 may best be appreciated by recalling the condition of tax administration throughout the country at that time. The centralizing process had begun and numerous state boards for equalization and for corporate assessment had been created. In the assessment of corporations material gains had been achieved, but the conditions were still quite unsatisfactory because of the limited powers and ex officio character of these early boards.[2] On the other hand the boards of equalization had proved quite incapable of checking the deterioration of the general property tax. The weakest link in the chain was, as it had always been, the local assessor. None of the boards established previous to 1891 had the slightest control over his acts; and without that control his errors and willful violations of law were perfectly secure against correction. True, the remedy of impeachment was available, but everywhere the courts required proof of intent, which was always difficult to obtain, and there was no remedy for sheer incompetence. In California the state board of equalization had attempted to exercise a very slight corrective influence, but it was quickly checked by the courts.[3] The gravity of the situation had been appreciated by numerous special tax commissions that had been created previous to 1891,[4] but in most instances many years were destined to elapse before the suggestions of these bodies were to bear fruit. Aside from these transient centers of thought, there was little appreciation anywhere of the possibility of reform through greater administrative centralization.

[1] Rawles, *Centralizing Tendencies in the Administration of Indiana*, ch. 6, gives valuable historical material.

[2] It will be remembered that in some cases the same board performed both functions. Cf. above, p. 34.

[3] Cf. above, pp. 89 ff.

[4] Cf. Chapman, *op. cit.*, pp. 96, 97.

The exact origin of the idea in Indiana is obscure. There had been a long preliminary period of experiment in which many different forms of tax administration, more or less centralized, were tried; but in none of the early administrative experiments had there been central control over the original local assessments. The assessor had been at different times a county and a township official;[1] the county board of equalization had been at one time an appointive, at another time an ex officio, board;[2] and in 1852 state and district boards of equalization had been established.[3] The state board of equalization was reorganized in 1872,[4] but it was unable to check competitive undervaluation and the spread of increasingly inequitable assessments.[5] The assessment of lands and lots actually declined from 1879 to 1889, while the total for personal property increased but slightly in this time. Central assessment of corporations was introduced in 1872, but the results had been hopelessly inadequate and the initial suggestion for the establishment of the board of state tax commissioners was probably prompted by the desire to increase the taxes on this class of property.[6] The state auditor recommended in 1890 the appointment of one or more agents to gather data upon which a more equitable corporate assessment could be made.[7] In 1891 Governor Hovey proposed the establishment of a board of railroad commissioners who should have general supervision over the railroads, with extensive powers of investigation and examination of books and property.[8] In this form the plan failed, as did one

[1] Cf. Rawles, *op. cit.*, ch. 6.

[2] *Ibid.*, pp. 264, 270.

[3] *Revised Statutes of Indiana*, 1852, i, p. 274, § 7.

[4] *Laws of Indiana*, 1872, ch. 37, § 284.

[5] The platforms of both Republican and Democratic parties in 1886 demanded a better equalization of assessments.

[6] The Illinois special commission of 1886 had proposed a permanent state tax commission. The suggestion may have been taken from this report. Cf. address by the author of the bill, Judge T. E. Howard, at the Buffalo Tax Conference, 1901, *Proceedings*, pp. 84–88. J. P. Dunn, who was state librarian at the time, gives an account of the factors which led to the bill, in *Proceedings of First State Tax Conference*, 1914, pp. 33–36. Cf. also Dunn, *The New Tax Law of Indiana*, Indianapolis, 1892, p. 6.

[7] *Auditor's Report*, 1890, p. 8.

[8] Rawles, *op. cit.*, p. 292.

for separation of the sources of state and local revenue but the bill creating the new tax board emerged during the session, probably as a compromise measure.

The pressure for tax reform was made stronger by the condition of the state's revenues. The state debt was growing at the rate of $500,000 annually.[1] A few years after the administrative changes were made the debt was being reduced at the rate of $800,000 annually.[2]

The act of March 6, 1891, which inaugurated the new era in taxation in Indiana, made two very important changes in the administrative organization and one in the wording of the tax law. The latter substituted the standard of " true cash value " for that of " fair value," which had previously been the basis of assessment.[3] Under the criterion of fair value, it had been possible for the assessors honestly to depart from the full valuation and to do so without being technically guilty of violating the law as long as they applied the same standard to the entire district. This verbal change established one definite and uniform standard; though without proper administration it was no guarantee against inequitable assessment.

The first of the two administrative improvements was the revival of the elective office of county assessor. The revival was not a reversion to the earlier type, however, but a distinct and valuable contribution to the new form of administrative organization then in process of development. The earlier county assessor had been the chief assessing officer, over whom no central control existed; the later county assessor was a supervisory official through whom direct and effective contact was to be established and maintained between the central head and the local members of the fiscal organization.

The second improvement was the creation of the board of state tax commissioners. This new board superseded the state board of equalization and took over its functions of equalization and corporation assessment. In addition, and most significant for the

[1] *Auditor's Report*, 1890, pp. 7, 8.

[2] State Board of Tax Commissioners, *Report*, 1895, pp. 4, 7.

[3] *Laws of Indiana*, 1891, ch. 99.

new direction of tax reform, the new board was given general supervision over the tax system. This control was chiefly advisory and it proved insufficient to prevent in Indiana the recurrence of the old abuses. But it was the beginning of a new administrative policy and the first results accomplished were sufficiently valuable to demonstrate the possibilities of central control.

The board was originally composed of the governor, the secretary, and auditor of state, and two members appointed by the governor. The retention of the state executive officers on the new board avoided a complete break with the past; but this advantage was overbalanced by the disadvantages of ex officio members. The Indiana plan has been followed in some other states and nowhere have the results been improved thereby. In 1907 a third appointive member was substituted for the governor.[1] This change gave a majority to the appointive members, supposedly the experts on taxation, but the ruts of customary procedure had by this time worn too deep to permit of radical departure from the former practices and general attitude toward the problem. The first indications of a break with the reactionary attitude so long characteristic of the Indiana board have come only with the complete change of personnel since 1910.

EQUALIZATION

The possibilities of equalization have remained almost undeveloped in Indiana. The direct descent of the board of tax commissioners from the earlier board of equalization insured a certain continuity of practice; the statutory limitations have always compelled the use of superficial and mechanical methods of equalization; and thus environment has finished what heredity began. The board of tax commissioners is required to hold three sessions annually.[2] The first session is for the assessment of the public utilities and may last fifty days. The second session must close in twelve days and in this time the board must hear appeals from the public utilities and consider, for not more than five days, the general property tax returns from the counties. The third

[1] *Laws of Indiana*, 1907, ch. 93.

[2] *Tax Laws of Indiana*, ed. of 1912, pp. 144–146, 154.

session is given over to appeals and applications for revision of assessment and the equalization of general property assessments. The business of this session must be completed in fifteen days, though an extension to twenty days is allowed in the years in which real estate is to be equalized. A further special extension of not more than ten days in any one year is authorized provided the press of business to be transacted requires it.

The time that may be given to equalization consists, therefore, of the five days of the second session and such part of the third session as may be devoted to that purpose. When it is remembered that the final session must afford opportunity for all of the appeals which may be carried by individuals to the board, the prescribed limits of this session, even with the optional extensions, appear entirely too short for the careful investigation of local assessments. The board has sometimes realized this fact and has occasionally recommended an extension;[1] but it has expressed no deep-seated conviction of the futility of equalizations so conducted. On the contrary, it has been disposed at times to regard the results with considerable satisfaction, as in the following comment upon the real estate revaluation of 1899:[2]

> The township assessors and the county boards of review were so thorough and exacting in their work, and so accurate and judicious in their valuation, that when such valuations were certified to this board and compiled, it was found that few changes were necessary.

Again, in 1903, real property was said to have been put on the duplicate at a "fair cash value."[3] The county assessors were told in 1914 that Indiana had the best tax law and was getting the best results in assessment, of any state in the Union.[4] The utterly inadequate figures published by the board make it impossible to examine these claims, especially as to the assessment of personal property, for which no figures are published except the county aggregates. Such tests as are possible, however, point to the conclusion that a considerable degree of inequality still prevails in the local assessments.

[1] State Board of Tax Commissioners, *Report*, 1903, p. 7; *ibid.*, 1907, p. 7.
[2] *Ibid.*, 1901, p. 6. [3] *Ibid.*, 1903, p. 5.
[4] *Proceedings of Annual Convention of County Assessors*, 1914, pp. 39, 40. *Remarks of Commissioner Link.*

The first test is a comparison of the 13th Census valuation of farm lands and the improvements thereon, with the assessed valuation of lands and improvements. It is conceded, nay emphasized, that such a comparison is valid only in a general way inasmuch as there are possible discrepancies in the quantities of property included in the two enumerations; in the definition of the term "improvements"; and also on account of the different frame of mind induced in the owners of property by the census enumerator and the tax assessor. However, with all due allowance, it is believed that the ratio of assessed to census valuation of substantially the same property, within a reasonably close period, will be of value as a test of the equality of assessments. The table below is based upon a comparison of the assessed valuation of each county for each of the years 1909, 1910, and 1911 with the census valuation of 1910. The local figures for 1909 and 1910 were based on the reassessment of real estate in 1907 modified annually by the variations in the assessment of improvements. A new quadrennial appraisal of real property was made in 1911.

NUMBER OF COUNTIES ASSESSED AT GIVEN PERCENTAGES OF CENSUS VALUE[1]

Percentage groups	Number of Counties in 1909	1910	1911
26 to 29.9	1	2	..
30 " 34.9	13	11	6
35 " 39.9	22	20	15
40 " 44.9	25	27	30
45 " 49.9	21	21	26
50 " 54.9	6	7	8
55 " 59.9	3	1	5
60 and over	0	1	3

The ratio of the total assessment of lands and improvements for the entire state to the total census valuation of farm lands was 41.8 per cent. In each of the first two years there were forty-seven counties, or one more than half of the total number,

[1] Based on figures from the report for 1909–10, and additional figures furnished by the board. Lake county was omitted in all three years because of improper returns from the county auditor; Orange county was omitted in 1909 and 1910 for the same reason.

assessed within 5 per cent of this average ratio. This number had dropped to forty-five in 1911, but the reappraisement of that year had caused a general upward shift of the ratios representing a comparison with the census figures of 1910. While about one-half of the counties are seen to have been fairly evenly assessed and equalized, the other half display a widening range of variations from the state average. For the greater number of these, the variation was not in excess of 10 per cent in either direction, and the number of counties that were at great variance was small. Viewed in this way, there appears to have been a fairly close approximation to equality in the assessment and equalization of farm lands and improvements. But it must be remembered that individual counties were ranging from less than 30 per cent to more than 60 per cent of the census valuation; and that in 1910, for instance, there were thirty-two counties which varied from each other by as much as 10 per cent to 20 per cent. So far as a judgment is permissible from the census figures, the differences do not appear to have been excessive, if only the relations between groups of counties are considered; but if account is taken of individual variations, considerable inequality of assessment prevailed in 1911.

This conclusion is supported by another comparison which has been made between the assessed valuation of all property in each county in 1910 with the census valuation of all farm property in that year. The former should exceed the latter, on a full value basis, since it includes all of the latter and in addition all of the real and personal property in the municipalities. The results of this comparison for certain counties, grouped on the basis of the 13th Census average value of farm lands, are given in the table on the following page.[1]

These figures suggest the existence, in Indiana, of a tendency so often observed in other states toward progressive undervaluation of the more valuable properties. The two groups of counties with the lowest values of farm lands show the smallest proportions in the lowest percentage groups, and the group of counties contain-

[1] Data from 13th Census, vi, and State Board of Tax Commissioners, *Report*, 1910.

ing the cheapest land in the state shows the largest number in the highest percentage group. The higher the census average value of farm lands, the greater the proportion of counties in the lower percentage groups. Of the five counties in the state having the most valuable farm lands, none is found in either of the upper two percentage groups. There would naturally be more property of all sorts in the richer counties than in the poorer ones, but these figures seem to indicate that the basis of assessment is higher in the latter; and that in so far as the distribution of the state tax is concerned, the poorer counties are discriminated

NUMBER OF COUNTIES IN EACH PERCENTAGE GROUP—PERCENTAGES SHOWING RELATION OF ASSESSED VALUATION OF ALL PROPERTY, 1910, TO CENSUS VALUATION OF ALL FARM PROPERTY, 1910

Percentage groups	I 12 Southern counties, average value, farms, $10–25 per acre	II 10 Northern counties, average value, farms, $50–75 per acre	III 20 Middle counties, average value, farms, $75–100 per acre	IV 5 Middle counties, average value, farms, $100 and over per acre
45– 64.9	2	2	6	4
65– 84.9	6	4	9	1
85–104.9	1	2	3	..
105 and over	3	2	2	..

against. In 1911 the state tax amounted to almost $6,500,000, and in 1913 it was $6,378,000.[1] The situation has not been improved since 1911. The complete results of the reassessment of real estate in 1915 are not yet available, but the general opinion, freely expressed at the state conferences in 1914, was that assessments were still quite unequal.[2] It is very doubtful if the general revaluation of 1915 accomplished any radical change in the situation.

The conclusions which have been stated above have been sustained by the data recently published by the Special Commission on Taxation. The statistical portion of this commission's report consists of bare tables without explanation of the methods em-

[1] State Board of Tax Commissioners, 1912, p. 27; *ibid.*, 1914, p. 22.

[2] Cf. especially, address of Commissioner Wolcott, *Proceedings of Second Conference on Taxation*, pp. 59–66.

ployed in collecting and testing the material contained in them. Perhaps the most significant figures are those given below:[1]

RATIO OF ASSESSED TO TRUE VALUE OF LAND AND LOTS BY GROUPS

Value of property, classified by amount	Lands No. sales	Per cent	Lots No. sales	Per cent	Lands and lots, Per cent
Total	3,102	35.16	5,672	41.00	37.79
Under $500	412	52.36	1,422	46.04	47.49
$500– 1,000	403	46.90	1,178	46.28	46.44
1,000– 2,500	815	42.40	1,883	43.11	42.89
2,500– 5,000	672	36.40	833	40.14	38.44
5,000– 10,000	472	35.94	262	39.27	37.08
10,000– 25,000	287	32.43	74	40.39	33.99
25,000– 50,000	34	29.44	13	37.56	31.83
50,000–100,000	7	29.04	5	24.00	26.81
Over 100,000	....	....	2	44.50	44.50

These figures give the ratios of assessed to true value of the land and lots in thirty-six counties in which sales data were collected for the special commission on taxation. Because of the uncertainty as to the methods employed in collecting and interpreting the sales data and also because of the small number of transactions in some of the property groups, these figures are offered simply as additional testimony of the condition of assessments in Indiana at the present time. Assuming their reliability, they confirm the conclusion that has been quite generally reached as to the progressive undervaluation of the more valuable properties. Other figures published in the report of the special commission indicate a wide range of variation in the average county ratios, that is, a considerable inequality in the local assessments. Though disagreeing in some of their conclusions and recommendations, all members of the special commission were fully convinced that property was listed at present in Indiana at greatly different percentages of full value in the different tax districts.[2]

[1] *Report of the Special Commission on Taxation*, 1916, p. 247.

[2] *Reports of Majority and Minority of the Special Commission on Taxation*, 1916, pp. v, vi, xv, xxix. This report is reviewed in *National Tax Bulletin*, II, pp. 125–132.

A very considerable inequality exists, also, among the various classes of personal property and between personalty and realty. In 1912 the board inaugurated the policy of offering a reduction of 25 per cent from personal property assessments in equalization, with a view to securing fuller assessment of personalty.[1] This appeal to the great American instinct for a good bargain was measurably successful in increasing the aggregate equalized valuation of personal property. It could not have greatly promoted equality of assessments for it left the assessing officials strictly on the defensive with a decided advantage still on the side of the taxpayer.

The special commission on taxation published but little material relative to personal property assessments.[2] The report of the Real Estate Dealers' Association, covering a canvass of such dealers over the state, disclosed very diverse estimates of the percentage of full value attained in assessing various classes of property. All were agreed, however, that only a very small proportion of the taxable intangible property reached the duplicate.[3] Tangibles were estimated to be assessed all the way from 10 per cent to 100 per cent, with a general average of all estimates of 55.97 per cent for the state. One of the best assessed groups of tangible personalty in every state is live stock. Data compiled by the special commission revealed a very serious condition of omission of live stock and of undervaluation of that portion of such property actually listed for taxation. The results of this comparison for 1916 are given below.[4] Similar data were compiled for the two preceding years, and they indicate a steady decline at

[1] *Proceedings of the Conference of County Assessors*, 1912, pp. 29, 30.

[2] *Report of the Special Commission on Taxation*, 1916, pp. 396–406.

[3] *Ibid.*, pp. 231–236.

[4] The following figures present a comparison of equalized values with the federal returns of true numbers and values of certain classes of farm animals, for the year 1916:

Class of animals	Percentage of assessed value to federal returns of true value	Percentage of number assessed to federal returns
Horses and mules	41.35	59.35
Cattle	43.62	69.64
Hogs	28.30	37.99
Sheep and goats	21.22	27.16

Report of the Special Commission on Taxation, pp. 404, 406.

practically every point. The assessment of live stock has been clearly degenerating in recent years.

We turn now to an examination of the reasons for this rather complete failure of the state equalization in Indiana. The first reason is the absence of sufficient data. The law should allow more time for equalization and should make more ample provision for the compilation of data of values. The board has never had adequate office equipment, clerical or otherwise, for the collection of information relative to values and assessments. A personal observation of the materials and methods used in the equalization of 1910 confirms the conclusion of its perfunctory character. Absolutely no data had been collected concerning relative land values. The only figures relative to the assessment of personal property were the average values of certain classes. The state board merely " checks up on the assessments by consideration of the average valuations as reported from the counties."[1] Average values of farm animals may serve some purpose, and the board was able to show, in this case, that greater equality was obtained in 1914 than in 1913.[2] But average values alone can be of almost no service in equalizing many classes of personal property, including all forms of intangible property. The impression gained by the present writer from a personal inspection of the materials was that the whole process of equalization among counties in 1911 had been one of the roughest guesswork, of which only the crudest and most fragmentary records remained.[3]

A second reason, operative only in recent years, has been the restriction of the board's authority by the courts. The law provides that counties shall be equalized by adding to or deducting from the aggregate valuation of the lands, town and city lots, and personal property such percentages as shall reduce the same to its proper value.[4] For twenty years the board understood that it had power to equalize each of these classes separately, but in

[1] *Personal Letter from Commissioner D. M. Link*, May 2, 1912.

[2] State Board of Tax Commissioners, *Report*, 1914, p. 10.

[3] A personal visit was made to Indianapolis in February, 1911, and subsequent visits have been made at different times.

[4] *Tax Laws of Indiana*, 1912, § 191.

1911 the courts held such a method invalid.[1] During the years in which the board's construction prevailed, so little use was made of the privilege of equalizing by classes that no objection was raised. The courts interdicted this method only as it began to be more energetically applied. In 1912 the board pointed out the obvious injustice which would result from any vigorous equalization under this restriction (*i. e.*, the increase or decrease of the county as a whole) and defended its failure to take action on personal property in the resolution given below.[2]

While this course was probably the wisest possible under the circumstances, its evident weakness emphasizes the importance of adequate authority for the control of assessments. Moreover, the resolution suggests a third reason for the failure to develop more effective methods. This is the feeling — which has apparently prevailed during the greater part of the board's existence — that the work of the local assessors, under such supervision as has been given, has required little scrutiny and less change, in order to attain justice. Such an attitude has rendered the board indifferent, if not blind, to the weaknesses of the law and the need for better methods of procedure.[3] This point of view was in part the

[1] *Bell* v. *Meeker*, 39 *Ind. App.* 224. *Gray* v. *Foster*, 46 *Ind. App.* 149. Also, *Proceedings of the Conference of County Assessors*, 1911, p. 40.

[2] The following resolution was adopted in 1912: "*Be it Resolved*, That while there are apparent discrepancies in the assessment of certain classes of personal property in the various counties of the state, we are of the opinion that such discrepancies do not work such an injustice between the counties as requires the action of this Board.

"Our action upon the subject of equalizing the assessments of the counties is, by statute, confined to the raising or lowering of the assessment of all the personal property of one or more of the counties. Nine-tenths of the taxes raised in each county is consumed in the county, and the important thing in the matter of equalization is to have equal assessments within the county. If we should raise or lower the assessment in any county we would probably do more in justice between the taxpayers of that county than we would gain in the attempt to equalize between the counties. Be it further

"*Resolved*, That as each county has represented that the people of the county are satisfied with the local assessment made this year, we deem it to be our duty to let the local assessment of personal property stand as made by the local authorities." State Board of Tax Commissioners, *Proceedings*, 1912, pp. 370, 371. In 1913, 25 counties were raised, but, in 1914 only one increase was made. State Board of Tax Commissioners, *Report*, 1914, pp. 10, 11.

[3] The report for 1912 contained the first recommendations of any importance for changes in the tax law that have ever been made. Cf. *Report*, 1912, pp. 10–16.

product of the comparatively successful results of the first years of centralized administration. The new administrative machinery, with all of its imperfections, was so vastly superior to the former decentralized organization that material gains were made in the assessment of property.[1] In its earlier years the board emphasized the escape of personal property and the unequal basis of assessment; and in 1894 it called the first convention of county assessors to promote better assessments.[2] But by the end of the first decade the tone of its discussions had distinctly shifted and in 1901 it asserted that "all tangible property is assessed, and has been for years, at its cash value."[3] At the conference of the county assessors in 1914 a member of the board declared that the assessors were getting a greater per cent of intangible property upon the tax duplicate in Indiana than in any other state.[4] And in 1914 the aggregate assessment of personalty fell below that of 1913 by almost $5,000,000.[5] During the years in which the Indiana system was unique the officials fell into a boastful way of characterizing the Indiana tax law as the best in the Union. In so far as reference was had to the new system of supervision, there was some foundation for this elation. The ancient habit persists and crops out in family gatherings like the assessors' conventions but it denotes today simply inexcusable ignorance of conditions both at home and abroad. Happily, there are some signs that this point of view is passing. In 1912 doubt was expressed as to the possibility of successful administration of the general property tax. This is the first intimation to be found in the published reports that the general property tax is

[1] See figures below, p. 181.

[2] State Board of Tax Commissioners, *Report*, 1895, pp. 5, 7.

[3] *Ibid.*, 1901, p. 9. Sentiments like these were not confined to members of the Board. The attorney-general, in addressing the county assessors in 1900, said:

"I believe there is less tax-dodging in Indiana than in any state in the Union. People in Indiana are generally assessed for as much as they ought to be, and after the money is collected, I believe it will be more economically managed than are the finances of any other state, without any exception."

Proceedings of the Conference of County Assessors, 1900, p. 36. Cf. *ibid.*, 1914, for expressions of similar views by various speakers.

[4] *Remarks of Commissioner D. M. Link, ibid.*, 1914, p. 40. Cf. his remarks along the same line at National Tax Conference, 1912, *Proceedings*, p. 104.

[5] State Board of Tax Commissioners, *Report*, 1914, p. 12.

not the last word in tax systems. Two state tax conferences were held in 1914, in which the tax commissioners took active part. There was general agreement as to the failure of the tax system, but opinion has not yet crystallized on the proper lines of reform.

The Commission on Taxation, which reported in 1916, was unfortunately unable to present a unanimous recommendation on the reforms to be proposed. The majority report was reactionary and inclined to the view that the general property tax was as good as any other tax system; and that the only difficulty lay in the defective administration under the board of tax commissioners. They proposed a reorganization of this body with provision for more extensive powers of control over the administration of the tax system. The minority reports, and especially the one by Dr. W. A. Rawles, held out for a constitutional amendment and a thoroughgoing revision of the tax system as well as for the administrative reforms.[1] This regrettable division of the commission will probably delay any significant action upon the subject.

A fourth important reason for the failure to develop a more effective system of dealing with the inequalities of local taxation, and possibly for the failure to perceive and attack the weaknesses of the existing tax system, is to be found in the unprogressive personnel of the board during the greater part of its history. The spoils system does not conduce to official efficiency and appointments to the board have too often been made on account of political considerations. Such members have too often acted with a view to political rather than equitable results. Mr. Dunn declared that the first board reduced his railroad valuations 30 per cent on the ground that acceptance of the full figures meant political suicide.[2] The statement of Governor Hanly as he announced the reappointment of one member indicated the character of the considerations upon which such appointments were too often made:[3]

[1] *Report of the Commission on Taxation*, 1916, pp. v–xxxvii.

[2] J. P. Dunn, *Remarks at the First State Conference on Taxation*, *Proceedings*, 1914, pp. 32–44.

[3] *Proceedings of the Conference of County Assessors*, 1906, p. 5.

When I assumed the duties of my present position, I expected to appoint someone to succeed Mr. Martin. He was serving at the time under a second appointment. There were then and there are now many good and capable democrats in Indiana out of public office. All of them were and are willing to serve the state in any position of trust or profit, but the only opportunity they have had in recent years lies in the appointing power under statutes requiring minority membership on certain boards and commissions.

The governor added that the friends of Mr. Martin had been so earnest, zealous and persistent that he had consented to his reappointment. The only saving feature of the situation, if such there were at all, was in the possibility that two terms had given the incumbent some fitness for the position over an untried candidate, even though the ranks of the good democrats out of office were full. Such fitness as was possessed, or had been acquired during the two terms, was saved for the service of the state, however, not on account of any appreciation of its value which the governor might have felt; on the contrary, the sheer pressure of political friends forced a change in the governor's plans.[1]

Administration of Corporation Taxes

The history of corporate taxation, in Indiana, from the administrative standpoint, may be divided into two periods, with the year 1872 as the division point. The earlier period was marked by a great variety of experiments in all of which local administration was an essential feature. In 1859 the assessors of the counties through which each line of railroad passed were constituted a board of railroad appraisers for that road.[2] The state board of equalization decided in this year that its authority did not extend to railroad assessments, which were in consequence

[1] Cf. *Majority Report of the Commission on Taxation*, of which Mr. Dunn was a member, and especially the following language:

"The fault in Indiana has been primarily with the Governors of the State. The law of 1891 required that two (later three) members of the State Board should be 'experts in taxation.' There has never been a tax expert appointed to the Board since it was created. The law makes it the especial duty of this Board to see that the law is enforced but the law has not been enforced. The common excuse made by members of the Board for failure to assess property at true value, as required by law, is that it is their duty to 'equalize,' and that their attention has been given to that." *Report*, p. v.

[2] *Laws of Indiana*, 1859, ch. 1, § 6.

left without equalization of any sort. Six years later the board was authorized to hear appeals from the railroads and grant them relief; but the state could not appeal to the board, nor could the latter increase the assessment of any road.[1]

The principal changes made by the revision of the tax law in 1872 were the reorganization of the board of equalization and the introduction of central assessment of corporations. Previous to 1872 the board of equalization had been composed of one member from each congressional district; it was now to consist of the governor, lieutenant governor, secretary, auditor, and treasurer of state. Railroad and telegraph companies were to be assessed by the new board, which was also to determine the corporate excess of private companies. The framework of this plan of railroad taxation has endured to the present. Railroad property was to be returned in four main classes: "Railroad track"; "other real estate"; "rolling stock"; and "other personal property." The state board assessed all of the tangible property except the second class, which remained in the jurisdiction of the local assessors. Intangible elements of value were to be valued by deducting from the fair cash value of the capital stock the assessed valuation of tangible property.[2] The valuations of property and capital stock were to be apportioned to the tax districts on the mileage basis.

Telegraph companies were required to furnish a statement of their capital stock and of their mileage in the state. The office furniture and other personal property of these companies were to be listed and assessed where located, by the local assessors. The capital stock was to be valued by the state board of equalization and apportioned to the tax districts on the basis of the miles of line in each district.

All domestic corporations of every sort were to deliver annually to the county assessors a statement covering stock and bond issues and assessed valuation of tangible property. The state board was to value the capital stock and deduct the assessment of tangible property. Because of the difficulty of obtaining returns

[1] *Laws of Indiana*, 1865–66, Special Session, ch. 27, § 5.
[2] *Laws of Indiana*, 1872, ch. 37.

from small local companies the assessment of the capital stock of private corporations was transferred to the county boards of equalization in 1877.[1]

The development of the system of corporation taxes was pushed further in 1873 by the imposition of taxes upon the gross receipts of foreign insurance companies and on the gross receipts of both foreign and domestic express and sleeping car companies.[2] Foreign telegraph and telephone companies were subjected to a similar tax in 1881.[3] These taxes were held invalid [4] and in 1889 the ground of attack was shifted by imposing excise taxes on the privilege of doing business within the state.[5] Following the reorganization of the tax system in 1891 the gross receipts taxes were gradually abandoned for the ad valorem method, administered by the state board of tax commissioners. Railroad companies were taxed by this board from the beginning; express, sleeping car, telegraph and telephone companies were added in 1893;[6] and pipe line companies in 1901.[7] In this year also the term "railroad" was extended to include street and interurban lines.[8] The only corporations subject to the gross earnings tax at the present time are foreign insurance companies and domestic navigation companies.

Railroad Taxation since 1891

The change in the administration of railroad taxes in 1891 wrought little modification of the system itself, which remained, with one exception, substantially as adopted in 1872. The provisions for the taxation of corporate excess were omitted, by

[1] *Laws of Indiana*, 1877, ch. 89.

[2] *Ibid.*, 1873, ch. 93.

[3] *Revised Statutes of Indiana*, 1881, §§ 6353, 6354.

[4] *Wolf* v. *Pullman Palace Car Co.*, 16 *Fed. Rep.* 193; *State* v. *Woodruff Sleeping and Parlor Coach Co.*, 114 *Ind. Rep.* 155.

[5] *Laws of Indiana*, 1889, chs. 133, 215, 220.

[6] *Ibid.*, 1893, ch. 171.

[7] *Ibid.*, 1901, ch. 81. This transfer eliminated the taxation of franchises or corporate excess of these companies. The cities are interested in the abolition of state assessment in order to tax these elements once more. Cf. *Proceedings of the Second State Tax Conference*, 1914, pp. 170–172.

[8] *Laws of Indiana*, 1901, ch. 56.

which it might be inferred that intangible elements were no longer to be included in the railroad valuation. The statutory machinery for the collection of the data of values was left in the crude and indirect form established in 1872. All of the corporations centrally assessed make their returns to the state auditor, who presents them to the board for the actual assessment. The latter is not restricted to the material obtained through the auditor, but the very fact that it is not directly concerned with the collection of the data upon which the assessment is made tends to discourage resort to wider sources of information. Furthermore, the nature of the data used relative to the value of railroad property emphasizes a piecemeal rather than a unit valuation. The four main classes were retained from the law of 1872, and detailed reports were required on each of these classes; but with no consideration given to the intangible elements of value it is doubtful if the physical properties are properly valued as a profit-producing whole. The following specific facts are to be reported to the state auditor:[1]

1. The number of ties per mile, the weight of rail per yard used in main and side tracks, what joints and chairs are used in tracks, the ballasting of road, whether gravelled, stone or dirt, the number and quality of buildings and other structures on "railroad track," the length of time iron or steel in track has been used, and the length of time the road has been built.
2. A statement showing:
   (*a*) the authorized capital stock and the number of shares.
   (*b*) the amount of paid-up capital stock.
   (*c*) the market value, or if no market value, then the actual value of the shares of stock.
   (*d*) the total indebtedness except for current expenses of operation.
   (*e*) the total assessed valuation of all tangible property in the state.

The personal property other than rolling stock is to be locally assessed in the district of location on March 1. It will be noticed that the reports to be made do not include any information regarding income, expenses, net earnings, amounts distributed as dividends or reinvested in the business, or carried as reserves. The auditor is empowered to call for any additional information that the board may desire, and the schedules sent out do provide

[1] *Tax Laws of Indiana*, ed. of 1912, pp. 105, 106.

for a very brief summary of the gross and net earnings and operating expenses. The chief emphasis in the schedules is laid, however, on the detailed facts concerning the tangible property.

The earlier reports of the state board contain but little information concerning the methods followed in the valuation of railroads. In 1891 this general statement was made:[1]

> In arriving at the basis for the estimate of said values, the Board has considered the cost of construction and equipment of said roads, the market value of the stocks and bonds, and the gross and net earnings of said roads, and all other matters appertaining thereto which would assist the Board in arriving at a true cash value of the same.

There is nothing extant, however, to indicate the relative importance assigned to any of these factors, or to the generous blanket provision of "all other matters pertaining thereto." In one of the numerous cases in which the validity of the act was attacked, the board repeated the above account of its methods;[2] but the court held that it "could not consider or review the question as to what evidence the board had acted upon in arriving at the valuation assessed." The board testified that no element of franchise value had been included in the valuation. Indeed, any attempt to assess the franchise as such would quite probably have been illegal under the new law. This has left the board in a rather unfortunate situation. It may not include franchise value or corporate excess; it is therefore prevented from capitalizing the net earnings from business properly accreditable to Indiana. It has no means of knowing accurately the cost of the physical property in its present condition, since it has never made a physical survey of railroad property. Yet it must value the latter apart from any consideration of its earning power when used as a railroad. One member of the board has recently stated to the writer that most prominence is given to the gross earnings, with such concessions as the various railroad representatives may be able to obtain by personal appeals to the board.[3] An arbitrary rating of a certain valuation per mile was given to the railroads some years

[1] State Board of Tax Commissioners, *Report*, 1891, p. 218.

[2] *Railway Company* v. *Backus*, 133 *Ind.* 625; 154 *U. S.* 412, 429.

[3] *Interview with Commissioner D. M. Link*, September, 1912.

ago and this estimate has been periodically revised according to the showing that the roads have been able to make.

The results of railroad assessment may be briefly noticed. Below are given the figures for certain years under the former state board of equalization, together with comparative figures showing the growth of assessments since 1891:

ASSESSMENT OF RAILROAD PROPERTY IN INDIANA[1] (MILLIONS)

By State Board of Equalization		By State Board of Tax Commissioners		
Year	Steam R.R.	Year	Steam R.R.	Street R.R.
1880.....	$38.4	1904.....	$165.8	$13.4
1885.....	55.0	1906.....	183.7	20.6
1890.....	66.2	1908.....	197.9	21.7
		1910.....	196.9	22.4
By State Board of Tax Commissioners		1912.....	204.5	24.7
1891.....	161.0	1914.....	208.9	27.2
1893.....	159.4			
1896.....	154.8			
1899.....	153.9			

The most interesting revelation in these figures is the great advance that was made in 1891 by the new board of tax commissioners. There had always been difficulty in securing a proper railroad assessment and popular dissatisfaction was strong, though it is impossible to say whether the railroads or the mass of citizens were really being favored. The increase of almost $100,000,000 did not bring the railroad assessment to full value, according to Mr. J. P. Dunn, who assisted in making the first valuation.[2] The board of tax commissioners reduced Mr. Dunn's figures 30 per cent, with an additional decrease for Marion county, on the ground that other property was assessed at only 70 per cent of full value. The new law had given ample authority to raise other property to full value in the process of equalization, but according to Mr. Dunn this alternative was rejected as "political suicide." At the very outset, therefore, the board established the precedent of violating the new legal standard of assessment.

[1] Compiled from the biennial reports of the board.

[2] Cf. Address of J. P. Dunn at First State Tax Conference, Feb., 1914, *Proceedings*, pp. 33–40.

The assessments declined through the nineties but by 1904 they had recovered the ground lost, a very slow recovery in view of the remarkable business prosperity since 1898. In 1904 the Census Bureau valued the operating property of Indiana railroads at $375,541,000, and on this basis the state board was assessing at 44.1 per cent of full value. Some concession was natural and proper after the panics of 1893 and 1907; but in the earlier case the decline in assessments began in 1892, and therefore in advance of the severe business depression, and in the second case the reductions were not begun until the second year after the panic. The dependence upon gross earnings as the chief factor in valuations would cause the assessment to lag behind the actual movement of earnings, and this appears to have been the case after 1907. In view of the close adherence to this criterion of value it might be worth while to abandon the ad valorem assessment for a regular tax on gross earnings. The board does not secure, with its present methods, an accurate assessment of the physical property and the legislature would probably be unwilling to provide the extension of staff and equipment to permit such a valuation.

The low level of railroad assessments in Indiana is emphasized by a comparison of the average values per mile placed on certain roads which traverse both Indiana and Ohio:

ASSESSED VALUATION PER MILE IN INDIANA AND OHIO[1]

Railroad Company	By Indiana Board 1912	By Ohio Tax Commission 1912
B. and O. S. W.	$29,327	$69,953
C. C. C. and St. L.	42,036	60,183
L. S. and M. S.	92,439	134,693
Pitts. Ft. W. and Chic.	93,536	210,995
P. C. C. and St. L.	43,379	111,833

These averages were obtained by dividing the miles of main line into the total assessment of the road. Even after recognizing that the assessment of an interstate road in one state is not a certain index of the value of that portion of the road located in another

[1] Based on figures in the *Reports* of the Indiana and Ohio Tax Commissions, 1912.

state, the comparison is not flattering to the Indiana board which in every case has fallen far below the level set by its more recently established neighbor. The Ohio valuations have been accepted by the railroads without contest, which is *prima facie* evidence that they do not consider the figures excessive. It follows, therefore, that the Indiana results are considerably below full value.

The most important question — the relation of the railroad assessments to those of other property in the state — cannot be answered. It is very much more important that there be equality of this sort than that any class of property be assessed at full value. There is general recognition of the fact that all property is underassessed, but it is impossible to say which classes have fallen farthest from the legal standard. The fact of a variation from the legal basis is presumptive evidence of inequality in the degrees of variation, however, since there is no uniform percentage of assessed to true value used by the local officials and therefore little probability of equality between the assessments of railroad and other property.

The Assessment of Other Public Service Corporations[1]

The method of valuing the property of the other public service corporations which are centrally assessed differs radically from that used for the railroads. This method may be summarized as follows:[2]

1. Determine the actual cash value of the property by deducting the value of the real estate not used in the business from the combined actual cash value of capital stock and bonded indebtedness.
2. Apportion to Indiana that part of the total which the mileage in the state bears to the total mileage of the system.
3. From the Indiana valuation deduct the assessed value of real estate, machinery and other property locally assessed; apportion the remainder to the tax districts on a mileage basis.

This really amounts to a state assessment of the corporate excess or franchise value, a proceeding that is now forbidden in the case of railroads. The only point involving the use of discretion is the

[1] Includes telegraph, telephone, palace car, sleeping car, fast freight companies, dining car, and express companies.

[2] *Tax Laws of Indiana*, 1912, § 93.

valuation of the securities. The board is authorized to consider the market value of the stocks, the dividends paid, and all other circumstances in relation to the actual value of the stocks. The chief reliance for this information is placed, however, upon the statements made by the companies themselves.

The law of 1891 was attacked by the express companies and the railroads, but both state and federal courts sustained the measure. Defeated here, the express companies sought another means of overthrowing the real purpose of the act, and in 1899 they advanced the contention that in the apportionment of their total valuation among various states on the mileage basis all of the ocean and foreign mileage should be included. By this means the express companies had been able to evade a considerable amount of taxes in Michigan for ten years, until the law was amended in 1909;[1] but such evasion apparently continues in Indiana, for a similar recommendation of that board in 1899 has not yet been enacted into law.[2]

The results of central assessment have been fairly satisfactory; there are, however, some vagaries which are difficult of explanation. These may be indicated, and the general course of the valuations shown, in the table below, which presents the figures since 1904:[3]

ASSESSMENTS OF PUBLIC SERVICE CORPORATIONS (EXCEPT RAILROADS) (MILLIONS)

Class of Corporation	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914
Telephone.....	$7.3	$7.9	$8.9	$10.8	$10.6	$10.1	$11.1	$12.3	$13.4	$14.8	$15.8
Pipe line.....	6.4	4.6	5.2	7.8	9.8	10.4	10.8	10.5	10.2	10.2	10.8
Telegraph.....	1.88	2.25	3.17	3.32	1.47	2.62	2.88	3.19	3.31	3.31	3.33
Express.....	1.14	1.07	10.3	.98	.55	.70	1.73	1.33	1.38	1.22	.82
Sleeping car.....	.38	.73	.56	.86	.86	.87	1.03	1.19	1.23	1.31	1.35
Transportation companies.....	.32	.48	.58	.66	.62	.66	.89	1.12	1.26	1.56	1.61

The figures for telephone, sleeping car and transportation companies show a slow but steady increase over the period here

[1] Cf. below, ch. 9.

[2] Board of Tax Commissioners, *Report*, 1899, pp. 3, 4.

[3] From the biennial reports of the Board.

covered. In 1908–10 there was a slight reaction all along the line, due doubtless to the panic of 1907 and resultant depression. The pipe line companies were apparently unaffected by the panic, which makes it the more difficult to explain the decline in these figures in the relatively prosperous years 1905–06. Reference to panic conditions fails to account for the excessive decline, after 1907, of the assessments of telegraph and express companies. For the former no adequate explanation appears; and the only suggestion in the case of the latter is that of the varying amounts of ocean mileage that have been included in different years. The erratic character of the assessments may be further illustrated by the average valuations per mile placed upon certain important individual companies. These figures since 1907 are given in the table below:[1]

ASSESSED VALUATION PER MILE OF LINE OPERATED IN INDIANA

Name of company	1907	1908	1909	1910	1911	1912	1913	1914
Western Union	$59	$21	$44	$50	$55	$55	$55	$55
Adams Express	387	163	...	...	315	315	275	185
National Express	95	50	50	336	175	175	150	100

The sudden and extreme variations which are here shown are not explicable by any known principles of corporate valuation unless the board was influenced in an unusual degree by speculative considerations. There is no evidence that the board has undertaken to collect data to check up the corporation returns, which confirms the suspicion that the assessments have been in large measure self-made. The wholesale reductions that have been allowed the express companies in the last few years have been in recognition of the effects of the parcels post upon their earnings.

Much of the advantage from centralized assessment of these corporations has been lost in Indiana as in some other states by the attempt to apportion the taxes to local tax districts. The diffusion of the tax throughout the state wherever is found a mile

[1] Compiled from the Proceedings of the State Board of Tax Commissioners.

of wire, or of pipe line, or of trackage over which business is done largely neutralizes the taxes paid. A useless expense of certification and collection is involved in the payment of tax bills in hundreds of tax districts. In 1912 the Indiana Pipe Line Company and the Ohio Oil Company each paid on valuations in 113 tax districts; in the latter case the amounts of valuation certified were less than $500 in 59 instances, while in the former, 15 certifications were for less than that sum. Such small driblets of taxable values have no effect on local tax rates. If the total tax were turned into the state treasury the rate of state tax might be reduced and a real benefit would thus accrue to the local districts.

Supervision of the Local Officials

The functions of state equalization and corporate assessment had been exercised by central boards for many years previous to 1891 in many states. The creation of a new board in which was vested these duties was not therefore a radical innovation; but to bestow upon that administrative body general supervision over the tax system was to strike out into a hitherto untravelled road. The Indiana legislature was here making history instead of merely repeating it. The achievements of some of the tax commissions in equalization and corporate assessment have been of great value; but their most notable and important work, while the general property tax endures, will be their influence upon the local assessing officials.

While the theory of the Indiana law was epoch-making, the lack of experience and precedent prevented the development of the agencies for proper supervisory control of the local officials. In reality, the board was given only the power of advisory supervision. It was to hear appeals; to prescribe forms and blanks; and the members were to visit the counties periodically for personal inspection of the work of the assessors.

The only opportunity to correct the inequalities of local assessment and equalization, aside from such influences as may be expected through the equalization, by counties, is through the adjudication of the appeals which may be brought to it by any taxpayer or by any assessor or member of a town or county board

of review. Appeals must be heard and passed upon during the last of the three annual sessions; but the absurd statutory limitation upon the duration of this session greatly lessens the usefulness of the right of appeal, since the larger the number the more hasty and superficial must be the treatment of each case. The board may reassess the property in controversy, but its action is limited to this property. It should have the authority to reassess an entire district, either upon appeal or upon its own motion, whenever the facts seem to warrant such action. The exercise of this power in Wisconsin, Michigan, and Minnesota has been of great significance in securing closer approximation to equality of assessments.

In the absence of the necessary direct control over the local assessments, the board is compelled to rely upon the work and influence of the county assessor, a new administrative agent created in 1891. This official is really a county supervisor of assessments and should be under the control of the state board. Instead, the Indiana county assessor is elected locally and the board possesses only an advisory influence over him. Much has depended, therefore, upon the extent to which the state board has been able to stimulate and inspire the county assessors to a high conception of their duties and responsibilities. The powers actually possessed by the county assessors were not sufficiently broad to secure the best results but they sufficed to introduce, temporarily at least, a revolution in the process of assessment and to make the county assessor in many respects the most important administrative agent in the whole tax system. The principal powers and duties of these officials were the following:[1]

1. To assess omitted property, and especially to search out the hidden intangible property. For this purpose the county assessor may exercise all of the rights and powers given by law to the township assessor for the examination of persons and property. Omitted property may be listed at any time during the year, whenever the same may be discovered.
2. To advise and instruct all township assessors, visiting each assessor for this purpose during the assessment season.
3. To act as a member of the county board of review.

[1] *Tax Laws of Indiana*, 1912, Article 15.

If the county assessor be industrious and able he can do much to discover evasion, though his authority over undervaluation is confined to his possible influence with the local assessors and the county board of review. The advice and instructions which he may give the former will be based, in general, upon his own instructions from the state board — a fact which emphasizes the need of wise direction from above and the importance of his own position as a transmission medium for the ideas of the leaders in tax administration.

The Indiana county assessors, as a class, appear to have performed their duties in a fairly efficient manner and to them belongs much of the credit for such results as have been achieved in increasing valuations. The total assessment of real estate was increased in 1891 by $244,600,000, or 44 per cent, and that of personal property by $56,900,000, or 24 per cent.[1] The nature of the increases in personal property cannot be ascertained on account of the practice of receiving only the aggregates from the counties. The evasion of intangibles was but little affected by the administrative reform, however. An attempt to compel banks to disclose the ownership of bank deposits and securities was thwarted by the courts.[2] The exemption from state taxation which the owners of United States notes enjoyed was found to facilitate fraudulent return of moneys, and the board memorialized Congress to remove this exemption.[3] Congress responded with a law making Greenbacks taxable in the same manner as all other moneys and credits,[4] but there is no evidence that the amount of moneys actually assessed was increased thereby.

Not only was there failure to secure all of the intangible property; the assessment of tangible personalty remained quite unsatisfactory. Horses and cattle of the same grade continued to be assessed in some counties at double the amount that they were in others.[5] To remedy these defects the first convention

[1] Cf. figures below, p. 181.

[2] State Board of Tax Commissioners, *Proceedings*, 1891, pp. 21–24, 36.

[3] State Board of Tax Commissioners, *Report*, 1895, p. 4.

[4] *United States Statutes at large*, xxviii, p. 278. Approved Aug. 13, 1894.

[5] State Board of Tax Commissioners, *Report*, 1895, p. 7.

of county assessors was called in 1894, and the board expressed the belief that there resulted a less inequitable assessment of personal property than ever before;[1] but as has been shown by other admissions of that body, it is doubtful if the assessment of intangibles had been greatly improved. A second conference of the county assessors was called in 1898, and since that time the sessions have been held annually, having been authorized by the legislature in 1901.[2] These conventions have undoubtedly been of great assistance in promoting among the county officials uniformity of standards as well as enthusiasm for the work; and they have, without question, contributed to the better assessment of property though again the state board has been inclined to overstate the gain that has been achieved. Thus, in 1901, speaking of the gain of $23,909,806 in personalty assessment from 1898 to 1899, it said:[3]

> This increase of property of personal, and in many cases, of an intangible nature, is a noticeable and gratifying incident of the assessment of 1899. . . . To the discernment of this property the township, county and state taxing officials have directed every energy. No effort has been spared in driving it from its hiding place and placing it upon the duplicate, and the fact that they have, in a measure, been successful is a matter for congratulation.

But there is no clue to the extent to which the increase consisted of property "of an intangible nature." The exemption, in 1899, of mortgage credits to the amount of $700, but not to exceed one-half the value of the real estate security, brought forth large amounts on which the exemption was claimed.[4] By 1913 the total mortgages acknowledged and exempted amounted to $62,584,152.[5] The assessment of mortgages in 1899 was possibly increased somewhat through this law, but there is no evidence that other forms of intangible property were heavily represented. On the contrary, it is very doubtful if such was the case. Because of the nature of the reports from the county auditors, the board itself had no sure way of knowing the exact character of the

[1] State Board of Tax Commissioners, *Report*, 1895, p. 7.
[2] *Ibid.*, 1901, p. 11.
[3] *Ibid.*, pp. 8, 9.
[4] *Laws of Indiana*, 1899, ch. 190.
[5] State Board of Tax Commissioners, *Report*, 1914, p. 21.

increase, and was therefore probably guessing in hinting that a considerable part of it was of an intangible nature.

In 1914 the situation was discussed with greater frankness than ever before. It was impossible to dispute the evidence of inequality contained in the following average values from adjoining counties:[1]

AVERAGE ASSESSED VALUES IN CERTAIN ADJOINING COUNTIES

County	Implements	Household goods	Automobiles	Horses	Cattle
Daviess	$40	$30	$350	$86	$30
Knox	55	40	300	50	15
Crawford	25	20	250	60	15
Harrison	65	73	419	109	38
Jackson	68	65	252	94	36
Jennings	22	19	245	46	14
Greene	40	50	400	125	50
Sullivan	72	90	400	72	24

Wholesale evasion of intangible personal property was admitted. No further proof of this condition is required than the range of tax rates. In 1913 the average rates were as follows:[2]

AVERAGE RATES OF TAXATION, 1913

State average	$2.972 per $100
1016 townships	2.308 " "
393 towns	3.023 " "
97 cities	3.585 " "

These figures appear to establish conclusively the fact of inequality of assessment among counties. Some evidence was given above which seemed to indicate a similar inequality in land assessments.[3] But the board, in its resolution of 1912,[4] preferred to dwell on the equity of the intra-county assessments, since the tax burden is so much more important within the county.

Data for satisfactory tests of the intra-county assessments are lacking. The ratio of personal property to total assessment in

[1] State Board of Tax Commissioners, *Report*, 1914, pp. 9, 10.

[2] *Proceedings of the Second State Tax Conference*, 1914, pp. 188–191.

[3] Cf. above, pp. 154 ff.

[4] Cf. above, p. 160, note.

fifteen rural counties, no one of which contained a town of 5000 in 1910, was 38 per cent; for fifteen counties, each of which contained a city of 19,000 or over in 1910, the ratio of personalty to total assessment was 27.7 per cent. This suggests relative overassessment of personal property in rural districts, a well-known tendency due to the predominance of tangibles in those sections, as against the predominance of intangibles in the cities. Another test of the intra-county assessments is a comparison of the tax rates for township purposes in the same county. If the township assessors have been equally alert in searching out property and have used the same standards of valuation, the rates for township purposes ought to be fairly equal within the same county. At least, such extreme differences as are shown below would hardly be expected unless they were caused by wide differences in the basis of assessment.

RANGE OF TOWNSHIP RATES, 1913[1]

Some Extreme Variations

County	Range	County	Range
Allen	2–25 mills	Lake	2–40 mills
Crawford	10–60 "	Monroe	10–55 "
Delaware	2–12 "	Orange	10–50 "

Some Less Extreme Variations

Tipton	5–7 mills	Fayette	10–17 mills
Wabash	6–10 "	Ohio	14–25 "
Rush	7–12 "	Park	8–18 "

The most serious weakness in the policy of supervision followed by the Indiana board has been the excessive reliance upon the irregular and infrequent personal contact with the lower tax officials. True, the board does not possess some of the most essential powers for adequate supervision of local assessments. But it has acquired a simple and abiding faith in the local assessor which has led to laxity in the treatment of his results.[2] Conse-

[1] State Board of Tax Commissioners, *Report*, 1914. The figures used are the levies for township purposes, and do not include such matters as roads, special school districts, or any other extra township expense for which a special levy might be made.

[2] Cf. the following extract from a letter written by Commissioner Link, May 2, 1912: "The tax commission deemed that an ounce of prevention was worth a

quently, the dishonest assessor has felt himself fairly safe against detection under the easy going methods of the state board; and the incapable one, though exposed, has remained equally secure against removal. This sense of security has been strengthened by the ebbing influence of the state board during the remainder of each year. As a vital directive force this body is a reality to both assessor and taxpayer only immediately preceding and following the assessment season.

While the policy of supervision through occasional personal contact is fundamentally weak the state board should be credited with the performance, in a fairly effective way, of certain other duties which have not been without their effect upon the course of the assessments. First in importance has been the publication, from time to time, of a revised compilation of the tax laws, quite fully annotated with extracts from the leading decisions. These laws have been construed for officials and taxpayers and the former, at least, have been well instructed in the law and their duty under it. The county assessors have been meeting in annual conference since 1898, and since 1901 have been allowed mileage and *per diem* for attendance. The reports of these meetings show that in general there has been, perhaps, too little space on the programs given to carefully prepared papers, though in general the discussions have been instructive. The law requires an annual visit to each county, during which most of the local officials come in contact with the visiting member; but the latter has too often been tempted to rely upon the casual information thus obtained for the reviews and equalizations, to the neglect of more carefully prepared materials.

Potentially one of the most important duties of the state tax commission is that of making recommendations relative to changes or improvements in the tax system. The more important recommendations of the Indiana board have already been noted, in the proper connection, and they need not be reviewed here. The Indiana board has not, in the past, wielded the in-

pound of cure, and so they have visited every county in the state and advised with the local officials and as a result, they have found it necessary to make practically no changes in the local returns."

fluence in shaping the progress of reform legislation that some other commissions have possessed and its suggestions have not always carried great weight. The recent complete change of personnel promises to yield better returns of suggestions, criticisms, and recommendations for the improvement of the Indiana tax system. The State Tax Association, formed in 1914, has held two conferences on taxation and is perhaps the most important agency now at work in the state in the interests of tax reform.[1] The failure of the Commission on Taxation to inspire confidence by presenting a unanimous report along constructive lines has been noted above. There is no very great prospect at present of a change in the tax system in the near future.

[1] The first Conference was held at Bloomington, Indiana, Feb. 5, 6, 1914; the second in Indianapolis, December 1, 2, 1914.

APPENDIX TO CHAPTER V

ASSESSMENTS OF PROPERTY IN INDIANA FOR SELECTED YEARS
(MILLIONS OF DOLLARS)

Year	Lands	Improvements on lands	Lots	Improvements on lots	Personal property	Corporation property
1878	389.8	73.5	94.2	81.2	198.3	37.6
1880	326.8	62.7	72.0	71.9	192.4	38.4
1885	330.7	73.8	73.4	88.6	217.0	55.0
1890	308.2	69.1	76.6	100.1	236.8	66.2
1891	450.2	79.3	140.9	128.2	293.7	161.0
1895	455.7	80.3	149.6	150.3	288.4	156.5
1899	452.6	84.1	159.6	162.4	318.9	153.9
1903	506.4	100.0	177.5	192.2	378.6	182.0
1907	550.2	110.0	203.7	226.7	428.4	225.0
1911	851.6	393.0	....	....	459.4	256.7
1912	820.1	406.4	....	....	459.4	260.0

Since 1911 lands and lots, with the improvements thereon, have not been returned separately.

The assessments of corporations have included, in recent years, an increasing number of classes of corporations.

CHAPTER VI

THE STATE TAX COMMISSION OF NEW YORK[1]

THE history and results of the first stages of the movement toward administrative centralization of the tax system in New York have already been described.[2] It was there shown that owing to inadequate powers the earlier state board of assessors accomplished but little for real tax reform and that its actions steadily became more and more formal. Suggestions had not been wanting for a stronger administrative control of the tax system; but these were for a long time disregarded and bore but imperfect fruit in 1896 when the state board of tax commissioners was created. As early as 1862 the board of assessors had asked for more effective powers of equalization in order to deal with local neglect and incompetence.[3] The special tax commission of 1871 favored greater centralization, and its suggestion for the establishment of a permanent central supervisory authority was one of the earliest in the United States.[4] The board of assessors continued to make its recommendations for increased administrative authority, and in 1877 it presented the following exceptionally strong statement of the case:[5]

> After an experience of more than three years in the matter of assessment and taxation, and some knowledge acquired from such experience, . . . we have become satisfied that wisdom points to the creation of a State department of assessment and taxation, with its principal office at Albany, . . . this department to have all the powers and discharge all the duties now given to and imposed upon the State Board of Assessors, and such other powers and duties as the legislature may deem proper to grant and impose relating to local assessors, assessment of corporations and associations organized under the laws of this state or doing business therein. This depart-

[1] Formerly the State Board of Tax Commissioners. Title changed by *Laws of New York*, 1915, ch. 317.

[2] Cf. above, pp. 57 ff.

[3] State Board of Assessors, *Report*, 1862, p. 12.

[4] *Report of the Special Tax Commission of New York*, 1871, p. 49.

[5] State Board of Assessors, *Report*, 1877, p. 6.

ment can be made the effective head of the assessing power of the state, and with ample powers to make rules and regulations for the government and control of local assessors in the discharge of their duties, and for removal for incompetency, neglect of duty and violation of the rules and regulations of the department or of any statute relating to assessments, and have such other powers relative to the assessment, equalization and collection of taxes as may be thought proper.

It will be seen that these suggestions were in many respects more advanced than the state of public opinion would tolerate twenty years later when the time had come for amendments to the administrative part of the tax system. As early as 1874 the board of assessors had recommended that all moneyed corporations be required to report under oath to the comptroller the amount of their capital stock and surplus and that such corporations should be assessed directly by the comptroller, at some equitable and uniform rate in proportion to the value of their stock.[1] This suggestion was repeated in 1875 [2] and was probably instrumental in securing the introduction of the principle of classification, which was initiated by the corporation tax of 1880.[3]

Finally, in 1893, a special tax commission reported very emphatically in favor of greater centralization of powers and proposed the creation of a board of state tax commissioners which was to supplant the board of assessors.[4] According to this special tax commission the two principal causes for the decline in the assessment of personal property had been first, the right of deducting debts from the assessed valuation of personalty; and second, the absence of provision for a proper equalization.[5] The first of these defects was unqualifiedly condemned by the special commission, as it had been by the state assessors for years past. Inasmuch as personal property was not considered at all in the equalization, the local assessor was under the strongest incentives to omit it entirely. To meet this difficulty the special tax commission of 1893 advanced a scheme of central control over the

[1] State Board of Assessors, *Report*, 1874, p. 18.

[2] *Ibid.*, 1875, pp. 22, 23.

[3] Cf. Seligman, *Essays*, p. 200. Also, *Report of Subcommittee of the Board of Taxes and Assessments of New York City*, 1913, on the *Taxation of Personal Property*.

[4] *Report of the Special Tax Commission of New York*, 1893, pp. 8–10.

[5] *Ibid.*

equalization process similar in principle to that suggested by the Massachusetts tax commission of 1875.[1] The New York idea was to enlarge the board of state assessors to five members and require one member to preside at the meetings of the county board in each county, for the purpose of acting as an arbiter in case of disputes. An appeal was to be allowed to the whole board from the decisions of the single members. The recommendations of the commission of 1893 were the source of many of the provisions of the bill passed in 1896, but the above suggestion failed of adoption, as did many of those providing for an effective extension of powers. Thus the commission had proposed that the permanent tax commission should appraise and value all transportation and transmission companies and apportion the valuations among the taxing districts, but this was omitted.[2] After the manner of the Indiana law, general supervisory powers were suggested with the additional authority to report to the governor any negligence of a local official; but the supervisory powers actually provided proved to be merely advisory in effect and the state board of tax commissioners was left, as the board of assessors had been of old, with no adequate authority to enforce its suggestions. Other suggested features which failed of incorporation in the bill as enacted were the five-year term for the tax commissioner, and the removal of the ex officio members from the state board of equalization, making the latter body coextensive with the new tax board. The creation of the board of tax commissioners in 1896 was, therefore, little more than a continuance of the old state board of assessors under a new name. In 1915 the law was rewritten.[3] No additional duties were imposed, but the commission's powers in exercising former functions were materially enlarged. These functions may be arranged as follows:

1. Certain administrative duties under the general property tax, chief of which are:
   (*a*) preparation of the data for the use of the state board of equalization;

[1] Cf. above, p. 41, for a description of the Massachusetts plan. Also, *Report of the Special Tax Commission of New York*, 1893, pp. 17, 18.

[2] *Ibid.*, pp. 20, 21; also, pp. 86–92.

[3] *Laws of New York*, 1915, ch. 317.

(*b*) supervision of the local officials;
(*c*) hearing appeals and complaints;
2. Administration of the corporation taxes;
3. Administration of the mortgage registry tax;
4. Study of the tax system and recommendation of improvements.

EQUALIZATION

The reforms of 1896 made no change in the organization of the state board of equalization beyond substituting the tax commissioners for the former state assessors.[1] The importance which in many states from the middle of the nineteenth century has been attached to the equalization process was lost in New York for some years because of the abandonment of the direct state tax. In 1902 the state levy was 0.13 mills on the dollar, for canal purposes.[2] All direct state taxes were relinquished in 1906, but the deficiencies in state revenues led to the reintroduction of a direct tax in 1911. In this year also the commission was required to equalize special franchise tax assessments to the same percentage of true value in each district as that used by the local assessor in the assessment of general property.[3] The process of state equalization had been carried on notwithstanding the disappearance of the state tax, though its only value lay in the possible effect upon local assessments. As will be seen, this effect was almost negligible.[4]

The board of tax commissioners followed the practice begun long ago by the board of assessors, of preparing an average ratio of assessed to true value of the real property in each county, using for that purpose the returns from the assessors and the data gathered by the commissioners in the biennial visits which they were required to make to each county. These compilations were of little value for a number of years, as their preparation seems to have been largely a formal matter, undertaken without adequate data regarding true values in many of the counties. Some reliance was placed by the commissioners upon the biennial visits

[1] The state board of equalization is composed of the commissioners of the land office (the elective state officials) and the tax commissioners.
[2] State Board of Tax Commissioners, *Report*, 1913, p. 39.
[3] *Ibid.* Cf. *Report of Comptroller*, 1911, pp. 8–10.
[4] Cf. below, pp. 195 ff.

to the counties in checking up the computations but in these visits there was neither the field nor the office work which would constitute an effective check upon the data compiled by the local assessors. Until recently, therefore, the state equalization participated in by the state tax commissioners has been very largely a formal and routine process, varied by logrolling and affording little guarantee of an accurate check upon the local assessments.

This judgment of the board's ratios, based upon the loose and easy-going method of compilation, is confirmed by an examination of the actual percentages prepared. Appended to this chapter is a table containing the ratios for each county from 1896 to 1915.[1] These figures reveal a decided upward tendency especially in the early years of the period, but in view of the methods of construction employed these advances cannot be taken without further evidence as an indication of the elevation of local assessments. Unfortunately the strongest testimony available is to the effect that competitive undervaluation was quite prevalent even toward the end of this period. A former chairman of the board recently made the following sweeping statement concerning rural assessments in particular, but applicable, according to the speaker, to urban conditions as well. He said:[2]

> There are only a few tax districts in the state where the assessors make any pretense of assessing real property at full value, as required by law, and I do not at this time recall a single instance where this result is actually attained. Underassessment is the rule throughout the entire state, and in nearly all tax districts intentionally and purposely so.

The true percentages of assessed to true value were estimated by the above speaker to range between 25 per cent and 90 per cent, and outside of New York City, the average was thought to be below 70 per cent. And yet, in 1911, only seven out of sixty-one counties were given ratios of less than 70 per cent, and in 1914 the number below 70 per cent was only fourteen. Further, the figures assigned to individual counties in different years have displayed some rather impossible variations. Attention is called

[1] Cf. below, pp. 212, 213.

[2] E. E. Woodbury, in *State Conference on Taxation*, 1912, p. 132. But cf. also, the interesting paper on village assessment, describing the work of one alert and capable local board of assessors, *ibid.*, pp. 365–380.

especially to the ratios for Chautauqua, Herkimer, and Westchester counties. Singularly enough, once a county has reached a comfortably high ratio, yearly variations have almost ceased immediately, although it is incredible that successive generations of assessors should have been able to maintain uniformly a high basis of assessment when there had previously been such great difficulty with assessments on a lower basis.

Many of these high ratios had been established through the influence of the other members of the state board of equalization, for political reasons. Here may be observed the ex officio member in his characteristic rôle of political opportunist. It is rather encouraging to note that in recent years the ratios have been scaled down somewhat from the earlier high levels. The more thorough work of the local and state boards in collecting data upon which to determine an accurate ratio, and the greater power and responsibility for efficient tax administration which have been lodged with the state tax commission have together accounted for this wholesome reaction.

Since the results of the state equalization do not extend beyond the county, the principal inquiry to be taken up is that of its effect upon the distribution of the tax burden among the counties. From an examination of the equalization tables published in the annual reports, it appears that in the first few years after 1896 the counties containing large cities, especially Erie, Kings, and New York counties, were held to be underassessed as compared with the remainder of the state. The precedent of the older board of equalization was therefore followed,[1] in easing up the assessments over the state and piling the excess upon a few characteristically urban counties. To illustrate the practice, the results of the equalizations from 1900 to 1903 will be taken. The total change made in all counties of the state and also the amounts by which six urban counties were changed are presented in the table on the next page.

During these years assessments were equalized by distributing as decreases over the rest of the state the amounts which were added to these, supposedly the chief offenders. This policy was

[1] Cf. above, pp. 66 ff.

RESULTS OF THE STATE EQUALIZATION, 1900–03[1] (MILLIONS)

Year	Total decrease in state assessment	Total increase in the assessments of six counties
1900	$170.8	$166.6
1901	178.1	173.6
1902	183.7	179.4
1903	186.8	180.7

evidently a remnant of the feud that was waged for so long between the urban interests, especially New York City, and the rural portions of the state. In 1900 the joint commission of taxation stated that the process of equalization thus followed[2]

> . . . has seemed just to rural communities, but it has been borne with great reluctance by the others, and it is safe to say that there is scarcely a taxpayer in the City of New York who does not feel that as a result of this equalization he has most grossly suffered.

In 1903 the charter of Greater New York was amended to provide for a separate assessment of land and buildings and the valuation of that whole district was greatly increased. One of the leading incentives to the improvement in the basis of assessment in New York City was the need for further expansion in the borrowing power, the limit to which was 10 per cent of the assessed valuation.[3] The total increase in the assessment of real property for the entire state in 1904 was $1,451,746,076, of which $1,218,443,963 was in Greater New York. In consequence of this phenomenal gain the state board was forced to reverse its traditional policy and the state equalization has since consisted of the attempt to bring up the large majority of counties to the level of the few in which better methods of assessment have been introduced. The equity of the basis on which these adjustments have been made may be questioned as there was until 1912 prac-

[1] From the annual *Reports* of the Board of Tax Commissioners.

[2] *Report of the Joint Committee on Taxation*, 1900, p. 6. In all, ten cities make a separate assessment of lands and buildings. Cf. *State Conference on Taxation*, 1911, p. 157. Cf. also State Board of Tax Commissioners, *Report*, 1902, pp. 13, 14; *ibid.*, 1903, p. 16. Also, Lawson Purdy, "The Assessment of Real Estate in the City of New York," in *Report of the Department of Taxes and Assessments*, 1908, pp. 85–89.

[3] The debt of Greater New York, less sinking fund assets, rose from $326,038,392 in 1902 to $862,343,861 in 1913. Bureau of the Census, *Wealth, Debt and Taxation*, 1913, i, p. 425.

tically no improvement in the method of compiling the ratios. In this year the commission secured an amendment which provided a new and much more effective rule for making the local equalization. The enlarged authority conferred upon the tax commission by the legislation of 1915 will enable it now to make a much more equitable equalization than was formerly possible. There can be no question, also, of the beneficial influence upon valuations which has come from the progressive policy of real estate assessments developed in New York under the lead of the city department of taxes and assessments.

The anomaly of a state board of equalization controlled by the elective state officers should be ended by constituting the state tax commission the board of equalization. In 1915 the tax commission succeeded in convincing the other members of the board of equalization by its array of statistical data and its recommendations as to the ratios were adopted as a whole though they involved numerous reductions. Such action runs counter to the natural grain of the politician, however, and in 1916 the board of equalization rejected the commission's recommendations.[1] Such experiences were formerly the rule in New York and they have been encountered in other states. A bill providing the reform here recommended was introduced in the session of 1916.

The law has never required an equalization of personal property. This would be of little significance at the present because of the relatively small amount of personal property assessed for taxation under the general property tax. From the year 1866, in which the assessment of personal property was 25.5 per cent of the total, there has been a steady decline. In 1870 the proportions of personal and real property were 22 per cent and 78 per cent, respectively; by 1898 the former had declined to 14.6 per cent, and in 1914 to 3.77 per cent. The amount of personal property assessed declined absolutely, from $702,500,000 in 1905 to $424,900,000 in 1913, but rose again to $454,500,000 in 1915. The decrease may have been caused in part by the adoption of various plans in recent years for the taxation of certain forms of

[1] Cf. *New York Evening Post*, February 3, 1917, quoting remarks of Controller Prendergast.

property by special methods, such as the 1 per cent tax on bank shares[1] and the mortgage registration tax.[2] But the tax commission has denied the sufficiency of these explanations and has concluded that the several special methods of taxing personal property reveal the immense amounts which are escaping taxation rather than the successful assessment of important quantities.[3] Thus, the assessment of personal property increased for some years after the exemption of bank stocks in 1901; the capital stock of all domestic corporations and of all foreign corporations which represents investments in the state are supposed to be included in the total assessment of personalty, the volume of which is steadily diminishing; the exemption of savings deposits has been made the means of evasion for the wealthy instead of an encouragement to thrift on the part of the poor. The special tax commission of 1907 found one estate which had deposits in every savings bank in the state between and including Buffalo and Albany.[4] This body condemned unsparingly the loose system of allowing reduction by "swearing off" the assessment, by which the reduction obtained by residents ranged from 60 per cent to 70 per cent.[5] Though unanimous in its statement of the difficulty, the commission of 1907 was unable to agree on the remedies to be applied, the majority advocating a more strenuous enforcement of the present system and the minority reviving the proposal for a graduated house or habitation tax.[6] The board of tax commissioners has strongly urged classification of personal property, with low uniform rates for each class.[7]

The latest investigation and discussion of the personal property situation is that of the Joint Legislative Committee on

[1] *Laws of New York*, 1901, ch. 550.

[2] *Ibid.*, 1905, ch. 729, amended by *Laws of New York*, 1906, ch. 532.

[3] *Ibid.*, 1910, p. 13. The *Joint Legislative Committee on Taxation*, 1916, in discussing this point, granted that these exemptions did reduce for the time the volume of taxable personalty, but held that the fact of exemption had no effect on the percentage of assessed personalty to realty. *Report*, 1916, p. 68.

[4] *Report of the Special Tax Commission of New York*, 1907, p. 25.

[5] *Ibid.*, pp. 69–98.

[6] *Ibid.*, pp. 40–57, especially pp. 51–57. Cf. *Report of the Special Tax Commission of New York*, 1871, pp. 107, 108; *Second Report*, 1872, pp. 38–49.

[7] Their latest discussion is in the report for 1910, p. 16.

Taxation, which reported in 1916. This committee made a very careful and extensive study of the whole New York system of taxing personalty. It recommended a complete change, including the abolition of the present personal property tax, the withdrawal of general business corporations from the operation of the franchise tax for state purposes, and the substitution of an income tax.[1] The committee was evidently more impressed by the results obtained in Wisconsin from the income tax than by those secured elsewhere from the various other substitutes for the present personal property tax. The practical point, that centralized assessment of property, even at lower rates, would be impossible in New York without a constitutional amendment, while a centrally administered assessment of incomes would not encounter this difficulty, doubtless influenced the committee somewhat, since it was quite strongly of the opinion that no locally administered substitute for the personal property tax would afford any material improvement over the present condition.[2]

Supervision of the Local Officials

The increasing embarrassment in which the state tax officials have found themselves as a consequence of the conditions of undervaluation and evasion which have just been described renders the more important any central supervision which may be attempted over the local tax system. Previous to the amendment of 1915 the New York law did not make use of the language so frequently found in statutes creating tax commissions, conferring "general supervision" over the tax system; but the New York tax commission came in contact with the work of the local officials in various ways and a sort of supervision was maintained. The oversight thus exercised did not have, however, the full, vigorous and effective sweep that has been characteristic of the relations of some other commissions to the local officials.

The first of the points at which the tax commission has come in contact with the local assessment has been in connection with the local equalization.

[1] Cf. *Report of the Joint Legislative Committee*, 1916, pp. 206–208.

[2] Cf. its comprehensive but concise review of the principal substitutes for the personal property tax, *ibid.*, pp. 161–206.

The intra-county equalization is performed by the county board of equalization, which is composed of the county board of supervisors. The authority of the county board of equalization is limited to a redistribution of the assessors' figures without change of the total; but in view of the conditions of local assessment which were asserted by former chairman Woodbury to be wellnigh universal, an equalization performed under such restrictions could not be of great value in lessening local inequalities.[1] Until 1911 the methods which the county boards had been allowed to use were very loose and the local assessments had become extremely demoralized. In Erie county, for instance, it had been the custom for years to use as the basis of equalization for each district a fixed and arbitrary valuation which had been determined by logrolling and which had no necessary relation to the true valuations of property in the various taxing districts.[2] The tax commissioners criticized the conditions in almost every annual report [3] but not until 1911 were they successful in securing a law requiring the use of a definite rule of equalization.[4] The principal motive for competitive undervaluation by the local officials has apparently been the desire to reduce the share of state and county taxes for their districts. From 1906 to 1911 there was no direct state tax, and for some years before 1906 the state levy had been negligible; but there has remained incentive enough for underassessment in the desire to avoid the proper proportion of the county taxes.[5] The statement was made at the Utica tax conference, in 1911, that the city and the rural districts fought bitterly to shift the tax burden and that the local equalizations were made in utter disregard of the law.[6]

The plan which the tax commission recommended in 1911 for

[1] Cf. above, p. 186.

[2] *State Conference on Taxation*, 1912, p. 436. Cf. New York State Tax Commission, *Report*, 1915, pp. 11, 12. After discussing the former practices in equalization the commission says: ". . . it seems that the equalization of assessed values in former years must have been largely a matter of guesswork."

[3] State Board of Tax Commissioners, *Report*, 1897, p. 12; *ibid.*, 1910, p. 23.

[4] *Laws of New York*, 1911, ch. 801.

[5] Cf. the discussion of the weight of the tax burden by the Joint Legislative Committee in its *Report*, 1916, *passim*.

[6] *State Conference on Taxation*, 1912, p. 435.

the improvement of the local equalization covered two points[1]— first, the rule to be followed in making the equalization, and second, supervision of the assessment and equalization by the state board. It was strongly urged that the latter power should include the right to order a reassessment of property in any district on the production of evidence of gross inequality or of clear evasion of the statute. Central supervision was to be exercised through county supervisors of taxes who were to be chosen by the board. The proposals for more effective central supervision failed of adoption at that time though the first suggestion, that of a rule of equalization, was accepted. This rule required the board of county supervisors to equalize on the basis of true and full value, which they were to determine by appropriate inquiries. The law did not indicate any particular method to be employed in ascertaining the true value, but it will be recognized that whatever the means employed — sampling or the sales method — the proper observance of the rule involved the collection and use of many complex data of values. The responsibility for the collection of the data and the compilation of the ratios rested on the board of supervisors, who as a class could hardly have been equipped and qualified to gather and organize the information necessary to the best operation of such a rule of equalization.

The second feature of the commission's plan, that of central supervision of the local assessment, was adopted in 1915.[2] The commission thereupon immediately organized a bureau of local assessments, equalization, and statistics, for the purpose of aiding, directing, and checking up the local assessment and equalization. The data on equalization in the possession of the state tax department were found to be entirely worthless. The sales were unverified and had evidently been selected by those who reported them — whether private citizens or assessors — for the purpose of proving the case in point. The county boards had been dilatory in adopting the legislative rule of equalization. An enabling act legalizing the equalizations of 1912 had been required,[3] and in May, 1915, the commission was obliged to issue an order to

[1] State Board of Tax Commissioners, *Report*, 1910, pp. 26, 27.
[2] *Laws of New York*, 1915, ch. 317. [3] *Ibid.*, 1912, ch. 20.

certain county boards to comply with this section of the tax law and to file their schedules of percentages with the state tax department.

The first task of the new bureau of local assessment, equalization, and statistics was to compile the data upon which a more reliable review and equalization of the local assessment might be made by the tax commission. The sales data were carefully verified and were supplemented by indicia of values gathered from various other sources, such as the appraisals of real estate by banking institutions, insurance companies, local real estate experts, and the probate courts.[1] From these and other sources the commission compiled a tentative and a final ratio of assessed to true value for each of about 1600 municipal subdivisions of the state. These data, and the ratios prepared therefrom, were submitted to the state board of equalization in 1915, and were unanimously adopted by that body as the basis for distributing the state tax among the counties. While the local boards may use other percentages in making the intra-county equalization, the strict enforcement of the order requiring that these percentages be filed with the tax commission, together with that body's power of ordering reassessment and securing a review of the local procedure, will enable the New York tax commission to follow up and really supervise the local assessment and equalization quite as effectively as this is now being done in any other state. The New York appropriations have not been stinted, either, and the tax commission need have no difficulty on the ground of expense in the development of its elaborate and efficient organization.

The amendment of 1915 authorized the tax commission to call a conference of all assessors in the state at least as often as once in two years. The travelling expenses of the assessors to these meetings are to be a charge against the tax districts represented. The first of these conferences was held in 1916, in connection with the Sixth State Tax Conference, and the report of the proceedings indicates that the meeting was very successful. One of the most

[1] The various sources are described in the report of the tax commission for 1915, pp. 12–15. Cf. also "Review of Local Assessments," published as *Tax Bulletin*, i, no. 5, November, 1916.

surprising and significant features was the enthusiastic response of the assessors themselves. The commission has published, as a supplementary assessors' manual in the form of question and answer, several hundred of the more important and difficult points raised by the assessors in the course of the meetings.

Appeals may be taken to the state tax commission by any supervisor on behalf of the town, city or ward which he wholly or in part represents, "from any act or decision of the board of supervisors in the equalization of assessments and the correction of the assessment roll."[1] In any case, the appeal must be supported by a majority of the supervisors of the town or city, or the alderman of the ward, a very undesirable limitation upon the freedom of appeal. The commission is required to hear the appeal in the county in which it originated and in granting relief it is not allowed to alter the county total as returned by the assessors. This restriction does not offer much leeway for the correction of improper assessments. These limitations on the right of appeal and on the subject matter of the appeal render this part of the commission's jurisdiction of small practical advantage.

The failure to provide the greatest freedom of resort by individuals to the tax commission is a serious weakness of the New York tax law. Of very doubtful compensatory advantage is the privilege of petitioning the supreme court, asking that a writ of certiorari be issued to the assessing officers for a review of the assessment. Upon the return of such writ, the court may order a reassessment or a correction of the assessment, if it find that such action is necessary.[2] This transfer of the appeal jurisdiction from the tax commission, an expert body, to a court of justice, usually

[1] *Tax Law of New York*, §§ 175, 176.

One loophole has been left through which the local authorities may yet escape from the supervision of the central board in the local equalization. The legislature provided in 1896 for the appointment, by the boards of supervisors, of three commissioners of equalization, to serve for three years. These commissioners were to perform the regular county equalization otherwise devolving upon the supervisors. Section 50 of the tax law apparently does not apply to equalizations so performed, and in 1915 the tax commission recommended its extension to include their work as well as that of the boards of supervisors. *Laws of New York*, 1896, ch. 820; *Tax Law of New York*, §§ 51, 52; New York State Tax Commission, *Report*, 1915, p. 27.

[2] *Tax Law of New York*, §§ 290–293.

far from skilled in the details of local assessment and equalization, affords small guarantee of the correction of local abuses. Any taxpayer in the state should be free to present his case to the tax commission with as little formality as possible and with the assurance that his plea will receive the attention of the persons in the state best qualified to pass upon its justice. The traditions of local self-government are still too deep-rooted for the extension of effective central administrative powers, such as the right of appointment or removal of the local assessors; but there should be much greater authority for interference with the actions of the inefficient or corrupt assessor and for initiating such action as will promote greater justice for individuals or communities.

The presence of conservative influences is evident also in the section of the act of 1915 providing for reassessment — in fact, they have largely destroyed the value of reassessment proceedings. Should the commission decide that reassessment is necessary it must appeal to the supreme court for an order to the assessor to show cause why the assessment roll should not be corrected. All authority to order corrections in the tax roll, or a complete reassessment, rests with the supreme court justice. It is safe to venture the conclusion that this indirect procedure will greatly diminish the significance of the reassessment in correcting inequalities in local assessments. At this point too, therefore, the New York law still fails to confer effective administrative authority.

The Administration of Corporation Taxes

The corporation taxes levied in New York are numerous and complicated, including, in addition to other exactions, an organization tax, a franchise tax, and a special franchise tax.[1] The last of these — the special franchise tax — has been the only tax directly in the charge of the tax commission. The other corporation taxes have been either in the hands of the state comptroller or of the local officials. The act of 1915 transferred all of the

[1] Cf. the criticisms of the hodgepodge of corporation taxes by various speakers at the state conferences on taxation. Cf. also the criticisms in the *Report of the Joint Legislative Committee*, 1916, pp. 73–143.

comptroller's duties in the assessment and levy of taxes to the tax commission, which is now the central head of the system of corporate taxation. This transfer has only recently been made and no results of the commission's administration are available. The following account will therefore be confined to the special franchise tax.

The special franchise tax was the outcome of a series of efforts that had been made to tax adequately the public service corporations which made use of the streets, public highways, and public waters of the state. The significance of the term is seen from the explanation of its meaning, given by the court in one of the early cases. The court said:[1]

> When a right of way over a public street is granted to such a corporation with leave to construct and operate a street railroad thereon, the privilege is known as a special franchise, or the right to do something in the public highway, which except for the grant would be a trespass.

The resort to such a singular method of taxing public service corporations (for the courts have held that the tax applies only to public uses of the streets)[2] was the direct result of the decision of the state courts, in 1898, that as the laws stood at that time the money-earning power accruing from the use by corporations of streets, parks, and other public places was not taxable.[3] To remedy this defect the legislature passed in 1899 the so-called Ford special franchise tax law as a means of reaching this source of taxable capacity.[4] The special franchise was defined to be real estate, and was declared to include the value of the tangible property of a person, copartnership association or corporation situated in, upon, under or above any street, highway, public place, or public waters in connection with the special franchise.[5] The assessment is made by the tax commission, but the results are certified back to the tax districts for taxation at the local rates. These valuations are levied upon not only for the ordinary state and local taxes, but also for any special district taxes levied by

[1] 174 *New York Reports*, 417.
[2] 67 *Misc. Rep.* 471.
[3] State Board of Tax Commissioners, *Report*, 1900, p. 17.
[4] *Laws of New York*, 1899, ch. 712.
[5] *Tax Law of New York*, Art. I, § 2.

the district to which the special franchise valuations have been certified. The chief administrative features will be described briefly.

Every individual or association subject to a special franchise tax is required to report to the state board within thirty days after such franchise has been acquired, setting forth the particulars of the terms on which the grant is enjoyed. The commission may require supplemental reports from time to time and shall furnish the blanks on which all reports are made. These reports are to be sworn to by the president or other responsible officer. Notice of the valuation shall be sent to the party concerned and a hearing shall be granted, if desired. After having heard complaints and made the changes required by the evidence presented, the commission is to equalize the assessment of the special franchise to the same percentage of full value as that at which other real property in the same district is assessed. This provision was added in 1911.[1] The equalized valuation is certified to the local officials by whom it is entered upon the proper tax rolls. Any assessment of a special franchise may be appealed to the state supreme court on a writ of certiorari and upon a review of the state board's assessment the court is empowered to grant such relief as in its judgment seems necessary.

The law has been weak on the administrative side from the beginning. The chief defect has been the absence of a provision requiring the prompt payment of the assessed taxes as a condition precedent to certiorari proceedings for the review of the assessment. Many corporations have taken advantage of the delay caused by litigation to postpone or possibly entirely to avoid the payment of taxes. It appears to have become, by 1906, "the settled belief of all corporations that they were entitled to relief in their assessments, as a matter of right, in all cases where writs of certiorari were taken to review the assessments of special franchises."[2] The delay and mischief caused by judicial review of the facts and equalization of the assessment may be shown by the unpaid taxes. From 1899 to 1907 taxes remained unpaid

[1] *Laws of New York*, 1911, ch. 804.

[2] State Board of Tax Commissioners, *Report*, 1906, p. 7.

upon a total valuation of $1,443,282,693, while the total assessment of special franchises in the same period had been $2,717,948,454. A conservative estimate of the taxes due in 1907 placed them at $22,250,000, of which $21,650,000 were due in the city of New York alone. In this year there remained still unpaid the taxes on the assessments of 1900 against twenty-two parties, the assessments aggregating $19,962,911. For each succeeding year since 1900 the number of assessments contested and the amount of taxes unpaid steadily increased.[1]

One cause for the delay has been in the fact that in all litigation the state board has had no power to employ counsel, though required to defend its valuations. The cases have been handled by the attorney-general, who has often designated other counsel for the purpose without consulting the state board. The relations between the two departments appear to have been somewhat strained at times,[2] and the absence of a well-managed and systematic direction of the litigation has unquestionably contributed to the delay of settlements and the payment of taxes due. Despite greater efforts to dispose of cases pending, there remained unsettled on January 1, 1909, cases involving valuations aggregating over $1,000,000,000.[3]

Another factor which has greatly hindered the efficient operation of the law has been the practice commonly engaged in by the corporations, of introducing new or different evidence in the judicial hearings from that on which the state board based its action. For instance, in the Jamaica Water Supply Case,[4] the company's officials had made a sworn return to the state board that the value of the property within the highways was nearly $1,000,000 and of that without the highways was about $71,000; but in the certiorari proceedings the same official who had signed the former statement testified that the values were $400,000 for the property in the streets and $300,000 for that outside.[5] The

[1] State Board of Tax Commissioners, *Report*, 1907, pp. 5, 6.

[2] References to the strained situation occur frequently. Cf. *ibid.*, 1906, p. 7; *ibid.*, 1908, p. 5.

[3] *Ibid.*, 1909, p. 5.

[4] 196 *New York Reports*, 39.

[5] Cf. *State Conference on Taxation*, 1912, p. 180.

effect of this practice has been to put the board in the light of an unsuccessful litigant before the courts and so to discredit the valuations made by it.[1] The policy of judicial review of the commission's findings of fact is incongruous and the case referred to illustrates one sort of abuse which is thereby made possible. The state tax commission is an expert body, qualified to perform the valuation of the special franchises; the courts are not experts in taxation and equalization and should not be expected to pass beyond the bounds of their peculiar province. The main purpose of the review by certiorari was formerly to secure a reduction of the assessment to the same basis as that used for other property in the district. It is inexplicable that for a dozen years the courts should have been allowed to exercise the purely administrative function of equalization of the special franchise assessments; and the whole situation emphasizes anew the pressing need for greater power of control over local assessments, in order to know more accurately the basis of local valuation as well as to secure greater freedom in determining the proper valuation of the special franchises. The findings of the tax commission should be reviewable by itself only, with such right of appeal to the courts as would safeguard the legal rights of all parties.[2] The amendment of 1911 authorized the commission to equalize the assessments to the same basis of full value as that used for other property, and to collect the necessary data for this purpose. This amendment removed at once the incentive for many of the appeals for review of the assessment which had formerly been brought and the number of appeals has greatly diminished. In 1914 only 117 applications for review were filed.[3] Satisfactory progress has also been made recently in clearing the docket of the older appeal cases. At the beginning of the year 1914 there were 682 appeals pending from steam railroads alone. By a series of compromise propositions settlements were effected in 362 cases. In all, some 642 certiorari proceedings to reduce assessments, involving an aggregate special franchise valuation of $190,927,259, were settled in

[1] Recently the board has been enforcing more strictly the penalties provided for unsatisfactory reports. *Report*, 1913, p. 13.

[2] The board has long urged such a reform. *Report*, 1902, pp. 15, 16.

[3] State Board of Tax Commissioners, *Report*, 1914, p. 11.

1914.[1] There were 326 cases disposed of in 1915, and 1284 cases still pending settlement.[2]

In the earlier years of special franchise taxation the state board refused to make public its rule of valuation, contending that it had no hard and fast rule but was governed by the conditions and circumstances of each individual case.[3] This position has been consistently held, and the board has insisted that a number of factors enter into the determination of the taxable value of a special franchise.[4] Such secrecy of procedure was characteristic of the earlier practice of the tax commissions in general, and it presents one of the most serious problems of centralized administration of an ad valorem tax. Professor Seligman's criticism is exceedingly pertinent:[5]

> And what is worst of all, the secrecy observed by the State Board of Assessors renders it utterly impossible for either the victim or the scientific observer to point out the error in the procedure. Especially true is this in all those cases where it has become customary to assess the value of the franchise of corporations. . . .

A very interesting statement of the factors considered in the assessment of highway crossings was made by one member of the board before the Utica conference on taxation in 1911. Because of the general reticence of the board on the subject it will be of interest to quote at some length from this account:[6]

> Two elements are separately considered in the first instance, namely: The value of the intangible right or privilege to cross the street, and the value of the tangible property situated in such street and used in connection with such right. After being considered as separate elements they are united to fix the value of such crossing. The value of the tangible property used in connection with each crossing appears upon the valuation sheets of the Board, and the difference between the total valuation fixed for each crossing, and the value of the tangible property appearing in connection therewith, represents the intangible value of said right or privilege at such crossing.

[1] State Board of Tax Commissioners, *Report*, 1914, p. 12.

[2] *Ibid.*, 1915, p. 7.

[3] *Ibid.*, 1900, p. 20.

[4] The board refused to disclose its methods in *Bryan* v. *State Board of Tax Commissioners*, 67 *Misc. Rep.* 474; also in *Queens Borough Gas and Electric Co.* v. *Woodbury*, 67 *Misc. Rep.* 481.

[5] *Proceedings of the National Tax Conference*, 1908, p. 217.

[6] *State Conference on Taxation*, 1912, pp. 182, 183.

In arriving at the intangible value the Board takes into account the population of the municipality where the same is located, as shown by the last State enumeration; the character of the crossing itself — as to whether the railroad crosses at grade, overhead or below — the relative importance of the street with reference to its use by the public at the place of crossing, the amount of traffic thereover by the railroad, and the resulting interference with the use of the street by the public; the character of the trackage, whether by through train service or for switching purposes; the extent of occupancy; the land values in the locality in which the crossing is located; the general financial condition of the company as bearing upon the question as to whether the railroad is a paying venture or otherwise, and the general information of the members of the Board as to prices paid to the various municipalities for similar occupancies. The Board fixes the value of the right to cross these streets according to its best judgment in the light of all the surrounding circumstances and conditions.

By the use of application tables each crossing is fitted into its proper class and a uniformity of grading and valuation is established throughout the state.

Other factors which are sometimes used as guides to value are the prices paid by corporations to municipalities for franchise privileges;[1] and, for the value of the tangible property, the fee value of the land occupied. In New York City street railroad companies pay, under the railroad law, 3 per cent of their gross earnings for the first five years and 5 per cent thereafter, and are apparently willing and anxious to receive grants on this basis. These considerations are rightfully regarded as significant evidence of the value of the franchise. The fact that for the part of the property which is outside the street a big investment in land is necessary, while for that placed in the street no such outlay is required, suggests that an addition be made in the latter case of at least the fee value of the land occupied. The board regards the net earnings rule as a valuable test, " but more often than otherwise deceptive and unreliable as a fixed standard of ascertaining value when practically the only information is to be obtained from corporate reports made to this Board."[2] The speaker quoted at length above emphasizes the difficulty of maintaining the close supervision of the business and accounts of

[1] Cf. the critical discussion of the whole problem of corporate assessment in State Board of Tax Commissioners, *Report*, 1909, pp. 5–18.

[2] *Ibid.*, p. 7; also, *ibid.*, 1913, p. 14. The board again states that it has no general rule.

the corporations which the net earnings rule would involve. He further insists that this rule permits no discrimination between the various kinds of street occupancies. The four track railroad, almost completely obstructing the highway, and the lone wire of a telephone company placed in an underground conduit, are treated exactly alike. The former is a virtual monopoly, while there may be many mains of competing telephone, gas, water, or electric companies.

Notwithstanding the board's objections to the net earnings rule, the trend of judicial thought appears to favor that method of valuation.[1] While the courts recognize the possibility of other methods than the capitalization of net earnings, the variance in the point of view between them and the tax commission as to the more desirable methods of valuation emphasizes strongly the need of more complete centralization of the administrative features of the tax into the hands of the latter and the elimination of the judicial review. Under the amendment of 1911 there has been much less resort to the courts, though as the system stands the latter still possess unlimited powers of review which will continue to be invoked as freely as ever by those interests which are bent on thwarting the efforts of the tax commission, if there be any possibility of advantage from the process.

The new state tax department found, in 1915, that the work of special franchise assessment was "in a deplorable condition." The lack of coördination of the assessment of different classes of corporations had led to inconsistent and contradictory applications of the law, to unscientific valuations and unjustifiable cancellation of millions of dollars of special franchise assessments. The entire special franchise bureau is now in charge of a deputy tax commissioner, under whom three divisions have been organized, for water, gas, and electric companies; telephone and telegraph companies; and steam railroads. The commission stated in 1915 that the new bureau had developed a new method for valuing railroad occupancies and street crossings. This method is not described in detail, but the essential feature seems to be the railroad's *use* of the crossing or occupation to the exclusion of the

[1] Board of State Tax Commissioners, *Report*, 1909, p. 5.

public, as against the factor of public use of the highway, now said to have been an important element in the older method.[1]

The main facts regarding special franchise assessments for certain years are here presented:[2]

SPECIAL FRANCHISE ASSESSMENTS, SELECTED YEARS, 1900–13

Year	Aggregate assessment	Number of separate assessments	Number of corporate assessments
1900.....	$266.2 millions	4,751	1,376
1903.....	284.8 "	4,506	1,408
1907.....	555.3 "	6,395	1,830
1911.....	614.8 "	7,684	2,494
1913.....	640.1 "	7,341	2,020

In 1899 the total assessment of tangible property in public places by the local assessors was $196,061,902. It is evident from the marked increase that a considerable amount of taxable capacity was escaping taxation. The figures declined in 1901 because of the exemption of all street crossings less than 250 feet in length.[3] The board had advised this exemption because of the expense of making the assessments;[4] but it was later found that the greater part of the values so exempted were in the populous centers where the loss in revenue was serious, and in 1907 the exemption was amended to apply only to crossings outside of cities and villages.[5] In 1909 the aggregate valuations were reduced by the cancellation, in judicial review, of an assessment of more than $24,000,000 against the Interborough Rapid Transit Company. It is of some significance that less than one-third of the assessments, on the average, are made against corporations. Some weight is given, by this fact, to the board's objections against attaching large importance to the stock and bond rule of valuation. Such a rule would of course apply only to those special franchises held by corporations; but the proportion of the total valuation assessed against corporations is undoubtedly far greater than the relative numbers of corporate and individual assessments would indicate.

[1] State Tax Commission, *Report*, 1915, pp. 17, 18.

[2] From the *Reports of the Board of Tax Commissioners*.

[3] *Laws of New York*, 1901, ch. 490.

[4] State Board of Tax Commissioners, *Report*, 1900, pp. 20, 21.

[5] *Laws of New York*, 1907, ch. 720. This amendment was recommended by the board in its *Report* for 1906, pp. 8, 9.

It is, of course, apparent that this system of taxing public utility corporations is fundamentally defective, dividing as it does the property of these companies between two taxing authorities. The tax commission assesses all of the property located in, upon, under, or above the streets and other public places, except crossings 250 feet in length and located outside of cities and villages. The remainder of the property, which includes all of the plant located on private right of way, is assessed by the local assessors of the districts where the same is located. The absurdity of such a policy of assessment, as applied especially to the railroads, was denounced in scathing terms by a speaker at the Utica tax conference in 1911. After characterizing the existing system of corporation laws as a " mere matter of patchwork and makeshift," he said:[1]

> To this chaotic mass (of corporation taxes) the inspired genius of our lion-hunters and law-givers added the marvelous Special Franchise Tax Law with its developments gravely separating the crossings of city streets and village highways from other railroad property and seriously engaging therewith the grave deliberations of a State Board of experts upon the apparent theory that while the valuation of millions of dollars of railroad property outside the streets was wholly within the capacity of the average country assessor, the moment the railroad crossed a village highway or city street, it became imbued with certain extraordinary qualities and problems which were far beyond the abilities of the minds that were called upon to value other railroad properties and cried aloud to Albany for solution.

The board has not been insensible of this defect in the system and it has frequently called attention to its absurdity, especially as applied to the railroads;[2] but it has not pressed for the most practical remedy, however, which would be to place the assessment of the whole property of these corporations in the hands of the state board. Instead, it has suggested the impractical plan of requiring the county supervisors to employ experts to perform periodical valuations of the railroad property. These valuations would not be binding upon the local assessors but would be available for them as a guide to the actual determination of the proper assessment.[3] Any plan which left to the local assessors the piece-

[1] *State Conference on Taxation*, 1912, p. 189.

[2] State Board of Tax Commissioners, *Report*, 1904, pp. 11–14; *ibid.*, 1907, p. 14; *ibid.*, 1908, pp. 10, 11; *ibid.*, 1911, p. 10.

[3] *Ibid.*, 1908, pp. 10, 11.

meal valuation of the railroads of New York state would be utterly worthless, and in so far, this one must be condemned. A scientific valuation of the whole property of the railroads, considered as profit-producing plants, would be of far greater value. No sort of valuation which seeks to parcel out in two portions a really indivisible whole can be regarded as successful; and any thorough reform of the system now in vogue in New York must involve the abandonment of the artificial distinctions set up by the system of special franchise taxation.[1]

Administration of the Mortgage Registry Tax

The question of mortgage taxation has been one of the most perplexing of the tax problems that have engaged the attention of administrators and students in the United States during the last half century. A blind resistance to all proposals for exemption has been inspired by a stubborn faith in "equality of taxation," strengthened by a conviction that exemption would favor the rich money-lending class; on the other hand, the ease of evasion has usually afforded practical exemption, while the risk of assessment has offered opportunity and incentive for increasing the interest paid by the borrower to whom the higher rate of interest has been evidence of oppression by the money-lender.[2] In this conflict the borrowing class has inevitably come out loser, both from a higher rate of interest on its loans and from a higher rate of taxation on other property brought about through the evasion of money loaned on mortgages.

The futility of attempting to reach mortgages under the general property tax was early perceived in New York. The New York tax commission of 1862–63 reported a law providing "that the net value only of every person's taxable estate, whether invested

[1] In 1911 the board recommended that its skilled staff be given the duty of valuing the entire main stem of the railroads. *Report*, 1911, p. 10.

[2] The incidence of a tax on mortgages has been investigated by many writers. Seligman, *The Shifting and Incidence of Taxation*, pp. 333–337, states the general theory. Cf. also Plehn, "Taxation of Mortgages in California," *Yale Review*, viii, pp. 31–67; *Report of the Commission on Taxation of Massachusetts*, 1897, pp. 36–40; T. S. Adams, "Mortgage Statistics and Taxation in Wisconsin and Neighboring States," in Wisconsin Tax Commission, *Report*, 1907, Appendix B.

in land or in any other species of property," should be taxed; and that in taxing mortgaged real estate, the tax should be proportionably assessed upon the land and the possessor of the mortgage, and that the mortgage should not be otherwise taxed.[1] In 1870 the Chamber of Commerce of New York petitioned the legislature to exempt mortgages from all taxation and framed a bill for that purpose, but it failed of consideration.[2] The special tax commission of 1871 recommended the complete exemption of mortgages on the ground of expediency, since such a policy had been adopted by Pennsylvania and New Jersey and capital was being diverted from the state.[3] In the second report of this noted commission, published in 1872, mortgage exemption was again advocated, this time in connection with the revival of the diffusion theory of incidence.[4]

The suggestions of the commission of 1871 failed to make any impression upon legislative opinion in New York, though its reports were widely circulated at home and abroad, and, as its chairman elsewhere remarked, became "the incipient agency in creating a permanent public interest in the principles it discussed."[5] No change was made in the method of taxing mortgages and the subject became quiescent until 1900, the recommendation of the commission of 1892 for a tax of ½ per cent on all real estate mortgages amounting to $200 having awakened no stir of interest in the question.[6] In 1900 the Joint Committee on Taxation renewed the proposal for a tax of ½ per cent on mortgages, the revenue to be used for state purposes.[7] This suggestion for the special taxation of mortgages, it should be noted, was not the fruit of the committee's consideration of theories of incidence or of double taxation; it was rather the outcome of the long struggle between the rural and the urban interests over the state equalization, which the committee declared to be "the most

[1] Quoted in the *Report of the New York Special Tax Commission*, 1871, p. 72.
[2] Cf. *ibid.*, pp. 76, 77, and note.
[3] *Ibid.*, pp. 76–79.
[4] *Ibid.*, 1872, p. 49.
[5] D. A. Wells, "Reform of Local Taxation," *North American Review*, 1876, p. 357.
[6] *Report of the Joint Committee on Taxation*, 1893, p. 12.
[7] *Ibid.*, 1900, p. 8.

deep-seated and ancient grievance in our system of taxation." The special tax on mortgages was advanced as one of the sources of revenue by the aid of which the state might dispense with the direct tax and so relieve the bitterness of the ancient feud. This bill failed to pass,[1] but interest in the subject had again been aroused and one or more bills were introduced in each session of the legislature until 1905, when an annual tax of ½ per cent enacted.[2] This act remained in force for one year only and in 1906 it gave way to the present mortgage registry tax law, whereby a recording tax of fifty cents per $100 or major portion thereof was to be paid at the time of recording the mortgage.[3] The tax was to apply to all mortgages recorded after the law went into effect, and was in lieu of all other taxes except:

1. Upon mortgages held by state or national banks, the value of which entered into the value of their capital stock;
2. Upon mortgages held by insurance companies as a part of the gross premiums; or by trust companies and savings banks;
3. The inheritance tax.

The receipts from the tax were to be divided equally between the state and the district in which the mortgaged property was located. The act of 1905 had allowed old mortgages to be listed and taxed at the low rate of ½ per cent. The law of 1906 excluded old mortgages and made them subject again to the local assessment. Much complaint was aroused by this provision. Many mortgages had been listed under the implied promise of lower taxation, which was now suddenly withdrawn, leaving the recorded mortgages antedating 1906 to the tender mercies of the local tax rate. This anomaly was removed in 1907.[4]

The administration of the tax is largely in the hands of the local officials, over whom supervision is maintained by the tax commission. For this purpose a mortgage tax bureau has been established. The agents of the latter inspect the local records and check the recorder's calculations of taxes due and his accounts of the disposition of the funds. The chief duty which the board

[1] The arguments are reviewed by Seligman, "Mortgage Taxation in New York," *Pol. Sci. Quart.*, xv, pp. 640 ff.

[2] *Laws of New York*, 1905, ch. 729. [3] *Ibid.*, 1906, ch. 532.

[4] *Ibid.*, 1907, ch. 340. Board of Tax Commissioners, *Report*, 1906, pp. 11, 12.

itself performs is that of apportioning the mortgages upon property which lies within and without the state, the tax being payable, of course, only upon the proportion of the property which is within the state. Considerable difficulty was encountered at first in valuing these properties, which included "real estate, special franchises, tangible personal property, rents, choses in action, and in fact, every species of property, tangible and intangible, covered by the mortgage."[1] No adequate authority was provided for the collection of information pertinent to the valuation of interstate properties and the board was confined to the contents of a meager statement filed by the mortgagor. The task of equitable apportionment has been materially lightened by restricting the term "property" to tangible property covered by the mortgage and by authorizing the state board to call witnesses and require the production of books and other information relating to the property.[2] In a like manner the board apportions the valuation of mortgages covering property in more than one tax district or county. If the assessed valuation is available for the tracts in question, the apportionment becomes merely clerical; but if this assessed valuation cannot be determined or ascertained, the tax commission is authorized to make an assessment, which is valid, however, only for the purposes of the apportionment.

The work of the state board of tax commissioners seems to have slackened here as at numerous other points as the date for its dissolution drew near. The new tax commission found, on assuming office in 1915, seventeen interstate mortgages, involving an aggregate indebtedness of $149,999,900 and a tax of $131,540, concerning which no action had been taken for more than a year. Twelve of these cases were disposed of within the year and $125,596 in taxes were distributed to the proper jurisdictions. More than 200 cases in intra-state mortgages covering property in more than one district were also pending. All of these were promptly settled.[3]

The mortgage registry tax has become a productive source of revenue to the state and it has unquestionably lessened the eva-

[1] State Board of Tax Commissioners, *Report*, 1906, p. 14.

[2] *Laws of New York*, 1907, ch. 340.

[3] State Tax Commission, *Report*, 1915, pp. 19, 20.

sion of this class of property rights, while it has materially increased its contribution to the common burdens. The experience under the law has not been wholly satisfactory and serious complaints have arisen from the rural districts. The chief basis for criticism has been the alleged loss of revenue as compared with the former system.[1] Mortgages, it has been asserted, had been an important factor in the personal property assessments, and one-half of the registry tax has not balanced the receipts from such mortgages as were listed under the former system. No evidence exists to substantiate the argument of these rural communities but it is unlikely that mortgages ever had been, or ever would be, a significant element in either rural or urban assessments. Further, the distribution of receipts according to the location of the property, instead of according to the residence of the owner, had occasioned some shifting of the benefits derived from the tax. To some extent, this method of distribution should lessen the real force of the above objection, since the receipts from the tax on farm mortgages would go to the rural districts instead of to the cities, where the lenders, as a class, would be found. It was argued, in favor of the tax, that the lower rate would enable the farmer to borrow at lower rates of interest; but the evidence has showed that the savings banks and trust companies have loaned very little money on the security of farm property, the owners of which have, in consequence, been compelled to borrow of individual lenders to whom they have paid the full market rate. The board reached the conclusion that in so far as the lower tax rate has resulted in a lower interest rate on mortgages, the benefits have been enjoyed by the large, rather than the small borrowers.[2] Finally, the flat rate of tax regardless of the lifetime of the mortgage has meant inequality of burden within this class of property, being a gross discrimination in favor of the long-term corporate mortgage. The board has recommended that the exemption be allowed for five years, with payment of the tax at the expiration of each quinquennial period.[3]

The gross receipts from the mortgage tax have declined con-

[1] State Board of Tax Commissioners, *Report*, 1908, p. 25; *ibid.*, 1910, pp. 10, 11.
[2] *Ibid.*, p. 11. [3] *Ibid.*

siderably in recent years and the cost of collection has advanced. The figures for the years 1913–15 are given:[1]

Year	Gross receipts	Cost of collection % of receipts
1913	$3,728,544	1.67
1914	3,255,172	2.10
1915	3,206,496	2.41

The cost of collection has been enhanced by the improper allowances which the commission discovered had been made in numerous instances by the former tax department. On the other hand, the audits which had been made of the mortgage tax records in the counties had been quite unreliable and a stricter examination of these records has been disclosing serious shortages in the return of tax receipts by the county clerks. The commission now has eight examiners at the work of inspecting the local records.[2]

Recommendations

Many of the more important of the commission's recommendations have been reviewed in the appropriate connection. The legislature has apparently been giving greater consideration to its suggestions in recent years and the latest revision of the tax laws will place the tax commission in a position to exercise even greater influence in the direction of future tax legislation. For the presentation of its view and the elaboration of arguments designed to reach the people of the state at large the annual reports present an opportunity of which full advantage has not always been taken by the commission. The quality of its discussion has varied greatly from year to year and many of the reports have been almost entirely lacking in this important feature. In 1912 the annual report was supplemented by a pamphlet of instructions and explanations. The advance copy of the report for 1915 contains an excellent, though brief, account of the reorganization effected under the new law, with some account of former conditions and of new methods of administration being developed. The new commission recommends a comprehensive revision of the entire tax law and especially of its administrative features.

[1] From the annual reports of the tax commission.

[2] State Tax Commission, *Report*, 1915, pp. 20, 21.

APPENDIX TO CHAPTER VI[1]

RATE OF EQUALIZATION USED IN STATE EQUALIZATION TABLES FROM 1896 TO 1915

Counties	Rate of equalization, 1896	Rate of equalization, 1897	Rate of equalization, 1898	Rate of equalization, 1899	Rate of equalization, 1900	Rate of equalization, 1901	Rate of equalization, 1902	Rate of equalization, 1903	Rate of equalization, 1904	Rate of equalization, 1905	Rate of equalization, 1906	Rate of equalization, 1907	Rate of equalization, 1908	Rate of equalization, 1909	Rate of equalization, 1910	Rate of equalization, 1911	Rate of equalization, 1912	Rate of equalization, 1913	Rate of equalization, 1914	Rate of equalization, 1915
Albany	.75	.75	.78	.78	.78	.78	.80	.80	.80	.81	.85	.85	.90	.90	.90	.90	.90	.90	.90	.87
Allegany	.70	.70	.73	.73	.73	.73	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.72	.70	.65	.70
Bronx	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	.91	.92
Broome	.73	.73	.73	.74	.74	.74	.74	.74	.74	.74	.78	.78	.78	.78	.80	.83	.83	.83	.83	.83
Cattaraugus	.70	.73	.80	.78	.78	.78	.78	.78	.78	.78	.78	.78	.78	.78	.78	.74	.74	.70	.70	.70
Cayuga	.69	.69	.74	.74	.74	.74	.74	.74	.74	.74	.76	.76	.78	.78	.78	.78	.78	.78	.75	.75
Chautauqua	.68	.69	.90	.90	.90	.90	.90	.90	.90	.90	.90	.90	.90	.85	.80	.80	.80	.77	.74	.72
Chemung	.68	.69	.70	.70	.70	.70	.70	.70	.70	.70	.73	.73	.73	.73	.74	.74	.76	.76	.76	.77
Chenango	.73	.73	.73	.73	.73	.73	.73	.73	.73	.73	.73	.73	.73	.77	.77	.74	.74	.74	.74	.72
Clinton	.66	.60	.60	.55	.52	.50	.50	.50	.50	.50	.50	.50	.55	.55	.55	.55	.55	.50	.50	.50
Columbia	.67	.72	.78	.78	.78	.78	.78	.78	.78	.78	.80	.60	.84	.84	.84	.84	.84	.82	.80	.78
Cortland	.55	.55	.80	.82	.82	.82	.82	.82	.82	.82	.84	.84	.86	.86	.82	.82	.82	.82	.80	.77
Delaware	.60	.70	.76	.75	.75	.75	.75	.74	.74	.74	.74	.68	.68	.68	.68	.68	.68	.68	.58	.58
Dutchess	.71	.71	.72	.71	.71	.71	.72	.72	.72	.73	.80	.85	.85	.85	.85	.85	.85	.82	.80	.80
Erie	.70	.70	.70	.69	.68	.68	.67	.67	.69	.70	.72	.74	.76	.76	.76	.80	.80	.80	.77	.75
Essex	.78	.82	.83	.81	.81	.81	.81	.79	.79	.79	.80	.60	.60	.62	.62	.62	.62	.60	.56	.58
Franklin	.70	.70	.75	.74	.74	.74	.74	.74	.74	.74	.76	.65	.65	.65	.65	.65	.65	.62	.60	.60
Fulton	.60	.60	.73	.73	.73	.73	.73	.70	.70	.70	.71	.75	.75	.75	.75	.75	.75	.75	.70	.68
Genesee	.60	.63	.71	.71	.71	.71	.71	.71	.71	.71	.72	.72	.77	.77	.77	.77	.75	.75	.72	.74
Greene	.72	.72	.73	.72	.72	.72	.72	.72	.72	.72	.72	.72	.72	.74	.74	.70	.70	.70	.70	.65
Hamilton	.92	.92	.92	.90	.90	.90	.88	.83	.83	.81	.81	.85	.85	.75	.75	.75	.75	.75	.70	.65
Herkimer	.58	.58	.93	.91	.91	.91	.91	.90	.90	.90	.90	.90	.90	.90	.85	.85	.82	.64	.66	.70
Jefferson	.80	.83	.83	.83	.83	.83	.83	.83	.84	.84	.84	.84	.84	.84	.80	.80	.80	.80	.80	.80
Kings	.68	.68	.68	.68	.68	.68	.68	.68	.89	.89	.89	.89	.89	.89	.89	.91	.91	.91	.91	.92
Lewis	.60	.60	.80	.79	.79	.79	.79	.79	.79	.77	.77	.77	.77	.77	.77	.77	.77	.77	.75	.71
Livingston	.70	.70	.70	.70	.70	.70	.72	.72	.72	.74	.78	.82	.82	.82	.82	.82	.82	.78	.75	.75
Madison	.67	.67	.70	.68	.68	.68	.68	.68	.68	.68	.76	.76	.85	.85	.83	.83	.83	.83	.80	.80

Monroe	.70	.70	.80	.80	.80	.80	.80	.80	.79	.79	.80	.82	.85	.85	.85	.85	.85	.80	.75	.78
Montgomery	.70	.70	.70	.72	.72	.72	.72	.72	.72	.72	.75	.75	.77	.77	.77	.77	.75	.75	.70	.70
Nassau	..	..	..	.65	.65	.65	.65	.62	.62	.52	.62	.62	.62	.65	.65	.65	.65	.60	.55	.52
New York	.63	.63	.63	.64	.67	.67	.67	.67	.89	.89	.89	.89	.89	.89	.89	.91	.91	.91	.91	.93
Niagara	.75	.75	.83	.81	.81	.81	.81	.81	.81	.81	.81	.81	.81	.81	.75	.75	.75	.75	.70	.68
Oneida	.60	.60	.86	.81	.81	.82	.82	.80	.80	.79	.81	.81	.81	.81	.81	.81	.81	.81	.75	.75
Onondaga	.85	.85	.85	.85	.85	.85	.85	.84	.83	.85	.88	.88	.88	.88	.88	.88	.88	.85	.82	.82
Ontario	.78	.78	.75	.75	.75	.75	.75	.75	.75	.75	.76	.76	.76	.76	.76	.76	.76	.76	.72	.73
Orange	.62	.66	.67	.67	.67	.67	.67	.68	.70	.70	.70	.70	.75	.75	.72	.75	.70	.70	.62	.60
Orleans	.78	.80	.77	.77	.77	.77	.77	.77	.77	.77	.77	.77	.77	.77	.74	.74	.74	.70	.61	.80
Oswego	.72	.72	.73	.73	.73	.73	.73	.73	.73	.72	.80	.80	.84	.84	.81	.81	.80	.80	.80	.79
Otsego	.59	.62	.70	.73	.73	.73	.73	.73	.73	.73	.73	.75	.75	.77	.77	.77	.77	.77	.77	.77
Putnam	.72	.72	.80	.77	.77	.77	.77	.77	.77	.77	.79	.79	.79	.79	.79	.79	.79	.79	.75	.72
Queens	.50	.65	.80	.80	.80	.80	.80	.81	.89	.89	.89	.89	.89	.87	.87	.89	.89	.89	.89	.89
Rensselaer	.80	.80	.79	.78	.78	.78	.78	.78	.78	.79	.79	.79	.83	.85	.85	.90	.90	.90	.86	.89
Richmond	.50	.50	.62	.63	.66	.67	.70	.75	.90	.90	.90	.90	.90	.88	.88	.89	.89	.89	.89	.89
Rockland	.58	.58	.85	.81	.81	.81	.81	.80	.80	.79	.79	.79	.79	.80	.80	.88	.88	.88	.61	.68
Saint Lawrence	.84	.84	.85	.85	.85	.85	.85	.85	.85	.85	.85	.85	.85	.85	.80	.80	.80	.80	.77	.77
Saratoga	.60	.60	.70	.70	.70	.69	.69	.68	.68	.68	.68	.68	.68	.70	.75	.75	.75	.75	.72	.68
Schenectady	.69	.70	.70	.70	.70	.70	.70	.70	.70	.70	.73	.78	.78	.78	.78	.82	.82	.82	.82	.75
Schoharie	.80	.80	.80	.80	.80	.80	.80	.78	.78	.78	.78	.79	.82	.85	.85	.80	.80	.80	.80	.77
Schuyler	.65	.70	.72	.72	.72	.72	.72	.72	.72	.72	.72	.74	.74	.75	.75	.70	.70	.70	.65	.65
Seneca	.79	.79	.77	.76	.76	.76	.76	.76	.76	.76	.80	.80	.85	.85	.82	.82	.82	.82	.77	.77
Steuben	.80	.80	.80	.80	.80	.80	.80	.80	.80	.80	.80	.80	.80	.82	.82	.82	.82	.80	.75	.75
Suffolk	.62	.55	.90	.82	.82	.82	.82	.80	.80	.80	.80	.80	.75	.75	.70	.70	.70	.70	.67	.62	.65
Sullivan	.70	.70	.75	.74	.74	.74	.74	.74	.74	.69	.69	.60	.60	.60	.60	.55	.55	.50	.45	.40
Tioga	.75	.75	.75	.75	.75	.75	.77	.77	.77	.77	.85	.85	.85	.85	.82	.82	.82	.82	.80	.80
Tompkins	.55	.55	.75	.77	.77	.77	.78	.78	.78	.78	.78	.78	.83	.83	.83	.83	.80	.80	.80	.77
Ulster	.72	.72	.75	.75	.75	.75	.75	.75	.75	.75	.75	.83	.83	.83	.83	.80	.80	.80	.75	.73
Warren	.80	.80	.80	.80	.80	.80	.80	.80	.82	.80	.80	.67	.67	.65	.65	.60	.60	.55	.50	.50
Washington	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.75	.73	.73	.78	.78	.78	.78	.78	.78	.78
Wayne	.72	.72	.72	.69	.69	.69	.69	.69	.69	.69	.72	.72	.75	.75	.75	.75	.75	.75	.72	.75
Westchester	.52	.52	.90	.90	.90	.90	.90	.90	.90	.90	.90	.90	.90	.90	.85	.85	.85	.85	.81	.75
Wyoming	.65	.70	.70	.72	.72	.72	.74	.74	.74	.74	.76	.76	.76	.76	.76	.76	.74	.74	.70	.74
Yates	.65	.70	.73	.80	.73	.73	.73	.73	.73	.73	.77	.77	.80	.80	.80	.80	.75	.75	.72	.72

[1] State Tax Commission, *Report*, 1915, pp. 64, 65. Ratio of percentages adopted for Equalization Tables are based upon Assessments of previous years.

CHAPTER VII

THE STATE TAX COMMISSIONER OF MASSACHUSETTS

THE evolution of centralized tax administration began very early in Massachusetts, but so slow has been the advance that today many states have surpassed her in the degree of state control attained over local assessments. The first stage of administrative centralization is to be traced to the latter seventeenth century, in the equalization of assessments by a committee of the General Court.[1] The purpose of these equalizations was to counteract the competitive undervaluation which, even at that early date, was beginning to characterize the general property tax. Real property was revalued and equalized at irregular intervals until 1781 when the constitution ordained that the period between revaluations should not exceed ten years.[2] Reappraisals were actually made more frequently than once in ten years,[3] but equalization of these successive appraisals remained in the charge of the legislative committee until 1871 when the function was transferred to the new state tax department.[4]

The second stage in the evolution of state administration was reached in connection with the taxes imposed on corporations during the Civil War. Various attempts at corporate taxation had been made before this time; but in the earlier experiments there had been no provision for special administrative machinery. The withdrawal of Massachusetts banks from the state to the national system caused a rapid decrease in the revenue derived from bank taxes, and the effort to replace this revenue without increasing heavily the direct state tax gave rise to the first general corporation tax in the United States. An essential feature of the

[1] Cf. Bullock, *The Finances of Massachusetts*, p. 12. Professor Bullock has published a thorough review of the historical development of the tax system in Massachusetts in the *Quart. Jour. Econ.*, xxxi, pp. 1–61. Nov. 1916. "The Taxation of Property and Income in Massachusetts."

[2] *Constitution of Massachusetts*, 1781, ch. 1, art. 4, § 1.

[3] Bullock, *op. cit.*, p. 14.

[4] *Laws of Massachusetts*, 1871, ch. 125.

new tax was central administration of the tax on the "corporate excess," for the purpose of which the office of state tax commissioner was created.[1] For the first year the treasurer and auditor of state both served as tax commissioners but in 1865 the former was made tax commissioner ex officio, with authority to appoint a deputy by whom the actual work of the department was to be performed.[2] The special tax commission of 1875 recommended the legal recognition of this fact by the establishment of an independent tax department[3] but such action was delayed until 1890.[4] The act which accomplished this independence for the tax commissioner imposed upon him the duty of acting as commissioner of corporations; but inasmuch as this work has been entirely separate from the functions relating to taxation, no account will here be offered of his duties in this connection.

The gradually expanding scope of the system of corporation taxes and the burden of the triennial equalization of property assessments increased the work of the department and necessitated the establishment of the office of deputy tax commissioner in 1898.[5] With this enlargement Massachusetts entered the field of supervision of local assessments, though the authority provided was purely advisory in character.[6] The growing need of more effective supervisory control over the local assessment of property led in 1908 to the establishment of three supervisors of assessments who were to act as agents of the tax commissioner in maintaining more direct and continuous relations with the local officials.[7] In the same act the organization of the tax department was further broadened by providing three assistants to the commissioner. The latter was to appoint his assistants with the advice and consent of the governor and council. The duties of the tax department have been expanded from time to time also by an extension of the corporation taxes administered by it, by the assumption in 1907 of the administration of the inheritance

[1] *Laws of Massachusetts*, 1864, ch. 208. [2] *Ibid.*, 1865, ch. 283.
[3] *Report of the Commission on Taxation*, 1875, p. 82.
[4] *Laws of Massachusetts*, 1890, ch. 160.
[5] *Ibid.*, 1898, ch. 507.
[6] Massachusetts Tax Commissioner, *Report*, 1899, p. 13.
[7] *Laws of Massachusetts*, 1908, ch. 550.

tax,[1] and by the enactment in 1916 of a tax on incomes.[2] Each of these functions of the Massachusetts tax department will now be considered in detail.

The Administration of the Corporation Taxes

The framework of the Massachusetts corporation tax had been developed before the Civil War.[3] This system was in reality simply an application of the general property tax to various classes of corporations. Domestic manufacturing corporations were taxed locally on their real estate and machinery, while their shares were taxed in the hands of their owners. Double taxation was avoided by the provision that due allowance was to be made in assessing the stocks for the taxable valuation of the real estate and machinery. As Professor Bullock points out, this not only prevented double taxation; it undoubtedly insured partial taxation because of the ineffectiveness of the local assessment of the stocks to their owners.[4] The chief significance of the law of 1864, therefore, was the administrative change whereby the assessment of the stocks, and the allowance of the proper deductions on account of the tangible property locally taxable, were placed in charge of a new state tax department. Other significant changes were the collection of this tax on the corporate excess from the companies themselves, the exemption of the shares of stock in the hands of their owners, and the taxation of the corporate excess at the average rate on property throughout the state.

The principal administrative features of the law may be briefly described. The first step is the calculation of the value of the outstanding shares of stock. To this end all corporations subject to the tax are required to report to the tax commissioner certain detailed facts concerning their business and the property used therein. These reports included a complete statement of the physical property, with its location, whether within or without the state and the facts as to the amount, classes, par and market

[1] *Laws of Massachusetts*, 1907, ch. 563. [2] *Ibid.*, 1916, ch. 269.

[3] Cf. Bullock, "The Taxation of Corporations in Massachusetts," *Quart. Jour. Econ.*, xxi, p. 192.

[4] Bullock, *op. cit.*, pp. 184, 185.

value of its capital stock. With the exception of street railway companies all corporations are also required to furnish a list of stockholders with the place of residence and the number of shares held by each. The tax commissioner is required to ascertain, from the returns or otherwise, the true market value of the shares of each corporation and to estimate the fair cash value of the total volume of stock outstanding. If the stocks have market quotations the practice has usually been to use the market valuation of about April 1.[1] The value of unlisted stocks and of those having no quotations has been assumed to be equal to the net assets, the amount of which has been ascertained by deducting the debts from the aggregate valuation of real estate, machinery, merchandise, bills receivable, and cash.[2] The practice of creating fictitious debts led the Joint Special Commission of 1907 to recommend that no debts be considered by the tax commissioner unless accompanied by a sworn statement that they had not been incurred for the purpose of evading taxation. This recommendation was later adopted.[3]

The next step is to ascertain the deductions to be made from the aggregate value of the capital stock of each corporation. The tax commissioner transmits to each assessor a list of the corporations known by him to be liable to taxation on their corporate excess. In return he receives from the local officials the locally determined assessment of real estate and machinery. These figures may be accepted as the true value of these forms of property, but the tax commissioner is not bound by them and he is now authorized in his discretion to require any corporation to prosecute an appeal from the local valuation.[4] The accuracy of the local assessment affects the distribution of the tax, and the tax commissioner is empowered to correct the local figures. He is now required, also, to assess the poles, wires, conduits, and other structures of telegraph and telephone companies, and apportion

[1] Cf. *Tax Laws of New York*, 1910, § 40.

[2] *Report of the Commission on Taxation*, 1897, pp. 16, 69; Massachusetts Tax Commissioner, *Report*, 1905, pp. 24, 25.

[3] *Report of the Joint Special Committee of Massachusetts*, 1907, p. 118; *Laws of Massachusetts*, 1910, ch. 270.

[4] *Ibid.*, 1909, ch. 439.

these values locally. Previous to 1902 these various structures, the property of telegraph and telephone companies, were exempt from the local assessment.[1] In this year the towns secured an amendment making this property taxable where located with a view to increasing the local revenues.[2] The local piecemeal assessment of forms of property extending continuously through a number of tax districts cannot be adequately performed by the local assessors of Massachusetts or of any other state. In 1914 the tax commissioner reported that much of this property was escaping and that serious inequalities marked the results in adjoining districts.[3] His recommendation for a state assessment and apportionment of this property was immediately accepted by the legislature.[4]

The historical development of the Massachusetts tax system has lessened the need of such an extended application of the unit rule as has been found necessary in other states. Turnpike and bridge companies have enjoyed exemption on their property, a concession which was of greater significance in the days when such companies were important. A court decision of 1842 exempted from local taxation the right of way of railroads to a distance not exceeding five rods in width.[5] The corporate excess of railroads, as now assessed, includes therefore some element of real estate value.[6]

The calculation of the amount of corporate excess on which each corporation shall be taxed, the determination of the average rate of taxation to be applied, and the distribution of the taxes complete the administrative duties of the tax commissioner in connection with the general corporation tax. After the data described above have been compiled these matters become more or less routine in character and impose principally additional

[1] Massachusetts Tax Commissioner, *Report*, 1914, p. 27.

[2] *Laws of Massachusetts*, 1902, ch. 342.

[3] Massachusetts Tax Commissioner, *Report*, 1914, pp. 27–30.

[4] *Laws of Massachusetts*, 1915, ch. 137.

[5] Bullock, "Taxation of Corporations in Massachusetts," *Quart. Jour. Econ.*, xxi, 185. Cf. also *The Inhabitants of Worcester* v. *The Western Railroad Corporation*, 4 *Metcalf*, 564.

[6] Bullock, *loc. cit.*, pp. 218, 219.

clerical labors upon the tax department. In some respects, however, they serve to emphasize certain defects in the Massachusetts system of corporate taxation.

The first of these defects is in the limited scope of the corporation tax and its inadequacy as a means of reaching corporate ability to pay. It is unnecessary here to enter into the full discussion of this phase of the subject, a phase which has been quite fully treated by the tax commissioner and by various writers on the Massachusetts corporation tax.[1] The exclusion of corporation bonds from the calculation of corporate excess is generally held to be a mistake, since corporate debts represented by bonds constitute as truly an investment of capital in the business as does the capital stock.[2] With the restriction of bond issues by the Massachusetts law there is less likelihood of extensive evasion in this manner than in other states, and in any case it is doubtful if the difference in tax burden would often prove the determining consideration in a choice of bonds instead of stocks in new corporate financing. In 1913 the legislature raised the bond limit from one to two dollars of bonds for each dollar of stocks of public utilities outstanding.[3] The tax commissioner pointed out that under this measure new financing might tend to be undertaken by a larger use of bonds, a fact which would tend to decrease the equities in the capital stock. This decrease in the amount of corporate excess taxable at the average state tax rate would hardly be offset by increased effectiveness in taxing new bonds for local purposes, although some gain may now be expected under the new income tax. The amount of corporate excess assessed to the public service corporations has declined materially since 1912.[4]

[1] Massachusetts Tax Commissioner, *Report*, 1911, p. 30; Bullock, *The Finances of Massachusetts*, pp. 118, 119; C. A. Andrews, "The Taxation of Corporate Franchises in Massachusetts," *Yale Review*, xix, p. 357.

[2] Ripley, *Railroads: Finance and Organization*, ch. 2.

[3] *Laws of Massachusetts*, 1913, ch. 784.

[4] Amount of Corporate Excess assessed to

Year	Street Railways (millions)	Other public service corporations
1912	$66.6	$243.7
1913	60.2	207.8
1914	53.2	164.9
1915	46.1	145.2

The taxes paid by these corporations have declined heavily also, notwithstanding an increase in the average rate of taxation since 1912. Various influences have undoubtedly contributed to this decline in stock values, a decline which reduced the franchise tax on the public service corporations by more than $2,000,000 from 1912 to 1915. In all cases, certainly, it does not represent a decline in tax paying ability, since there have been new issues of stock which have been paralleled by new construction of plant subject to local taxation.[1]

The advantage indirectly given to the public service corporations through the change in the bond limit and the exclusion of bonds from the calculation of corporate excess is paralleled for the ordinary business corporation by the limitation of the taxable corporate excess to 120 per cent of the real estate, machinery, merchandise, and taxable securities.[2] This restriction of the amount of taxable corporate excess of the private business corporation was evidently designed to afford a certain protection and encouragement to these classes of corporations; but it actually operates with the greatest injustice, since it penalizes those companies which carry a considerable stock of merchandise while it virtually exempts others with a small stock of merchandise but with large assets in the form of bills receivable, cash, etc. The tax commissioner has pointed out that this limiting clause affects only about one-third of all the corporations taxed under this law in Massachusetts — 2,292 out of a total of 6,478 companies in 1915. But those which do obtain the advantage are among the most securely established and most prosperous of all the companies doing business in the state. The untaxed portion of the corporate excess in 1915 was $102,805,836, as against a taxable amount of $95,775,502.[3]

A similar advantage accrues to certain classes of companies from the statutory provision that mortgages, to an amount equal to the assessed value of the real estate, are an interest in real

[1] Massachusetts Tax Commissioner, *Report*, 1915, p. 8.

[2] *Laws of Massachusetts*, 1903, ch. 437.

[3] Massachusetts Tax Commissioner, *Report*, 1915, pp. 18, 19. Cf. Bullock, "Taxation of Corporations in Massachusetts," *Quart. Jour. Econ.*, xxi, pp. 211–213, for a discussion of the discrimination against unincorporated concerns.

estate.[1] This provision, as construed, actually permits deduction of all real estate and mortgages owned.[2] The trust companies seem to have profited most by this legal position. In 1915 the tax commissioner, comparing the situation of that year with 1912, found that there were nine additional trust companies, that the combined capital and surplus was larger by $626,176, and that the aggregate gross earnings were greater by $5,781,007; but that the aggregate tax liability was less by $94,649. In the case of thirty-seven out of the seventy-five trust companies operating under Massachusetts charters in 1915 the mortgage deduction overbalanced the taxable value and there was no taxable corporate excess.[3]

The changes in the method of distributing the tax on the corporate excess reflect, in an interesting way, the struggle that has been going on in several states to secure a greater revenue for the municipalities in which the corporate property is located and in which the business is actually carried on. The familiar principle, *mobilia personam sequuntur*, was followed in the earlier laws for the taxation of corporations in Massachusetts and the portion of the tax not retained by the state on account of non-resident shareholders was distributed to the localities in which the shareholders happened to reside. In the course of time the rising tax burden of the larger municipalities led to a general migration of wealthy stockholders to the smaller residential towns in which the local tax rates became merely nominal. Meanwhile the tax burdens of the industrial centers became progressively heavier. This situation received the attention of several of the special tax commissions which have been created in recent years. The commission of 1897 recommended that the state retain the tax on the corporate excess and then assume the expenses of the counties.[4] The Joint Special Commission of 1907 advised the retention by the state of the tax on the corporate excess of railroad, telegraph, and telephone companies with a corresponding reduction of the direct state tax.[5] The Commission on Taxation, report-

[1] *Laws of Massachusetts*, 1881, ch. 304. [2] 137 *Mass.* 80.
[3] Massachusetts Tax Commissioner, *Report*, 1915, pp. 8, 9.
[4] Commission on Taxation, *Report*, 1897, pp. 116–118.
[5] Joint Special Commission on Taxation, *Report*, 1907, pp. 35–39.

ing in 1908, endorsed this proposal, and a minority desired to extend it to the tax paid by manufacturing and business corporations as well. The majority recommendation on this point, however, was the proposal that one-half of the tax on business and manufacturing companies be distributed according to the domicile of the owners, one-half according to the location of the plant or the conduct of the business.[1] This recommendation was adopted in 1908.[2] A series of amendments have since turned over to the towns in which the business is carried on the whole of the tax on these corporations except that part retained by the state on account of non-residents. This method of distribution was adopted for all classes of corporations in 1916,[3] leaving only the receipts from the bank tax to be distributed according to the domicile of the shareholders.

In addition to his duties in connection with the general corporation tax the tax commissioner is given supervision over the special taxes that have been imposed upon certain classes of corporations. The list of such taxes includes the taxes on savings banks and the savings departments of trust companies, the excise tax on foreign corporations, a series of taxes on insurance companies, a tax on express companies, and various minor taxes. In most cases the tax is a specific tax, levied on some feature of the business which is a matter of record.[4] The administrative duties in this connection are largely routine and call for no special comment.

The operation of the system of taxing National Banks requires a certain oversight by the tax commissioner. Under the federal statute shares of stock in such banking institutions are to be taxed as personal property to their owners in the city or town in which the bank is located, on an assessment made by the local assessors. The tax is paid by the bank to the local collector. After deduct-

[1] Commission on Taxation, *Report*, 1908, pp. 12–21.

[2] *Laws of Massachusetts*, 1908, ch. 614.

[3] *Ibid.*, 1916, ch. 299; also, *ibid.*, 1910, ch. 456, and 1914, ch. 198.

[4] Such as deposits less certain investments in the case of savings banks, net premiums of insurance companies, the authorized capital stock of foreign corporations, and the corporate excess of express companies. The last named companies have paid no tax under this law since 1912. The excise tax on foreign corporations was sustained in 232 *U. S.* 1.

ing 1 per cent for expenses of collection the remainder of the tax is divided between the state and the communities in which the owners of the stock reside, the state taking the tax due on the shares owned by non-residents. The tax commissioner is required to supervise the returns in order to insure that the state receives its proper allotment of taxes and that the proper distribution is made to communities according to the residence of the stockholders.

The Apportionment of the State Tax

The history of central control over the assessments, upon which the direct tax for state or provincial purposes is levied, goes back to the later seventeenth century for its beginning. It has been noted above[1] that the tax burden in Massachusetts tended to become very heavy at different times during the seventeenth century, and especially during the various Indian outbreaks. Local equalization, performed in each county by special commissioners, appears to have been introduced quite early in the history of the colony. Such decentralized administrative measures were not successful in securing full returns of property and income and an equitable distribution of the tax burden.[2] Consequently, toward the end of the century a central review of the assessment was introduced for the purpose of correcting the tax roll. One of the first instances of this practice — probably the earliest — occurred in December, 1692, in connection with an act ordering a reassessment to make good the deficiency in a tax levy of June, 1692.[3] The General Court was to appoint two commissioners for each county, who were to go into the respective counties and review the assessment lists with the selectmen. After the lists had been "regulated, corrected and perfected," the special commissioners were to bring them to Boston and there review them

[1] Cf. above, p. 19.

[2] Day, *op. cit.* Professor Day has recently written me that the equalization committee appointed by the General Court in 1668 met as a single board and probably equalized between counties as well as between towns. Intercounty equalization did not become a settled practice after this date, however, until near the end of the century. *Personal Letter from Professor E. E. Day*, July 19, 1917.

[3] The original act is *Laws*, 1692–93, ch. 4; *Prov.* I, p. 29; the amendment is *Laws*, 1692–93, ch. 41; *Prov.* I, p. 91.

all in order to insure the levy of the sum of 30,000 pounds. Any defects were to be reported to the next sitting of the general assembly.

This procedure was not followed regularly thereafter, but was abandoned for a review and equalization by a committee of the General Court.[1] Under the provincial charter of 1692 the system of apportioning the tax for provincial expenses was adopted and the General Court enacted from time to time a schedule showing the amount to be collected from each town in the province. Assessments for the purpose of establishing this apportionment were ordered at irregular intervals during the eighteenth century, and in each case the local returns were equalized by a committee from the General Court. In a few cases there was apparently a preliminary correction by special commissioners as in December, 1692.[2] The constitution of 1780 required that a new assessment should be made at least as often as once in ten years. The legislative committee continued to perform the function of a state equalization board until 1871 when the task was assumed by the tax commissioner. The work of the committees was based upon study of local methods and results, but their efforts were naturally not sufficient to prevent the steady progress of undervaluation. In 1792 the committee found the returns from the different towns to be marked by striking features of injustice and as a remedy it proceeded to add[3]

> . . . such articles and amount of property not included in the returns as by their best judgment deliberately used, it appeared that the inhabitants of the different places must be possessed of to give support to themselves and to their Cattle which it was evident they derived from sources within their own limits . . . .

The methods of the legislative committee may be further illustrated by reviewing the equalization for the year 1860.[4] The procedure in this was probably typical of the practice during the

[1] Bullock, *The Finances of Massachusetts*, p. 12.

[2] For example, in 1718 and 1727. Cf. *Prov.* II, p. 105, ch. 11 of 1718, and *ibid.*, p. 418, ch. 2 of 1727.

[3] Quoted by Bullock, *Finances of Massachusetts*, pp. 13, 14, note.

[4] *Journal and Documents of the Valuation Committee of 1860.* This year is taken because the documents happened to be most readily available to the writer.

middle of the nineteenth century, as the committee appointed in 1860 drew largely from the experience of the past. The order of business was adopted without serious modification from the report of the valuation committee of 1850.[1] The first step was the agreement to appraise at a uniform value those items of property which were considered to be of uniform real value throughout the state. These included the various classes of farm animals and gold and silver plate.[2] For the purpose of establishing the valuation of the various cities and towns it had apparently been the custom for the members of the committee from each county to select a *sample* town, the property of which was to be appraised by the equalization committee, together with such items as were returned from other towns and cities in the county but were not included in the return from the sample town. Each county delegation was then to value the items from their cities and towns in accordance with the principles established in appraising the sample town. This practice was similar to the attempt of the Ohio state board of equalization to equalize the counties on the basis of the best-assessed county,[3] and possibly suggested to the early Ohio boards that method of procedure. The Ohio and Massachusetts methods parted company at this point. No statutory limitations were imposed on the latter board; on the contrary, it was given the right of doomage for the purpose of attaining full valuations. Sub-committees were appointed for special classes of property, such as ropewalks, rolling mills and furnaces, factories of various sorts, and other classes of industrial establishments.[4]

Equipped with the right of doomage the valuation committee was virtually empowered to reassess property in order to fulfill the mandate of the resolution providing for the equalization, which required an appraisal or estimate of all the property at its "true and just value."[5] Nevertheless, full valuation was not maintained through the nineteenth century by the apportion-

[1] *Journal and Documents of the Valuation Committee of 1860*, p. 40.
[2] *Ibid.*, p. 169.
[3] Cf. above, pp. 48, 49.
[4] *Journal and Documents of the Valuation Committee of 1860*, pp. 40–42.
[5] *Ibid.*, p. 15.

ments and equalizations so conducted.[1] The commission of 1875 reported the discovery, by the tax commissioner, of municipalities which had valued their property as low as two-thirds or one-half of its admitted market value.[2] The source of the tax commissioner's information is not indicated, but it is significant to note that he promptly advanced these cities to their proper valuation. This action indicates clearly that when the tax commissioner first undertook the duty of state equalization in 1871 he was equipped, or at least considered himself to be equipped, with the strong corrective authority over improper assessments that the legislative committees had enjoyed.

This appears to have been the general view, for it occasioned much surprise in Massachusetts when the tax commissioner was advised by the Attorney-General in 1909 that under the act of 1881, which provided for a triennial apportionment to be made by the tax commissioner, he was restricted to the information received from assessors and other public officials relative to the amount and value of taxable property; and that he was wholly unauthorized to make use of information from any other source.[3] Obviously a state equalization, in which the equalizing agent is confined to the data to be equalized, or to supplementary materials reported by the assessors themselves and other local officials, was of little value. The explanation for this rather tardy definition of his powers appears to be that in the earlier state equalizations no great amount of outside information had been in the possession of the tax commissioner, and his then rather restricted conception of his duties, together with the absence of adequate machinery for the collection of additional data, prevented the question from rising at all. The situation had been changed by the provision of supervisors of assessment in 1908, and the initiation, in 1907, of central supervision of the inheritance tax. Through both of these channels, as well as from the widespread discussion of the tax problem then going on over the

[1] Cf. Bullock, *The General Property Tax*, reprinted from the *Boston Transcript*, January 13, 20, 27, 1909.

[2] *Report of the Commission on Taxation*, 1875, p. 84.

[3] Massachusetts Tax Commissioner, *Report*, 1909, pp. 36–39.

state,[1] an increasing amount of valuable supplementary data had poured into the tax commissioner's office and had finally raised the question of his precise powers under the statute. After recommending for two years that the law be amended to permit the use of this material, he received from the legislature in 1911 authority to make use of all of the information in his possession regardless of its source.[2]

This amendment cleared the way for a vigorous revision of the local returns, and in the triennial apportionment of 1913 about $350,000,000 were added to the local assessment.[3] The commissioner made good use of his additional data but the way in which the increases had to be made, under the Massachusetts law, resulted in a certain degree of injustice. The amounts added to any district increased thereby that unit's share of the state tax; but this greater tax was levied upon the property already listed and not upon the property added in the equalization. The revision of the local rolls resulted, therefore, in greater equality among municipalities but in a greater inequality among the individuals in any town in which corrections of this sort were made. The fundamental injustice of the general property tax in Massachusetts is shown by the commissioner's estimate that the amount of sequestered property listed by him was not over 10 per cent of the total quantity of such property in the state. Of the total amount added by the tax commissioner in the equalization of 1913, some $87,500,000 were placed upon real estate. The commissioner held that this sum was a conservative estimate and that it would have been greatly increased by more efficient methods of comparing real estate values. To make this possible he recommended legislative provision of means whereby sales ratios might be constructed.[4]

No provision for sales ratios or other aids of this sort has as yet been made. Under the statutory limitations which still prevail, the tax commissioner's recently extended powers of revising the assessment lists are still quite inadequate to secure a proper dis-

[1] Special tax commissions reported in 1907 and 1908.

[2] *Laws of Massachusetts*, 1911, ch. 366.

[3] Massachusetts Tax Commissioner, *Report*, 1913, p. 9.

[4] *Ibid.*, 1915, pp. 30–33.

tribution of the common burden of state and county taxes. The new income tax removes intangibles — the most troublesome class — from the local assessment. But it must not be overlooked that, even with this improvement, the forms of property that remain subject to local taxation in Massachusetts are numerous and quite diversified both as to income power and as to certainty of assessment. The problems of proper assessment and equalization are not cleared away; they are only made somewhat less difficult by the income tax. In order to deal with these more definite but by no means easy problems, the tax commissioner's powers and resources should be extended, not only in the equalization but in the supervision and control of the original assessment. However thorough and vigorous the state equalization, it can never wholly overcome the defects of an inequitable assessment. The taxation of property which is assessed by local officials remains the foundation of the Massachusetts tax system, and to the tax commissioner's powers and duties in supervising this assessment attention will now be turned.

Supervision of the Local Officials

Although revision of local assessments had been within the province of the legislative committees on equalization and had been practiced by them, supervision of the local assessment, that is, control of the conditions under which the local assessment is made, did not appear in Massachusetts until a comparatively recent date. Its advantages had been perceived, however, as early as 1875, and the Commission on Taxation which reported in that year recommended that the tax commissioner be given power to designate one member of each local board of assessors as the representative of the state.[1] This proposal passed unheeded and the idea of central supervision of the original local assessment lay dormant until 1898 when provision was made for a deputy tax commissioner.[2] The motive in creating this office was

[1] *Report of the Commission on Taxation*, 1875, p. 84. Urged upon the Special Commission of 1909 by a member of the earlier body. *Report of the Commission on Tax Laws*, 1909, p. 71.

[2] *Laws of Massachusetts*, 1898, ch. 507.

in part the relief of the tax commissioner, whose duties had become quite burdensome; but advantage was taken of the opportunity to extend the department's authority beyond its original jurisdiction. The deputy was to be appointed by the tax commissioner, with the advice and consent of the governor and council, and was to perform the following duties:[1]

> . . . visit any city or town, inspect the work of its assessors and give them such information and require of them such action as will tend to produce uniformity in valuation and assessments throughout the Commonwealth; to cause an assessor who violates any of the laws relative to the assessment of taxes for which a penalty is imposed to be prosecuted . . .; to appear before the superior court or any board of county commissioners sitting for the abatement of taxes.

While the statutory language above quoted was perhaps expected to provide effective state supervision over local assessments, it was in reality incapable of introducing such a reform. The deputy tax commissioner was apparently given authority to require the action necessary to secure uniform valuations and more complete assessments; but his only recourse against the local assessor's dereliction of duty was legal prosecution. Experience in many states has proved that this remedy, involving the slow-moving machinery of the courts, amounts in practice to no remedy at all. The deputy tax commissioner was therefore given virtually no means of influencing local assessments except that of persuasion and no duty but to offer instructions and advice. Reassessment of the property and, when necessary, the removal of the assessor have been found to be the only really effective agencies of central control over local assessments, and these were not provided by the law of 1898. Authority was given to examine the assessor's books and investigate the quality of his work; but the absence of adequate corrective powers in the event that discrepancies of any sort were discovered rendered the cultivation of this portion of the deputy's field of authority rather unprofitable. Further, the task of adequate supervisory inspection, even in a state of no greater extent than Massachusetts, was far beyond the capacity of a single official. For the first decade, therefore, the deputy tax commissioner was compelled to rely upon visits

[1] *Laws of Massachusetts*, 1898, ch. 507.

and explanatory instructions to new assessors as they assumed office, with a certain amount of inspection of the manner in which these officials made up their assessment rolls.[1]

It is clear that state supervision of local assessments of the sort here described could not prove effective in correcting the abuses of improper assessments. The Commission on Taxation reporting in 1908 thus summed up the situation:[2]

> Real property is frequently undervalued, and this fact, despite the best efforts of the tax commissioner (*i. e.*, in equalization), produces inequality in the state tax. Machinery and merchandise are assessed by no uniform rules, while in the taxation of intangible property the situation is little short of chaotic.

A similar conclusion with regard to intangible property had already been reached by the Joint Special Committee of 1907, which declared that the present system had failed and would continue to fail to reach the bulk of such property.[3] This committee recommended an enlargement of the tax department and proposed a bill, which among other things made provision for the appointment by the tax commissioner of four supervisors of assessment.[4] The Commission on Taxation of 1908 repeated this suggestion but proposed to increase the number of supervisors to twelve and to extend the tax commissioner's authority to include the review and revision of assessments. The commission's bill as submitted provided further that the tax department should serve more specifically as a clearing house of information concerning taxable property. In 1908 the legislature undertook a reorganization of the tax department along the lines suggested by the Joint Special Committee of 1907, though all of the specific changes recommended by that body were not adopted.[5] With the advice and consent of the governor and council the tax commissioner was authorized to appoint a deputy tax commissioner and three assistants who were to be assigned to certain general departments.

[1] The work of the deputy has been frequently described. Cf. the Massachusetts Tax Commissioner, *Report*, 1899, p. 21; *ibid.*, 1900, pp. 14, 15; *ibid.*, 1901, pp. 15, 16, etc.

[2] *Report of the Commission on Taxation*, 1908, p. 73.

[3] *Report of the Joint Special Committee on Taxation*, 1907, p. 3.

[4] *Ibid.*, Appendix A, especially p. 98.

[5] *Report of the Commission on Taxation*, 1908, pp. 73, 74.

He was also to select three supervisors of assessments, through whom supervision of the local assessments was to be maintained.

This revision of the law brought much-needed relief to the tax department and permitted an expansion of the administrative organization that had been rendered imperative by the pressure of work. No improvement was made, however, at the point most vital to successful supervision of local assessments, since no authority was given the central head of the tax system to enforce its suggestions. The supervisors were to furnish the assessors with all information that had come to the tax commissioner's office relative to property in their respective districts, but the only means of compelling its use was through the mayor of a city or the selectmen of a town, to whom the tax commissioner might make such recommendations as he should deem "necessary or expedient in the matter." [1] If, as frequently happened, the selectmen were also the assessors, the attention paid to the suggestions may well be imagined.[2] The tax commissioner has been inclined to emphasize the indifference of some assessors and in 1914 he spoke especially of the fear of driving out of town some person of wealth as troubling too much some of the assessors.[3] He was apparently referring to the assessors in certain residential towns, into which a considerable migration of wealthy persons was going on. Professor Bullock has more recently stated that in a majority of towns the commissioner's recommendations met with substantial compliance and that as a result the act of 1908 proved fairly effective.[4]

Greater effectiveness in administration, to whatever degree it was attained, only hastened the breakdown of the general property tax. The transfer of the administration of the inheritance tax to the tax commissioner's office in 1907, and the extension of this tax to cover direct inheritances gave the state officials access to all property passing by bequest. With the new facilities for inves-

[1] *Report of the Joint Special Committee on Taxation*, 1907, pp. 20, 21. *Laws of Massachusetts*, 1908, ch. 550.

[2] *Tax Laws of Massachusetts*, 1912, p. 82.

[3] Massachusetts Tax Commissioner, *Report*, 1914, p. 50.

[4] Bullock, "Taxation of Property and Incomes in Massachusetts," *Quart. Jour. Econ.*, xxxi, p. 33.

tigation that were provided in 1908 it became possible to collect, classify, and distribute an immense amount of useful information to the local assessors, although they could not be compelled to make use of it. The results of this attempt at more effective administration of the general property tax will be briefly noted.

The first effect of the more thorough oversight of the local assessment was a fairly rapid increase of local assessments in the state. The aggregate rose from $3,512,000,000 in 1907 to $4,769,000,000 in 1915. To what extent this increase represents new taxable property which was discovered and listed through the supervisory activities of the tax department, and to what extent it represents a higher valuation of property formerly listed, it is impossible to say.

A second result of the closer supervision has been the increase in the proportion of personal to total property assessed. This proportion rose from 21.8 per cent in 1907 to 25.1 per cent in 1915, but the tax commissioner expressed the opinion in 1911 that the proportion of moneys and credits then listed for taxation was no greater than in 1907.[1] While speaking in the highest terms of the supervisors of assessment, he admitted their failure to secure much improvement in the assessment of this class of property.[2] Some intangibles were of course included in the amounts of personal property returned by the tax dodgers who were migrating to the small towns which were offering special inducements to this class of immigrants. The Special Commission on Taxation which reported in 1916, using the ratio of intangibles to real estate in a large number of cases filed with the inheritance tax department of the tax commissioner's office and in the probate court of Middlesex County, estimated that the amount of taxable intangibles was 1.25 times the amount of real estate. In 1914 this gave a total of $4,335,000,000 of taxable intangibles. The commission regarded $600,000,000 as the outside estimate of the amount of such property listed for taxation, and considered $550,000,000 a fair estimate.[3]

[1] Massachusetts Tax Commissioner, *Report*, 1911, p. 11. Cf. *ibid.*, 1913, pp. 8, 9.
[2] *Ibid.*, 1911, pp. 12–15.
[3] *Report of the Commission on Taxation*, 1916, pp. 38–42, 57.

The migration of tax payers into those tax districts of the state which offer the greatest advantages in low tax rates and moderate basis of assessment has been a matter which has attracted the attention of several investigating commissions. The commission of 1875 found that such migration had begun, even at that time.[1] The commission of 1897 pursued the inquiry further and discovered that eighteen selected towns, with a combined population of only 62,529 had returned $52,570,721 out of the $83,792,441 of intangible personal property assessed in the state, outside of Boston, or 62.7 per cent. In some of these favored towns the intangibles bore the relation to the tangibles of sixteen to one.[2] Investigation of the distribution of intangibles among the towns was continued by the Commission on Taxation of 1908, with the result of demonstrating a still more serious concentration of personalty in certain towns than had been revealed in the earlier inquiries. Excluding merchandise, live stock, and machinery, 29.6 per cent of the total remaining personalty assessed in the state outside of Boston was returned in 1904 from seventeen towns. Fourteen other towns, showing a less degree of concentration, accounted for 5.7 per cent more. The proportion of tangibles to intangibles in the first group of seventeen towns was as one to twenty-four, in the second group as one to six, and in the other towns and cities of the state, as three to two.[3] The efforts at more stringent administration since 1908 have stimulated this migratory movement.[4]

Finally, there has been some tendency for the property that has been discovered and listed to disappear from the tax rolls through removal from the state and transference into exempt investments. Evidence of the extent to which removal from the state has occurred is difficult to secure. Professor Bullock accepts the estimate of about $100,000,000 for 1914.[5] The field of tax exempt investments was widened by the exemption of future issues of

[1] *Report of the Commission on Taxation*, 1875, pp. 116 ff.

[2] *Report of the Commission on Taxation of Massachusetts*, 1897, pp. 50, 51.

[3] *Report of the Commission on Taxation*, 1908, pp. 40, 41.

[4] Bullock, "Taxation of Property and Income in Massachusetts," *Quart. Jour. Econ.*, xxxi, pp. 36–40.

[5] Bullock, *loc. cit.*, p. 35.

state, county, and municipal bonds in 1906 and 1908.[1] Short time municipal obligations maturing around tax day came into great demand and the quantity of non taxable corporation stock issued for sale in Massachusetts displayed a marked increase.[2] Meantime the agitation for further tax reform continued, and after several years spent in discussing various projects, an income-tax law was passed in 1916.[3]

The Inheritance Tax

Though the inheritance tax was adopted in Massachusetts in 1891,[4] its administration imposed no duties upon the tax commissioner until 1907.[5] For the first sixteen years the state treasurer was the nominal head of the administration of this tax, but in reality the local courts were the chief administrative agents. This anomaly did not escape the commission of 1897, but that body made no recommendations for a transfer of authority and even pronounced the courts to be the most convenient and efficient machinery for the enforcement of the law.[6] In 1907 the whole administration, except collection of the taxes, was transferred to the tax commissioner and the inheritance tax law was broadened so as to apply to direct as well as to collateral inheritance. The administrative changes of 1907 were the result of the recommendations of the Joint Special Committee of 1907, which had condemned the anomaly of holding the treasurer, the custodian of public funds, responsible for the assessment of a tax.[7] This method had not only been anomalous, it had been wasteful. In 1906 the treasurer had obtained an extraordinary appropriation of $1000 and in eight months his agents had discovered unpaid inheritance taxes amounting to $71,000.[8] The need for

[1] State bonds were exempted by *Laws of Massachusetts*, 1906, ch. 493. County bonds were exempted by ch. 464, and municipal bonds by ch. 594, of the laws of 1908.

[2] Bullock, *loc. cit.*, pp. 43–44. [3] Cf. below, pp. 235, 236.

[4] *Laws of Massachusetts*, 1891, ch. 425.

[5] *Ibid.*, 1907, ch. 563; amended by *ibid.*, 1909, ch. 268.

[6] *Report of the Commission on Taxation of Massachusetts*, 1897, pp. 24, 25, 97.

[7] *Report of the Joint Special Committee on Taxation*, 1907, p. 20.

[8] *Ibid.*, p. 22.

greater administrative vigilance was recognized in the committee's recommendation for the creation of an inheritance tax bureau in the state tax department, to be in charge of an inheritance tax assessor under the direction of the tax commissioner.

The combined effect of the taxation of direct inheritances and of more vigorous administration has been a marked increase in the receipts from the tax. The collections rose from $357,523,000 in 1908 to $2,277,832 in 1914. This very significant fiscal growth has been paralleled by the rising importance of the inheritance tax bureau as the clearing house of information upon the ownership of property in the state. An act of 1915 made possible the settlement of estates within one year[1] and the collections for this year rose to $2,487,320. The tax commissioner regarded this increase as abnormal, and the result of the enforced settlement of pending cases occasioned by the new law. He expressed some fear, also, that the decision of the courts whereby joint tenancies, and the property passing to a surviving joint tenant were held not to be subject to the tax, would impair its productiveness, in view of the increasing popularity of this form of joint holding.[2]

The Income Tax

The history of the discussion and agitation which led up to the Massachusetts income tax law of 1916[3] has so recently been told by Professor Bullock that it need not be repeated. The law went into operation in 1917, and only a very brief account of it will be given here.

The Massachusetts income tax law provides a tax of 6 per cent on the income from taxable intangibles, which are henceforth to be exempt from local taxation. With this is incorporated the older tax on the income from annuities, professions, employment, trade and business. These incomes are to be taxed at 1½ per cent. As the act goes into operation advantage will be taken of the opportunity to secure a better assessment of tangible personalty, by the provision that no taxpayer may secure a reduction of his

[1] *Laws of Massachusetts*, 1915, ch. 152.
[2] Massachusetts Tax Commissioner, *Report*, 1915, p. 15.
[3] *Laws of Massachusetts*, 1916, ch. 269.

taxable personalty in 1917 below the amount for which he was taxable in 1916, without making a sworn return of his taxable property. It is expected that this provision will open up the way to a much better assessment of the forms of property that remain subject to local taxation. If the experience of Wisconsin may be taken as a guide, the income tax assessors will prove valuable aids in the administration of the tax on property and the general administration of the tax system.

The influence of the Wisconsin measure is seen in the administrative provisions. The tax commissioner is in general charge, with a deputy provided by the act to be in charge of the income tax. The commissioner appoints this deputy, and also the income tax assessors, together with such deputy income tax assessors as may prove necessary. The tax commissioner is also to designate the income tax districts and assign the assessors whom he has chosen to these districts, giving preference, where practicable, to residents of the districts in his appointments. He is left perfectly free, however, to make such shifts in the appointees assigned to the various districts as he considers to be desirable. The act provides for information at the source in certain cases, and the tax commissioner is to prescribe the forms and conditions under which these returns are to be made. Throughout the act displays confidence in the tax commissioner and he is given virtually free rein in planning the organization of income tax assessment. It is especially fortunate that a progressive position was taken on the question of administration, because recent experience has revealed how very important efficient central administration is for the success of an income tax. There is every prospect that the Massachusetts law will prove successful.

CHAPTER VIII

THE STATE TAX COMMISSION OF WISCONSIN

THE history of taxation in Wisconsin [1] illustrates, in a peculiarly interesting way, the typical evolution of state control over taxation. For this reason the historical antecedents of the tax commission will be very briefly outlined.

Complete administrative decentralization in the tax system prevailed throughout the territorial period, during which the general property tax was slowly developing; it was characteristic also of the first general assessment law of the new state, passed in 1849, in which chief reliance for full returns was placed upon taxpayers' oaths.[2] So great were the objections to the results thus obtained, however, that a state board of equalization was established in 1852.[3] The original board consisted of the governor, secretary, treasurer, attorney-general, and superintendent of public instruction; the lieutenant-governor and the bank comptroller were added in 1854. Four years later the function of state equalization was transferred to a board consisting of the secretary of state and the state senate. In favor of this change it was urged that the larger board would be more representative; but the real work of equalization was delegated to a committee which performed its task in the fear that insistence upon strict justice would mean the total defeat of its recommendations.[4] The continuance of local undervaluation led, a decade later, to the substitution of an independent state assessment for the state equalization of local returns.[5] The latter had become so untrustworthy that even if a careful state equalization could have been made, it would still have been thoroughly unreliable. The independent state assessment was made by the board of equalization,

[1] Cf. Phelan, *The Financial History of Wisconsin*, 1908.
[2] *Revised Statutes of Wisconsin*, 1849, ch. 15.
[3] *Laws of Wisconsin*, 1852, ch. 498.
[4] Phelan, *op. cit.*, p. 149. [5] *Laws of Wisconsin*, 1868, ch. 130.

now termed the "state board of assessment," upon the basis of statistics of population and wealth collected by the secretary of state. Local undervaluation became thereafter of little avail so far as the state tax was concerned, except as a low return might possibly have influenced the board in the state assessment. But the increasing burden of local expense afforded sufficient inducement for the continuance of the practice without abatement.[1] In 1873 the state board of assessment was reorganized by substituting the treasurer and attorney-general for the senate.[2] This change was made necessary by the natural inefficiency of the large administrative body; but the smaller ex officio board displayed little aptitude or inclination for the state assessment, which had degenerated by the middle of the nineties into an empty form, productive of only mischievous results. The following figures reveal the situation:

STATE AND LOCAL ASSESSMENT OF PROPERTY IN WISCONSIN, 1890–99[3]
(MILLIONS)

Year	State	Local	Year	State	Local	Year	State	Local
1890	$623.8	$579.8	1894	$600.0	$632.6	1897	$600.0	$628.5
1891	654.0	591.0	1895	600.0	633.3	1898	600.0	630.7
1892	654.0	602.4	1896	600.0	629.7	1899	625.0	648.0
1893	654.0	624.7						

The state assessment had certainly become an extremely lifeless process. For five consecutive years a flat level was struck which was lower than that achieved by the local assessors with all their competitive struggle for low valuations.

The early experiences in corporate taxation were equally unsatisfactory. Special taxation of railroads was introduced in 1854 in the enactment, in lieu of all other taxes, of a tax of 1 per cent upon the gross earnings of railroad and plank road companies.[4] This tax was held unconstitutional in 1860 as a violation

[1] Cf. *Report of the Wisconsin State Tax Commission*, 1898, pp. 75–80.

[2] *Laws of Wisconsin*, 1873, ch. 235.

[3] The state assessment of one year is to be compared with the local assessment of the preceding year.

[4] *Laws of Wisconsin*, 1854, ch. 74.

of the rule of uniformity; but the legislature in the same year provided for a license tax of 1 per cent levied upon gross earnings and exempted these companies from all other taxation.[1]

The early favoritism toward railroads waned rapidly in Wisconsin and the demand became increasingly insistent for more uniform taxation, by which was meant chiefly greater taxation of the railroads. In response to this pressure the rate of the license tax was several times altered and in 1876 there was introduced a system of classification on the basis of gross earnings per mile, with a different rate for each class.[2]

Defective administration proved to be the bane of the gross earnings tax in Wisconsin.[3] Originally the only official in charge of the tax was the state treasurer, who received the sworn returns of gross earnings from the railroad officials and issued the annual license upon the payment of the "fee" or tax. After 1876 the returns were made to the railroad commissioner who was supposed to verify the statements of the railroad companies.[4] In 1889 this official was given extensive powers of inquiry into the details of the business and the right of withholding the license until satisfactory information was forthcoming; but owing to lack of "funds, office force, time, and desire" these large powers were not generally exercised and the railroads continued virtually to make their own assessment.[5] The special tax commission of 1898 decided that the corporations taxed under the gross earnings plan were paying relatively less taxes than other classes of taxpayers, and less than they would on the ad valorem basis.[6] This commission was unwilling to recommend specific changes, but suggested a more thorough examination of the subject by a committee equipped with larger powers. The next year the railroads seized upon this suggestion in order to defeat a bill providing for an advance in the rate and the abandonment of classification, on the ground that a problem of such far-reaching importance could

[1] *Knowlton* v. *Supervisors*, 9 *Wis.* 379. *Laws of Wisconsin*, 1860, ch. 173.
[2] *Ibid.*, 1876, ch. 97.
[3] Snider, *Taxation of Gross Receipts in Wisconsin*, ch. 3.
[4] The office was created by *Laws of Wisconsin*, 1876, ch. 57.
[5] Snider, *op. cit.*, p. 30.
[6] *Report of the Wisconsin State Tax Commission of 1898*, pp. 135, 183.

be handled only by experts.[1] The legislature accepted the demand of the railroads and provided for a tax commission; but in its establishment counsel was taken of the commission of 1898 as well as of the railroads and every feature of the former's recommendations relative to centralized supervision of the tax system was incorporated.[2] In consequence there emerged in Wisconsin in 1899 a well organized tax department, provided with supervisory authority over the general tax system and charged with the particular duty of investigating corporate taxation.[3] The results of this special investigation proved very unwelcome to the railroads as will later be seen.[4]

The new tax department consisted of one commissioner and two assistant commissioners, to be appointed by the governor for a term of ten years at a salary of $5000 for the commissioner and $4000 for each of the assistants. All of the appointees were to be persons known to possess skill and knowledge in matters pertaining to taxation. That the law should have included the supervisory feature at this time is significant, for but two other states — Indiana and Massachusetts — had then introduced administrative reform of this sort.[5] The tax commissioner was to act as president of the state board of assessment and as a member of this body he was to lay before it any data in his possession which, in his judgment, would be of assistance in its deliberations.

In 1901 the legislature sought to abolish the old, and now more than useless ex officio state board of assessment, and to transfer its functions to the new tax department. The probable intent was to transfer to the commission all of the powers and duties, as well as the title, of the former board; but this design was not accomplished through the failure to extend, specifically, the authority of the commission to cover the assessment of express, sleeping car, freight line and equipment companies, a power which had been conferred upon the old board in 1899.[6] The failure to repeal

[1] Phelan, *op. cit.*, pp. 386, 387.

[2] The recommendation is in the Commission's *Report*, p. 183.

[3] *Laws of Wisconsin*, 1899, ch. 206. [4] Cf. below, pp. 257 ff.

[5] The Massachusetts law of 1898 was quite ineffective.

[6] Wisconsin Tax Commission, *Report*, 1901, p. 167; *Laws of Wisconsin*, 1899, chs. 111–114.

or modify the provisions just referred to, or even to mention these duties at all, resulted in a continuance of the former board for the purposes of this assessment; but the state assessment was thereafter made by the tax commission. In 1903 it was placed in charge of all ad valorem taxes on corporations and the old state board was abolished.[1] In this year the gross earnings tax on railroads was abandoned for an ad valorem system, the administration of which was also given to the tax commission.[2] The ad valorem system was extended to the electric railroads and telegraph companies in 1905,[3] at which time the tax department was reorganized as a permanent tax commission with three members of equal rank, appointed by the governor for a term of eight years at a salary of $5000 per year.[4] Finally, in 1909, the legislature abolished the title "State Board of Assessment" since all of the duties of that board had been vested in the tax commission.[5] Thereafter the state assessment was to be regarded in the law, as it had long been in fact, simply as one of the functions of the tax commission.

The more important duties of this body at present are the following, each of which will now be discussed in detail.

The state assessment;

The assessment of the property of corporations taxed under the ad valorem system;

Supervision of the local assessment of property tax under general laws;

Administration of the income and inheritance taxes;

Investigation of public expenditures and supervision of municipal accounting;

Recommendation of improvements and reforms in taxation to the legislature.

The State Assessment

In the theory of the Wisconsin law the state assessment is an original assessment by state officers, according to the best of their

[1] *Laws of Wisconsin*, 1903, ch. 35.
[2] *Ibid.*, 1905, ch. 315.
[3] *Ibid.*, 1905, chs. 493, 494.
[4] *Ibid.*, ch. 380.
[5] *Ibid.*, 1909, ch. 295.

ability and judgment, of all property in each county subject to taxation. Practically, this assessment is based, even by the tax commission, largely upon the work of the local officials and the chief significance of the administrative change lies in the thoroughness and rigor with which these returns are checked and corrected. The results obtained by the former state board of assessment in its later years have already been noted; and the effect of the administrative reorganization may be seen in the very significant increases which were immediately made in both state and local assessments, and especially in the former. By 1902 the local figures had risen to $1,369,800,000, and the state figures to $1,504,300,000. The principal device employed by the commission for securing these results in the state assessment of real estate was the sales method, or the calculation of a constructive full value of all real estate by applying to the aggregate actual assessment the ratio of assessed to true value in the bona fide sales of real estate during a given period. This principle was not new, but the Wisconsin application of it is worthy of extended description as it is undoubtedly the most important example of the attempts which are now being made to test and check up local valuations in a scientific manner.

The use of the sales method is attended by some dangers, but before stating more fully the qualifications and cautions which must be borne in mind in applying the principle, a brief outline of the actual machinery will be useful as it will reveal some of the points at which extreme care must be exercised in the collection and use of sales data.

The raw material for the construction of the sales ratios consists of the essential facts concerning the transfers of real property during a certain period. When the Wisconsin tax commission first undertook the use of the sales method it found an immense mass of the crude data ready at hand. Since 1873 local registrars of deeds had been required to return to the secretary of state the facts regarding the transfers of real estate.[1] These statements, which excluded sales for obviously nominal considerations, presented the following facts for each sale:

[1] *Laws of Wisconsin*, 1873, ch. 210.

The date of conveyance;
A short description with statement of the quantity of land conveyed;
The consideration, as stated in the deed;
The assessed valuation of the property as shown by the last assessment roll.

Before being acceptable for the purpose in hand the materials returned under this law had to be most thoroughly scrutinized in order to discover and eliminate inaccuracies. Three principal points of danger were met from the outset:[1] nominal considerations; lack of exact coincidence between the property sold and the property assessed; and the statement in the deed of a higher or a lower consideration than that actually paid. The errors from these sources would vary, of course, with the carelessness of the reporting officials and much of the material accumulated before 1900 was doubtless of little value. Since that time the commission's insistence upon greater accuracy has had beneficial results. In 1907 further guarantee of accuracy in the returns was afforded by investing the tax commission with power to collect sales data through its own special agents.[2] Supervision of these agents and compilation of the data are now under the direction of the statistical department of the tax commission. The special agents are trained by an experienced collector of sales material, and for their guidance in the field they are equipped with an elaborate set of instructions and suggestions.[3]

The system of collecting and recording the various facts attending each transaction is complicated and a detailed description is hardly necessary. Some points may be abridged from the book of instructions which will illustrate the method of collection and the care used in eliminating errors. The work is divided into two parts: the first is the office work, by which is meant the searching of the county archives and the collection of such data as may be

[1] Wisconsin Tax Commission, *Report*, 1901, pp. 44 ff.

[2] *Laws of Wisconsin*, 1907, ch. 522.

[3] In 1911 these instructions occupied 43 typewritten pages. Much of the work of collecting sales data is now done by the assessors of income. Wisconsin Tax Commission, *Report*, 1916, p. 6.

obtained from the records; the second is the field work, which consists in ascertaining the facts from such persons as may possess information relative to particular transfers. By the use of symbols a complete history of each transaction is entered on a small card which is forwarded to the tax commission. In the course of the office work certain tests are applied to every transfer listed, which may reveal the impossibility of using the sale in question. Every transfer which is used in the final calculation must meet certain rigid requirements.[1] The first of these is that a full title must be transferred. This test excludes sheriffs' sales, foreclosures, administrators', executors', trustees', guardians', referees', receivers', and assignees' deeds, quitclaims and a variety of similar conveyances in which the title is not fully warranted. A second condition is that there must be exact coincidence of property assessed and property sold. Under this test would be excluded payments in fulfillment of land contracts, sales including large amounts of personal property, and cases in which buildings have been erected or destroyed since the sale. The third important requirement to be met is the absence of indisputably or unmistakably abnormal conditions. Examples of possibly abnormal transactions are sales of right of way, sales to brewers for saloon purposes, sales to farmers of adjoining tracts for special reasons, and similar transactions. These are always scrutinized closely for abnormal features. Finally, the true purchase price must be stated in terms of money, or in terms easily and safely convertible into money. This criterion would exclude trades, sales to relatives, nominal sales, the existence of a mortgage, back taxes, or other lien of unknown amount, and other transfers affected by material reservations and restrictions. If the transfer passes all of these tests, the field agent visits one of the parties to the sale or the notary who acknowledged the deed and obtains the facts concerning each transaction. Should any doubtful cases arise, or should any person conversant with the facts prove reluctant to disclose his information, the case is reported to the tax commission, from whose office a confidential inquiry is sent

[1] T. S. Adams, "The Valuation of Real Estate in Wisconsin," *Proceedings of the Minnesota Academy of Social Sciences*, 1907, pp. 79–104.

out. This resort failing, the transfer is excluded from consideration in computing the ratio.[1] The new assessors of incomes have been of valuable service in criticizing and editing the sales statistics. Their familiarity with local conditions has given them an advantage in the investigation of actual considerations and the expense of the collection of sales data has been somewhat lessened.[2]

The data secured by the field agents are again submitted to careful scrutiny in the central office where, for various reasons, further eliminations are usually made. From the accepted cases a compilation is made of sales values and assessed valuations for each assessment district (about 1700) in the state, and the ratio of assessed to true value is computed.[3] Some idea of the amount of material available for this purpose may be had from the fact that the total number of acres sold in the state in the years 1901 and 1902, exclusive of plotted lands in cities and villages, was 3,645,288, equivalent to more than 12 per cent of the entire acreage of the state.[4] The total acreage of the transfers of the period 1895–99 was 7,710,356.[5]

The tests which have been developed to discover and eliminate the abnormal transactions have been steadily improved, and though they are not infallible either as to exclusion or inclusion, they have reached a high pitch of perfection. Through their use the sales method has been made a very effective mechanism for ascertaining the relation of assessed to true value. The dependence of an accurate ratio upon this vigilance is illustrated by the

[1] The commission estimates that about 60 per cent of the sales collected are used.

[2] Wisconsin Tax Commission, *Report*, 1912, p. 11.

[3] The original plan was to take the average ratio for the preceding quinquennial period in order to minimize any unusual fluctuations in a single year. The quinquennial average naturally lags behind present values on a rising market, and for this reason the commission has abandoned it. The larger number of transactions now available permits greater reliance upon a shorter period. Moreover, the local assessors have been improving so much in the assessment of real estate since the income tax assessors began to supervise local assessments, that in some cases they were attaining percentages of full value equal to or above the commission's quinquennial average ratios. *Personal Letter from A. E. James, Statistician*, Feb. 24, 1914.

[4] Wisconsin Tax Commission, *Report*, 1903, p. 15.

[5] *Ibid.*, 1901, p. 48.

following figures,[1] showing the variation in ratios computed from sales rejected for various reasons.

CAUSES OF SALES REJECTION FOR YEAR ENDING APRIL, 1909, COMPARED WITH GOOD SALES, AND RATIO OF ASSESSMENT TO CONSIDERATION, IN THREE COUNTIES

	Number of sales	Ratio
Total good sales	1,453	57.87
Total rejects	1,081	
Total comparable rejects	566	51.73
Non-comparable rejects		
Trades, relatives, partners, estates	235	41.73
Land contracts	67	79.49
Relatives, partners, estates	118	67.95
Security for loan	15	88.04
Non-resident, "sucker sales"	20	32.93

The ratio which would have been obtained by the use of the comparable rejects would not have been far from that actually obtained from the good sales. It would still have been nearer the truth, probably, than any result that the commission could have reached without the use of the sales method; but these sales were excluded from the ratio. The wide fluctuations of the ratios for the other classes of rejects reveal the dangers which would attend their use, and emphasize the extreme care that is necessary to eliminate them.

Two obvious lines of criticism have been raised against this method of testing local valuations. The commission has met these objections successfully, but it does not therefore regard the ratios as absolutely final. Rather, they are considered as one of the most important indicia of the true condition of local assessments, but their results will be rejected whenever they are palpably out of accord with the facts.

The first criticism is that the data are not accurate. This objection would have been much more valid previous to 1907 than it has been since the tax commission has had the close and direct supervision of the collection of the sales data. The income tax assessors have undoubtedly contributed to a still more rigorous elimination of improper material. The rigid tests which have

[1] T. S. Adams, "Address before the Ninth Annual Meeting of the Supervisors of Assessment," 1910, *Proceedings*, p. 14.

already been developed have excluded many of the untrustworthy stated considerations. Further, the calculation of the ratio from the sales of an entire assessment district tends, through compensation, to eliminate such errors as may have escaped detection. The discrepancy between the ratio calculated from the results of the office work alone, and that based upon field and office work together in 1910 was less than $\frac{1}{10}$ per cent for the state as a whole, while for individual counties the highest difference was less than 2 per cent.[1]

The railroads vigorously opposed the results obtained by the commission and undertook extensive independent investigations to establish their insufficiency. This criticism was aimed at the accuracy of the data rather than at the method of compilation. Railroad agents went into several counties and sought to demonstrate the questionable character of a considerable proportion of the returns to the commission. The latter was willing to concede at the outset the possibility of error in the returns from the local officials, but its principal conclusions remained unshaken. The attack served the useful purpose, however, of stimulating greater care in the preparation and use of the data. The opposition of the railroads to the sales method has since practically disappeared. That this is not a surrender to the inevitable is shown by the following endorsement of the method by one of the railroad representatives who had appeared against the system in 1902–03:[2]

> I am not going into a discussion of the reasons why the use of land sales is the best and most practicable method for ascertaining the true value of taxable real estate, but I will say that after nearly six years of pretty constant investigation of the problem, it is my belief that, with all of its im-

[1] T. S. Adams, *Ibid.*, p. 91.

[2] T. A. Polleys, Tax Commissioner of the C. M. St. P. & Omaha R.R., "Remarks at Ninth Annual Meeting of the County Supervisors," 1910, *Proceedings*, p. 89. The speaker discussed also his experiments with the system in St. Paul and in Wisconsin counties, and again endorsed it as practicable and satisfactory. The keen interest of the railroad companies in the sales methods and its results lies in the fact that the aggregate true value calculated from these percentages is used in determining the average rate of taxation in the state, the rate at which the railroads are taxed. For a criticism of the sales method in valuing railroad right of way, cf. Sakolski, "The Valuation of Railroad Right of Way," *Amer. Econ. Rev.*, vi, pp. 300–303, June, 1916. Cf. also note 2, p. 249, below.

perfections — and it has its imperfections — with all its shortcomings the process of the use of land sales is the best available process you have today to work out this problem of the true value of taxable real estate in your county.

The second criticism of the sales method is that the ratio is not a proper guide because the pieces of real estate transferred in any district may not be thoroughly representative of all classes of real property in the district. To this objection the commission offers the defense, based on the laws of probability, that the predominance of a certain class of real property in the data will not vitiate the result unless the assessment of that class has been abnormal as compared with the district as a whole. Further, if there has been abnormal assessment of any class of property, that fact is of little consequence unless this class were seriously misrepresented in the sales. The probability of the occurrence of this combination of disturbing factors within any assessment district is very small and the tests made by the commission show that the objection is not, on the whole, as serious as might at first appear. The results of one of these tests of the sales data are herewith given.

AVERAGE VALUE PER ACRE IN BEAR LAKE TOWN[1]

Period	Assessed value		Calculated true value shown by	
	Abstract of assessment	Assessment of sales	Total acres into total value	Consideration of sales
Average 1904–08.	$9.09	$9.04	$17.46	$17.63
1904.....	8.98	9.08	16.97	17.15
1905.....	9.03	9.34	16.72	17.30
1906.....	9.26	8.59	16.50	15.48
1907.....	9.11	9.09	17.61	17.57
1908.....	9.16	9.21	19.49	19.57

The first two columns show the assessment of the district and for those parcels which were sold during the periods in question. In this instance, at least, the assessed value of the transferred portions were representative of the assessment as a whole. The third column gives the average value per acre for the county, obtained by dividing total acres into total value. Comparing with these averages the figures in column four, which represent the true

[1] From *Paper of A. E. James*, before the Ninth Annual Meeting of the County Supervisors, 1910, especially p. 13.

values as found by the sales method, it is seen that the coincidence is again quite close, a result which confirms the representative character of the sales data. This confirmation of the statistical theory is interesting and important, from the practical viewpoint, but it should be noted that these figures were from one small rural town and do not afford in themselves a sufficiently large basis for sweeping generalization. However, the commission has conducted other tests all of which tend to confirm the soundness of the statistical assumption. Not all of these results have been published but some of the figures have been supplied by the statistician and will be found in an appendix to this chapter.[1]

Such is, in brief, the sales method as used in Wisconsin. While it is admittedly imperfect it is undoubtedly the most scientific attempt that is now being made in the United States to equalize inaccurate local real estate assessments. Some form of this method is now in use in several states, but it has been more highly developed and is more scientifically used in Wisconsin than in any other state, so far as the observation of the writer goes.[2] The cost of the system has not been excessive and has tended downward, both absolutely and in proportion to the total expense of the department. The figures were not separated before 1908 but since that time they have been as shown in the table on the next page.

The increase in the number of transactions has been chiefly due to a more careful investigation of the consideration in "dollar sales," while the cost per sale has also been affected by the decline of the expenses of the sales bureau. The cost of this bureau for 1912 was abnormally low owing to certain shifts within the department, and that for 1914 was unusually high because of a

[1] Cf. below, pp. 284–286. Appendix A.

[2] The sales method was rejected, however, by the Minnesota courts in *Shepard v. Northern Pacific Railway*, in equity — *Report of Charles E. Otis, Special Master in Chancery, U. S. Circuit Court, district of Minnesota, 3d division*, Sept. 21, 1910, on the ground that the railroad lands in St. Paul were but a small proportion of the total lands of the city and were widely scattered. This fact, together with the notoriously gross inequalities of local assessment, led the master to give little weight to testimony of this character. Cf. Whitten, *The Valuation of Public Service Corporations*, pp. 146, 147.

COST OF THE SALES DEPARTMENT[1]

Year	Total cost	% to total expense of tax commission	Number of sales used	Cost per sale
1908.....	$14,535	.251	20,548	$0.71
1909.....	10,741	.246	20,913	.50
1910.....	10,898	.190	22,352	.49
1911.....	9,785	.172	22,960	.43
1912.....	7,831	.111	24,573	.32
1913.....	6,882	.039	24,742	.27
1914.....	10,425	.056	27,104	.35
1915.....	7,916	.04	27,020	.33
1916.....	4,748	.03	24,742	.19

change in the fiscal year for reporting sales which meant that an unusual amount of work was charged to this year.[2]

The problem of both state and local assessment of personal property has been greatly simplified by the exemption, in the income tax law of 1911, of some of the most troublesome classes of personalty. The chief exemptions were moneys and credits, including stocks and bonds, farm machinery, tools and implements. The most important classes of the personal property of individuals that are still taxable are farm animals, merchants' and manufacturers' stocks, leaf tobacco, logs and lumber. The state and local assessments of these remaining classes are far from satisfactory and the commission recommends their exemption. The stocks of merchants and manufacturers have always been one of the worst assessed groups, so that the loss in revenue from their complete exemption would be small. More ability has been displayed by the local assessor in dealing with logs and lumber, while farm animals have always been among the best assessed groups. Because of the tendency for the value of farm animals and the value of the farm to vary directly it would make but little difference to the farmer whether his assessment were based on the value of the land only, or upon the combined value of the land and the live stock.[3]

[1] From data supplied by the tax commission. The greater total cost of the commission on account of the income tax lessens the proportion of the sales department unduly in recent years.

[2] *Letter from the Commission*, Oct., 1915.

[3] Cf. Wisconsin Tax Commission, *Report*, 1912, p. 21; *ibid.*, 1914, p. 20; *ibid.*, 1916, ch. 4.

The methods used by the commission in making the state assessment of personal property involve the use of a large mass of independent materials by which the local figures are checked and corrected. In the note below are given some of the data which were used in the assessment of farm animals in 1911 in addition to the figures of the local assessors and of the county supervisors of assessment.[1]

The figures from the sources indicated in the note were supplemented by various special reports of the state department of agriculture and of the University School of Agriculture on the condition, quality, and value of various classes of farm animals. The university bulletin on the number and distribution by counties of grade and registered stallions is an illustration of this material. The value of the offspring of the latter will of course be greater than of the former, and some guide to relative values of horses over the state may be found in the distribution of these classes of breeding animals. Similar data were at hand regarding the dairy industry. Since 1911 the assessors of incomes have been relied upon to supply the data for the state assessment of personal property, and in 1914 their returns were used to a large extent in estimating the true value of the enumerated classes.[2] The present practice is for these assessors to make a number of inspections or sample assessments of every kind of taxable property in their districts, on the basis of which the true taxable value of each class of property in

[1] 1. Tables showing the sales value of farm animals, 1907–10, by years, from the records of the commission and of the state department of agriculture, and other sources.

2. Number and value of farm animals on Jan. 1, 1910, by counties.

3. Figures from the 13th Census, the date of which corresponded closely enough with the local assessment date of 1910 to serve as a check on the local returns. Using the Census and other material the following compilation of the true number of farm animals in each county was made, the table headings alone being given.

Number assessed in towns	Census number on farms	Ratio of assessed to census	Number assessed in county, including cities, etc.	Est. true number in county

4. For calculating the values the following data from the Census were used. Again only the table headings are shown.

Total number	Total value	Average value	Value of young at one-half average value	Value of mature	Average value of mature

[2] Wisconsin Tax Commission, *Report*, 1914, pp. 47, 48.

the district is calculated. These calculations serve both as a check and a guide for the tax commission. The inventories given by merchants and manufacturers in making income tax returns are now tabulated by the income tax assessors, and special inspections are made to ascertain the percentage of dead and unsalable stocks of merchandise in the various counties. The property and franchises of water and light companies were valued by capitalizing net earnings at 8 per cent.[1] Bank stock was valued by adding capital stock, surplus, and undivided profits, subtracting the value of the real estate used in the business, and adding 10 per cent. This rather artificial method is being steadily improved as the number of quoted bank stocks increases and as the assessors of income grow in experience in the study of banking institutions in their districts. The number of automobiles registered from January to May was taken as the true number; each make was valued as new and depreciated 50 per cent; old and discarded makes were put in at $100 each.

From this survey of the methods used in making the state assessment, attention is now turned to a consideration of its purposes and results. There are two main purposes of the state assessment: first, to determine the rate of taxation which shall be applied to the corporations taxed under the ad valorem system; and second, to afford a basis for the equitable apportionment of the state tax.

The average rate of ad valorem taxation for corporations is ascertained by dividing the aggregate true value of general property, as found by the state assessment, into the aggregate taxes levied on general property for state, county, and local purposes, except special assessments for local improvements. An examination of these average rates reveals a fairly steady relation between the total taxes levied and the state valuation of property.[2] This

[1] The assessment of all utilities extending through more than one district is now virtually made by the tax commission. Cf. Wisconsin Tax Commission, *Report*, 1912, pp. 22, 23; 1914, p. 21.

[2] The average rates of taxation have been as follows:

Year	Rate per dollar	Year	Rate per dollar
1903.....	.01I4493568	1910.....	.01II7968554
1904.....	.01I272631	1911.....	.01I08684064
1905.....	.01I3829066	1912.....	.01I83243701
1906.....	.01I09505	1913.....	.01387403466
1907.....	.01I51236975	1914.....	.013
1908.....	.01I43084076	1915.....	.013172
1909.....	.01I25323566		

Cf. *ibid.*, 1914, p. 16, for a comparison of local and state rates.

rate is nearly half a cent lower on the dollar than the average rate based on the local assessment. The pressure upon the corporate property taxed at the average state rate is not as great, therefore, as upon the property which happens to be assessed locally at more than the average percentage of its true value. The lower rate is evidence of the possibilities of effective administration and many of the localities which have always had higher rates would have much to gain by a more vigorous assessment of their property.

The earliest reason, historically, and in many respects the most important reason for the state assessment has been the equitable apportionment of the state tax and the possible check of local competitive undervaluation. The first purpose has been fairly well attained, but the latter condition has not been completely eliminated, although the commission reports that there is now practically no discernible effort to evade the state tax and the struggle to dodge local taxes is steadily diminishing.

In the first place there has obviously been a better distribution of the state tax among the counties, taking the latter as the units, in proportion as the scientific methods of the tax commission have been superior to the slipshod guesswork of the former state board of assessment. The general result of the equalization, from this point of view, has been to reduce the proportion of state tax levied upon the southeastern counties,[1] which are the older in settlement, the more densely populated, and by far the wealthier. In the past ten or fifteen years the newer sections have increased very rapidly in real value, though until 1911 these increases found their way but slowly upon the assessors' books.[2]

In the second place the state assessment has shifted a somewhat larger proportion of the state tax to personal property. In 1901 the latter class was 17.41 per cent of the total; two years later it had been advanced to 25.3 per cent of the total. The proportion of personal property then declined to 21.10 per cent by 1907, but rose again to 25.14 per cent by 1911. The exemptions of this

[1] Wisconsin Tax Commission, *Report*, 1910, pp. 116, 117.

[2] Cf. *ibid.*, 1912, pp. 92, 93; 1914, p. 54. The newer sections of the state are increasing in wealth relatively much more rapidly than the older sections. Some figures are given below, p. 274.

year removed a considerable volume of personal property from direct state and local taxation and reduced the proportion of the latter to 18.28 per cent of the aggregate in 1914. The earlier improvement which the tax commission was able to secure was undoubtedly far short of the proper distribution of tax burden between the two groups, since many classes of personalty were very imperfectly listed and valued, even in the state assessment. It was a substantial improvement over the local assessment, however, in which the proportion of personal property ranged from 17.17 per cent to 19.93 per cent of the total except for 1902 when it reached 20.71 per cent.

Finally, with respect to the equalization between urban and rural property, the state equalization has had different effects for real and personal property. Through the use of the sales method the true value of real estate has probably been ascertained with equal accuracy for urban and rural districts. But the careful methods used in the determination of the quantity and value of certain forms of rural personalty, especially farm animals, have had no parallel until recent years in the state assessment of any other class of taxable personal property with the possible exception of bank stock. Previous to 1911 there was no means of comparable efficiency for ascertaining the true amount of intangible property, which was held for the greater part in the cities, to compensate for the strict state assessment of rural personal property. The necessarily greater reliance upon assessors' returns in the case of personal property led to a discrimination not only against the rural classes, but against the owners of smaller amounts of property in both city and country, because of the well-known tendency of the local assessor to undervalue large holdings. This tendency is illustrated by some very interesting and valuable data which were collected relative to the assessment of personal property in two counties in connection with reassessments made in 1907. The table on the following page is reproduced from that material.

The interests of Racine county, which is located on the southern shore of Lake Michigan, are primarily urban and industrial; while those of Monroe county, which is in the south-

RATIO OF ASSESSED TO TRUE VALUE OF PERSONAL PROPERTY[1] BY OCCUPATIONAL GROUPS

Occupation group	Number inspected	Assessed valuation	True value	Ratio
Racine County				
Total	1,357	$2,218,210	$7,686,915	28.86
Farmers	697	484,676	852,786	58.20
Merchants	506	677,814	2,093,251	32.38
Manufacturers	83	1,025,680	4,687,428	21.84
Trades and professions	37	10,175	28,345	35.90
Public service	18	10,290	29,730	34.62
No occupation	16	11,575	15,375	75.29
Monroe County				
Total	882	$1,389,031	$2,863,556	48.51
Farmers	699	556,022	831,174	66.90
Merchants	158	487,543	835,100	58.39
Manufacturers	14	332,411	1,174,159	28.32
Trades and professions	5	6,900	11,583	59.58
Public service	6	6,155	11,540	53.34

NOTE: These results were obtained by the inspection of a considerable proportion of the total amount of property in each class. The number refers in each case to the number of inspections made.

western part of the state, are chiefly agricultural. For every occupational group the ratios of assessed to true value were higher in the rural county, and to the extent of these differences even those businesses involving the use of some intangible property were less heavily taxed in the characteristically urban county. But the figures also show that farmers were discriminated against by the local assessors in both counties, as compared with merchants and especially with manufacturers. Upon this point the statistician commented as follows:

> Not only are manufacturers assessed at a lower ratio of true value than merchants, and merchants than farmers, but this same discrimination applies equally to a thousand dollars invested in a single undertaking, in each occupation. Thus a hundred dollars which is worth on the farm a little less than sixty-five dollars for purposes of taxation, when invested in the industrial undertakings of a great city shrinks in taxable value to a little less than thirty-seven dollars, as found by the assessors in each case.

Under the income tax some compensation for this age-long inequality of incidence of the personal property tax is promised

[1] A. E. James, *Statistical Deductions from the Inspection of Personal Property in Racine and Monroe Counties*. Special report to the tax commission, unpublished.

to the rural taxpayer, upon whom as a class this measure appears to fall but lightly. The commission estimated in 1914 that less than 5 per cent of the farmers of the state were paying income tax, while the proportion of rural laborers and other rural classes was negligible.[1] Speaking of the incidence of the income tax the commission said:[2]

> If the income tax furnishes a proper measure of taxable capacity, farmers and those laborers subject to taxation have been greatly overtaxed in the past.

In one important respect, however, the effort had been made before 1911 to mitigate the evils of the personal property tax. The mortgage exemption law of 1903 provided that mortgages should be taxed as an interest in real estate in the district where such real estate was located and not otherwise.[3] Permission was given to the mortgagor to return his interest and that of the mortgagee as unencumbered real estate and to assume all of the taxes. Since 1903 practically all mortgages in Wisconsin have been so written as to require such assumption of taxes by the mortgagor. A thorough investigation of the results of mortgage taxation in Wisconsin was made in 1907 by Professor T. S. Adams.[4] Among other things, this interesting investigation disclosed the rather startling fact that the class of smaller borrowers, the hard-pushed, needy proprietors possessing limited knowledge of sources of capital and small personal credit, were more affected by the weakness of their economic position than by the advantages of the tax law. They almost universally agreed to assume the taxes but they received no compensation in interest rates, which were markedly higher than in the case of larger mortgages. Again the advantage in taxation has gone chiefly to the urban borrower, the "keen-witted business man," while the rural borrower, the equally deserving but less capable small farmer, has borne an increased burden.

[1] Wisconsin Tax Commission, *Report*, 1914, ch. 5, especially p. 107.

[2] *Ibid.*, 1912, p. 40. Cf. *ibid.*, 1916, p. 63.

[3] *Laws of Wisconsin*, 1903, ch. 378.

[4] This study was published as Appendix B, in the *Report of the Tax Commission* for 1907. Cf. especially, pp. 386–388.

Surveying the results of the state equalization by the tax commission prior to 1911 it has been seen that the commission introduced high standards and has succeeded in promoting equality of burden among classes of taxpayers and among classes of property. The cases in which the results have been less satisfactory have been those in which the commission has been compelled to rely more or less completely upon the local assessors' returns. The two changes made in the tax laws in 1911 have made possible much progress toward an independent review of the local figures, however. The first change was the exemption from local assessment, in connection with the income tax law, of all intangibles and some of the most troublesome classes of tangibles. The second change was the substitution of the centrally chosen assessors of income for the former locally controlled county supervisors of assessment. The assessors of income now supervise and inspect the local assessments of taxable property in such a way as to render the tax commission increasingly independent of the local returns. Greater equality is attained thus, not only in the distribution of the state tax but in the distribution as well of the local tax burden. But this result simply emphasizes the obvious conclusion regarding equalization in general — a good equalization cannot wholly correct a poor assessment. Fundamentally, an adequate equalization of the tax burden can only be attained, if at all, through effective control of the original assessment. The results of central supervision of the original assessments in Wisconsin will be discussed below.[1]

State Assessment of Corporations

The contribution of the problems of corporate assessment to the development of central administration of the entire tax system has already been noted. That there might be no lack of light upon a difficult subject, the inquiry into corporate taxation which the new tax department was directed to make was supplemented by two others, one conducted by the governor and the other by the railroads themselves. Each of these had as its object a comparison of the relative tax burden of the railroads under the

[1] Cf. below, pp. 270 ff.

license fee system and under an ad valorem system at the average rate of taxation for the state. This object shaped the form of the investigations, which was the determination of the true value of the taxable property of the state.[1] The most thorough investigation was that of the tax commission, the results of which were in general substantiated by the governor's researches. This result may best be expressed, perhaps, by the comparative figures obtained by the commission showing the taxes due the state under the specific system as against the amounts that would be due under an ad valorem system at the average rate for the state.

COMPARATIVE TAXES ON RAILROAD PROPERTY[2]

Year	License taxes	Taxes under ad valorem system
1901.....	$1,600,379.79	$2,652,590.62
1902.....	1,711,900.18	2,664,950.20

The argument was conclusive against the gross earnings tax, and the first ad valorem railroad assessment was made in 1903–04, for the year 1904.[3] The railroads were required to continue the payment of license fees at the regular rates, with the provision that if these fees were less than the taxes levied upon the property valuation, the sum paid as a license fee would be deducted from the total and only the balance would be collected. If the amount so paid were in excess of the taxes due under the new system, the difference would be refunded to the company. This precaution was taken to prevent complete loss of state revenue from the railroads in the event of injunctions or adverse judicial decisions. The arrangement was to continue to 1905, but subsequent legislation extended it to 1909 when it became inoperative.

The commission's first task, in connection with the railroad assessment, was a valuation of the railroad properties. In general the plan of the Michigan appraisal was followed and data were compiled for a commercial valuation on the basis of capitalization and earnings, and for a physical appraisal. The information for the first of these was obtained from the companies themselves in a

[1] Snider, *Taxation of Gross Receipts in Wisconsin*, pp. 106–118, gives a good account of the various methods used in these investigations.

[2] *Laws of Wisconsin*, 1903, ch. 315.

[3] Wisconsin Tax Commission, *Report*, 1907, pp. 84, 90.

series of reports much more elaborate than the returns obtained by the average state board of assessors at that time. The forms used today are much improved and are models of thoroughness. Their scope may be briefly indicated by the following summary of the data which they require the companies to submit to the tax commission:

1. General facts regarding the corporate history, such as its experiences in consolidations, reorganizations and receiverships.
2. Names and addresses of the directors and principal officers.
3. Complete description of the capitalization. This report must cover the following facts:
   (*a*) Volume and value of each class of stock issued, with statement of amounts outstanding and in the treasury; and the dividend record of the preceding five years. The average market value of the stock was to be computed by one of two methods. The more desirable method was to multiply the number of shares sold at each sale by the price per share, adding the amounts paid at all of the sales and dividing by the number of shares sold in the period. These calculations were to be made over the preceding quinquennium. In case the facts regarding sales of stock were not available the average price was to be obtained by averaging the highest and lowest monthly or weekly prices.
   (*b*) Complete statement of the funded debt and equipment obligations with the interest record of the preceding five years; also the market value, or actual value, of these issues.
   (*c*) Lists of the securities of other companies, and the purposes for which they were held.
4. Mileage statistics, including miles owned, miles operated, and the miles in each state.
5. Income account for the entire system and for Wisconsin, including a statement of the taxes paid in each state, except internal revenue taxes.
6. Statistics of real estate holdings, including a list of the land grants owned by the railroads, a tabulation of real estate not used in actual operations, and a statement of the real estate in right of way, yards, stations and terminals in Wisconsin.

In addition to the above the commission has copies of the reports submitted by Wisconsin railroads to the state railroad commission and to the Interstate Commerce Commission.

The second avenue of approach to the value of railroad property has been the physical appraisal of this property. Such an appraisal has been conducted annually since 1903–04. The Michigan appraisal of 1901 served as the model for the first sur-

vey, in which the railroad representatives and the commission in conference adopted the plan of valuing the properties at the cost of reproduction, new, on the basis of the average prices prevailing for the five years ending June 30,1902.[1] The cost of reproduction in existing condition was to be determined by making deductions from the cost of reproduction new, to cover depreciation on account of age, wear and tear, and other factors. The company engineers accordingly prepared an inventory of their respective roads which was verified by the commission's special staff of engineers. These inventories were made upon blanks and in the form prescribed by the commission. A very cordial coöperation existed, and the appraisal was pronounced by one company engineer to be a "campaign of education for the employees of his company in teaching them what property the company really possessed." Since the original valuation, the physical condition of the roads has been checked up annually to make allowance for additions, betterments, and other improvements to the physical property. Some changes have also been made in the basis of valuing different factors owing to variations in prices and labor costs.

In the earlier years of the ad valorem system the commission was rather unwilling to discuss its methods in the published reports, and was inclined to draw the veil of secrecy over the office details of the valuation. But this policy has always been vigorously attacked by the corporations to which it has been applied, though the courts have tended to sustain the commission's position in this respect as long as the results were found to be reasonable. The policy of secrecy in the early years can be justified, perhaps, by the need of protecting the state's revenues against the interminable litigation which publicity would have stimulated and encouraged. After the principle of central assessment had become firmly established the commission began to take the railroads — and the public — more into its confidence. In 1912 the Minnesota Tax Commission criticized at length the ad valorem system in general and the Wisconsin method in particular, quoting copiously from the record of a recent hearing before the latter

[1] Wisconsin Tax Commission, *Report*, 1907, ch. 4.

in which the commissioners described their system in detail.[1] The Minnesota commission thus summarizes its discussion:[2]

It was supposed that a physical valuation would provide a means of taxing railroads on substantially the same basis as other property, but the physical value has become a mere incident. It was claimed that ad valorem assessment by the state board would put an end to dependence on figures furnished by the railroads (self-assessment), that certainty would replace uncertainty, and that taxation on property values would supersede taxation on income. Not one of these expectations has been realized. After eight years we find the commission confessedly following as many methods as there are men, methods that yield results largely divergent and contradictory, and in the end driven to create a hypothetical property value by capitalizing the net earnings at various arbitrary rates. What is more striking, we find them using without question the figures furnished by the railroads — precisely the thing which the ad valorem system was supposed to avoid.

This whole discussion of the Wisconsin system was characterized by Professor Adams in a personal letter as misleading because of its failure to appreciate the "methodical, careful way" in which the estimates are made.[3] As an offset to these criticisms, the following description of the methods used is given by Professor Adams in the same letter:

As a matter of fact, about fifteen different valuations are first prepared by clerks in the office and from these by a mechanical method of combination a first approximation is secured. These results furnish a starting point, a basis of discussion. Meanwhile each commissioner has been studying the reports and probably employing one or two modifications of the methods mentioned above in which, for one reason or another, he may happen to have particular confidence. With the average valuation or starting point above described and the details of all the methods before us, it is then possible to bring to bear on the various valuations all of the many factors which by reason of their number and complexity cannot be incorporated into any mechanical method of calculation. There is of course no absolute certainty in this scheme of valuation, but any group of men having common sense and some acquaintanceship with the properties in question can always — provided their intentions are equitable — modify the results of any mechanical valuation in the direction of greater justice.

In a later letter Professor Adams goes into greater detail, and with his permission this fuller description of methods used is given as an appendix to this chapter.[4]

[1] Minnesota Tax Commission, *Report*, 1912, ch. 15. [2] *Ibid.*, p. 208.

[3] *Personal Letter from T. S. Adams*, July 31, 1913.

[4] Cf. below, pp. 284, 285. Also, Adams, "The Valuation of Railway Property

The practice of the two states, Wisconsin and Minnesota, presents an opportunity for contrasting the virtues of these two leading methods of railroad taxation. What is regarded by the advocates of the gross earnings system as certainty is pronounced by its opponents to be inelasticity. On the other hand, according to friend and foe, the efficiency and even the safety of the ad valorem system is very largely dependent upon the absolute fairness and sound ability of the men charged with its administration. Professor Adams, in the extract quoted above, virtually makes the ultimate determination of the assessment a matter of common sense and knowledge of the properties. No question has ever been raised against the Wisconsin commission on either of these points; and its administration of the ad valorem taxation of corporations has been entirely free from any suggestion of improper influence or methods — a record which, had it been attained by those in charge of the former system, would have gone far to perpetuate that form of taxation in the state. After all, the experience of Wisconsin and Minnesota suggests the conclusion, so far as the merits of the two systems of railroad taxation are concerned, that either will yield fairly satisfactory results if ably and honestly administered; but that either presents ample opportunity for improper manipulation if the greatest care be not taken to secure as administrators men of the highest character and ability.

It has already been stated that the results of the physical appraisal of railroad property are used merely as one factor in the ultimate valuation. That this is evident appears from a comparison of the figures on page 263 obtained by the engineers and the final assessment established by the commission.

It will be observed that for the first four years the roads were assessed at a valuation above the cost of reproduction new, as calculated by the engineers. Since 1907 the estimates of the latter have risen above the commission's figures, though the estimated value in present condition has always been far below the results reached by the commission. The marked increase of

for Purposes of Taxation," *Jour. Pol. Econ.*, xxiii, pp. 1–16. The subject was also quite fully covered in the Commission's *Report* for 1916, ch. 5.

VALUATION OF RAILROAD PROPERTY IN WISCONSIN[1]

Year	Engineer's valuation: Value new	Engineer's valuation: Value, existing condition	Tax commission's final valuation
1903.....	$205,760,519	$169,758,519	.....
1904.....	212,946,450	170,743,205	$218,024,900
1905.....	220,119,218	177,105,667	228,810,000
1906.....	227,778,100	181,575,690	237,239,500
1907.....	244,150,450	196,008,387	255,850,000
1908.....	271,063,500	215,027,646	267,861,500
1909.....	302,356,350	245,163,991	274,948,000
1910.....	319,363,291	258,163,339	284,066,000
1911.....	326,455,462	261,324,202	297,935,000
1912.....	353,647,398	282,110,871	325,085,000
1913.....	378,148,160	302,818,871	326,253,000
1914.....	385,711,140	309,907,070	340,242,000
1915.....	.....	.....	358,800,000
1916.....	.....	.....	360,960,000

the engineer's figures is indicative of the changed attitude of the railroads themselves. When the only question at issue was that of valuation for taxation the roads were interested in securing as low a valuation as possible and used rock-bottom prices wherever possible in figuring costs.[2] Since the creation of the Wisconsin railroad commission in 1905 and the emergence of the problems of rate regulation and capitalization, the roads have been much more interested in showing a higher valuation because of its bearing upon the rate question.

The financial significance of the changed method of taxation can best be seen in the fact that in the six years 1904–09 the net gain to the state over the amounts due under the license fee system was $3,986,687. It has been argued that the rates on gross earnings could have been advanced to produce greater revenue; but such changes would undoubtedly have been stoutly resisted by the railroads and might possibly have been warded off entirely. The experience of Minnesota shows that increases in the rates are not always easily made.[3]

The policy of completely centralized railroad assessment was temporarily abandoned at one point in 1911 by transferring to

[1] Figures from the biennial reports of the tax commission. Engineer's figures for 1915 and 1916 not available.

[2] Cf. *Testimony before the Commission* in the appeals of 1903. [3] Cf. below, p. 411.

the local jurisdiction the assessment of certain railroad terminal facilities, described as follows: [1]

> Real estate not adjoining the tracks, stations or terminals; grain elevators used in transferring grain between cars and vessels, coal docks, ore docks and merchandise docks, and real estate not necessarily used in operating the railroad. . . .

The motive for this administrative retrogression was that which had emerged in New Jersey in 1906.[2] The municipalities were in need of additional revenue and took this means of securing it on the ground that the local unit which met the whole expense of protecting these specialized and localized forms of property should derive the revenue from their taxation. The recrudescence of the benefit theory of taxation in this form was unfortunate since it meant a step backward toward administrative chaos. The courts did not allow this law to stand,[3] and the desired end was accomplished in the only sound and proper way by providing for a unit assessment of the property by the central authority and an apportionment of values to the localities in which these large terminal properties were situated.[4]

The Assessment of Street Railroads and Electric Light Companies

Street railroads and electric light companies operated in connection therewith were made subject to a license tax on gross earnings in 1895.[5] Various modifications were made in the rates and in the grouping of the companies into classes according to the volume of gross earnings until the ad valorem system was substituted in 1905.[6] The reasons for this change were the inadequacy of the gross earnings tax and the need for closer public control. The commission was apparently in favor of securing separate sources of state and local revenue in 1901,[7] but there is little evidence of any marked sentiment in favor of such a policy in 1905. The inadequacy of the gross earnings tax had been

[1] *Laws of Wisconsin*, 1911, ch. 540.
[2] Cf. above, p. 104.
[3] 150 *N. W.* 423.
[4] *Laws of Wisconsin*, 1915, ch. 407.
[5] *Ibid.*, 1895, ch. 393.
[6] *Ibid.*, 1905, ch. 493.
[7] Wisconsin Tax Commission, *Report*, 1901, pp. 75, 114. Phelan, *op. cit.*, p. 406.

demonstrated in 1901 by a comparison of the taxes due under the license and the ad valorem systems.[1] This comparison showed, as in the case of the later investigation of the railroads, a considerable difference in the companies' favor under the license system. For instance, sixteen companies had paid license fees amounting to $104,676 in 1899; but on the ad valorem basis their taxes would have been about $175,000. The taxes on a three-year average valuation would have been about $160,000; and on a five-year average valuation about $150,000. The argument for closer state control was based upon the growing need of rate regulation and control of capitalization and service, as well as upon the difficulties of successful administration of the tax on gross earnings.[2]

As in the case of the railroad assessment the commission made an appraisal of the physical property of street railways and electric light plants operated in connection therewith. This valuation was begun with the properties of the Milwaukee system, not only because of its size and importance among the plants of the state, but also as the basis for the settlement of a dispute between the company and the city over rates and conditions of service.[3] For the latter purpose the valuation was to be as of December 31, 1906, while for the purpose of taxation it was to be as of June 30, 1907. The basis was identical except in so far as the inventory and the condition of the property might differ on the dates named. The methods applied to the other properties of the state were critically reviewed in the light of the Milwaukee results, since it was realized that the data might be in demand in other rate hearings before the utilities commission. In general the methods and procedure have not differed greatly from those used for railroads; and as in the latter case, the final assessments have varied considerably from the engineer's estimates of physical valuation.

Owing to the nature of these enterprises the tax has always been divided between the state and the various local districts

[1] Wisconsin Tax Commission, *Report*, 1901, pp. 114, 115.
[2] Cf. the commission's argument in the *Report* for 1901, pp. 74, 75.
[3] Wisconsin Tax Commission, *Report*, 1909, pp. 135–145.

through which the roads operate. Under the present arrangement 15 per cent of the tax goes to the state and 85 per cent to the localities. Previous to 1911 the basis of local distribution was the gross receipts from each district, but in that year the basis was changed to the property located in, and the business transacted in each district.[1] By this change some country districts have received sufficient revenue from this source alone to meet all ordinary town expenses, though in some cases the people of the district have contributed but little to the business.[2] In the absence of definite legislation the commission has ruled that the county boards shall include the valuations of these properties in making the county assessment, to the end that districts which contain no property of such companies, but which contribute materially to their revenue, may benefit in the county apportionment.[3] The spread of the interurban systems over the state, together with the increasing extent to which they draw traffic from districts other than those in which their lines are situated, will probably tend to divert a greater share of the tax to the state. This tendency has already been revealed. In 1895, when these companies were first removed from the general property tax, 91 per cent of the tax went to the local districts, 6 per cent to the counties, and 3 per cent to the state. In 1897 the proportions going to state and county were exactly reversed; and in 1899, because of the rapid extension of interurban lines, the proportions were 88 per cent to the districts, 3 per cent to the counties, and 9 per cent to the state. Finally, under the ad valorem system, the state was given 15 per cent of the total tax.

The Assessment of Express, Sleeping Car, Freight Line and Equipment Companies. — The application of the ad valorem system to these corporations in 1899 marked the introduction of that method of taxation in Wisconsin.[4] The formula prescribed by the law of 1899 for the valuation of these companies followed the traditional but artificial lines. It was as follows:

[1] *Laws of Wisconsin*, 1911, ch. 612.

[2] One town in Waukesha county received $3,915.40 from this source in 1911, and raised only $678.31 in cash from taxes on property. Wisconsin Tax Commission, *Report*, 1912, p. 6.

[3] Cf. Phelan, *op. cit.*, p. 405. [4] *Laws of Wisconsin*, 1899, chs. 111–114.

1. Money value of stock less real estate outside of Wisconsin and personalty not used in the business = cash value of stock.
2. $\frac{\text{Cash value of stock}}{\text{Total mileage operated}}$ = average value per mile.
3. Average value per mile times miles in Wisconsin = value in Wisconsin.

This formula left little to the commission beyond verification of the statements of the companies. Until 1905 its administration was shared between the tax commission and the state treasurer, to whom the companies made the reports required by law. In this year the commission was given complete charge of the assessment and the reports have since been made directly to it.[1] The new law authorized the commission to consider the value, earning capacity, and mileage of the entire system as well as of that part located within the state, and to view the property of any company. The commission is thus authorized to vary the rule of valuation given above by conducting a valuation along practically the same lines as in the assessment of steam railroads. The law of 1905 provided further that if no report were made, the delinquent company was estopped, except upon proof of actual injury, from questioning the action of the commission which was in such a case to make the assessment upon the basis of such information as it was able to secure. Unpaid taxes were to draw 15 per cent interest until paid.

While the results under this more centralized method of assessment are superior to those attained by local assessment, or even by the gross earnings tax, the present system can hardly be regarded as satisfactory. The commission finds it difficult to check the returns of total mileage operated and of property owned outside the state. The receipts from these companies do not justify great expense of administration, which should be as automatic as possible. The total taxes were $54,226 in 1914.[2]

Telegraph Companies. — The first corporation tax levied in Wisconsin was a mileage tax on telegraph companies, imposed by the territorial legislature of 1848.[3] The rates were changed from time to time, and in 1882 "miles of wire" was substituted for

[1] *Laws of Wisconsin*, 1905, ch. 477.
[2] Wisconsin Tax Commission, *Report*, 1914, p. 153.
[3] *Laws of the Territory of Wisconsin*, 1848, p. 257.

"miles of line," and a graduated scale of rates was introduced.[1] The commission's investigations showed that telegraph companies were not being adequately taxed under the rates imposed on gross earnings, and in 1905 the ad valorem system was applied.[2] The first assessment was for the year 1907. The license taxes collected in 1906 amounted to $13,473.54, and the ad valorem tax yielded $22,426 in 1907. By 1914 the tax had risen to $20,094. Relatively the increase over the gross earnings tax was significant but the financial results do not warrant the cost of the present system. As in the case of the other transmission companies, a method of taxation is needed the burden of which would be commensurate with the yield obtained.

It will be observed from the foregoing discussion that centralized administration of corporation taxes has not become the universal rule. The license tax on gross earnings is still in use for telephone companies, insurance companies, plank-road, and boom and dam companies. Certain other corporations which present problems of assessment too difficult for the local assessor have been left, apparently without question, in his jurisdiction. Of these the most important were those organized for the following purposes:[3]

1. Companies furnishing gas, electricity, water or steam for domestic or manufacturing purposes.
2. Companies for the improvement of navigation of public streams or other public waters.
3. Companies for the conservation and regulation of height and flow of water in public streams and reservoirs.

The corporations included in the last two classes were, for the most part, organized years ago to facilitate the storage and transmission of forest products; and while this function has greatly declined in importance, the companies still retain control of the dams and have been utilizing them, wherever practicable, for water power purposes.[4] In many instances the line between public and private business has been obscured and the problems of

[1] *Laws of Wisconsin*, 1882, ch. 320.

[2] Wisconsin Tax Commission, *Report*, 1901, pp. 115–119. *Laws of Wisconsin*, 1905, ch. 494.

[3] Wisconsin Tax Commission, *Report*, 1910, p. 50. [4] *Ibid.*, 1909, p. 97.

assessment have been correspondingly complicated, especially in view of the court's ruling that all public service corporations must be assessed by the unit rule, *i. e.*, that there must be no separation of the physical property and the franchises or other intangible elements of value.[1] It has been almost impossible for the local assessors to observe this rule, especially when, as often happens, the properties extend into more than one assessment district. Other complications have arisen when the business has been in part that of a public service corporation and in part that of a purely private corporation, as in the case of a river improvement company exercising its function as such, and also engaged in producing electric power for private purposes. In such a case the unit rule would of course apply only to that part of the property devoted to the public use and the helplessness of the local assessor is readily seen.

The legislature had attempted to meet the difficulty by providing for the assessment of the property of a water, gas, or electric corporation as a unit and the distribution of the taxes among the several assessment districts into which the physical property extended.[2] The basis of apportionment was to be the length of mains or pipes in the case of a water or gas plant, and the length of wires for an electric plant, including such as extended into any building, light, or signal. Real estate used in the business was to be deducted and credited to the district in which the same was located. A further remedial step was taken in 1911 by giving the commission supervision over the local assessment of such of these local public utilities as extended into more than one district.[3] The commission now collects data relative to the value of the properties and the value within each district and transmits these tentative values to a meeting of the assessors of all the districts concerned.[4] A member of the commission, its secretary, one of its engineers or a trusted assessor of incomes is present at the meeting. The local assessors then formally assess the properties

[1] 81 *Wis.* 554. Cf. list of decisions cited in Wisconsin Tax Commission, *Report*, 1909, p. 92, note.

[2] *Laws of Wisconsin*, 1899, ch. 283, and *ibid.*, 1901, ch. 263.

[3] *Ibid.*, 1911, ch. 611.

[4] *Personal Letter from T. S. Adams*, June 20, 1916.

and the commission acts as a board of review upon their results. Although the local officials may make slight modifications for the purpose of asserting their independence, the result is virtually a central assessment. The retention of the local assessor is an unnecessary complication from the standpoint of efficiency; but it has doubtless been a wise compromise in view of the recent reaction against central administration. After all, such an arrangement, though it may seem cumbersome, presents the distinct advantage of conciliating those who oppose the extension of central authority while it secures virtually a central assessment.

Supervision of the Local Officials

The weakness of decentralized administrative organization in Wisconsin was clearly perceived by the special tax commission of 1898 and its insight into the course of events is shown by the recommendation offered relative to central supervision.[1] This recommendation was instrumental in shaping the supervisory features of the law of 1899, but the language of the statute was too vague to warrant the commission in attempting, at the outset, "rigid supervision" over the local tax system. For the first few years after 1899, therefore, central supervision of local assessments was of the advisory type such as had appeared in Indiana. With the reorganization of the tax department in 1905 the legislature extended these powers, and at the present time the Wisconsin commission is in a position to exert direct influence upon the original local assessments.

[1] Professor Seligman characterizes this report as negative rather than positive on matters of principle. This may apply, perhaps, to its attitude on the taxation of corporations; but it certainly does not apply to the commission's attitude on the question of administrative centralization, with close central supervision over the local assessment process. Cf. Seligman, *Essays in Taxation*, 8th ed., 1913, p. 616. This is shown by the following recommendation:

"That the entire administration of the tax laws be placed in the hands, or at least under rigid supervision of capable and disinterested agents of the state, to be so chosen and to have such tenure of office and compensation as to make them virtually free from the influence of political or popular favor or displeasure and enable them to give their entire time to official duty; such agents to consist of a state board or officer and such subordinate or district officers as may be necessary." *Report of the Wisconsin State Tax Commission of 1898*, p. 182.

The commission's advisory relations with the local officials were established through the means most commonly used for that purpose, *viz.*, correspondence, the issue of printed instructions, and official visits to the various taxing districts for conferences with individuals or groups of local officials. One of the first acts of the new tax department was an extensive investigation of undervaluation in local assessments, conducted mainly through a voluminous correspondence. Some 12,000 letters were sent out to property holders and various local officials. While this correspondence afforded an effective means of communication between the commission and the assessors, it should be noted that the emphasis in these letters was upon the information sought by the commission and not upon the advice needed by the local officials, though the very broadcasting of extensive and searching inquiries doubtless had a stimulating effect upon the latter. The commission admitted that its attention had been directed at first chiefly to the problems of equalization and corporate assessment, to the neglect of local supervision.[1] In the general correspondence some attention was given, of course, to the problems presented by the assessors and the files of the early letters and decisions contain many helpful suggestions and instructions for the guidance of the local officials. The rulings on important points were frequently manifolded and sent to other districts in which the same problems were likely to arise. The correspondence was supplemented by a more formal pamphlet of official instructions, in which especial emphasis was laid upon the assessors' right of "doomage" as a means of reaching intangibles.

The next step in the development of the supervisory function was the provision for a county supervisor of assessments in 1901. At this point the example of Indiana was doubtless influential. The delegates from Indiana to the Buffalo Conference on Taxation in 1901 were loud in their praises of the Indiana system and representatives from other states were much impressed thereby.[2] The county supervisor of assessments was to be chosen for a three-

[1] Wisconsin Tax Commission, *Report*, 1901, p. 136.

[2] Cf. *Report of Proceedings*, National Conference on Taxation, Buffalo, 1901, *passim*.

year term by the county board.[1] He was to be removable by that board for cause, and was to receive a salary fixed by the board.[2] He was given full and complete powers of supervision and direction of the work of city, town, and village assessors, who were to be assembled annually before the beginning of the assessment season for conference and instructions. A potential check upon the assessors' work was provided by requiring the supervisor to visit the taxing districts during the assessment period and to test the quality of the former's results by making independent sample assessments or by reassessing a whole district. Omitted properties, when found, were to be reported to the assessor or to the county board at its annual meeting. The tax commission was to exercise a general supervision over the county supervisors and was required to convene them at the state capital for an annual conference which was to precede the county assemblies of the local assessors.

The more direct contact between state and local officials which the county supervisors afforded resulted in an immediate improvement in the local assessments. In 1901 the ratio of local to state assessment was 75.39 per cent; in 1902 it was 91.08 per cent. This gain could not be held, however, and the local assessments began at once a relative decline which carried them by 1909 to 61.99 per cent of the state assessment. For this reaction there were several reasons.

In the first place, the rapid improvement in local assessments from 1900 to 1902 was due, in some measure, to the presence of state supervision, the novelty of which made it effective just as a "new broom sweeps clean." But greater familiarity with this new department, and especially with the limitations upon its powers, dulled the edge of its suggestions and the old influences again resumed sway over the assessors.

A second, and in some respects the most important, of the causes for the reaction is to be found in the nature of the local administrative organization. The system of small assessment dis-

[1] *Laws of Wisconsin*, 1901, ch. 445; effective Jan. 1, 1902.

[2] In 1905 the legislature had to establish a maximum and minimum range for these salaries. *Laws of Wisconsin*, 1905, ch. 523.

tricts, each with an underpaid and frequently an inefficient assessor who is occupied with the work for only a small part of the year, has been outgrown everywhere. The collapse of such a system has been the more complete when, as has usually been the case, the local districts have elected their own assessors. The latter may thus be entirely immune to any progressive influences emanating from the central authority, while they are frequently entirely too amenable to the pressure of powerful local interests. This condition existed in Wisconsin and in many cases failed of correction through the county supervisors of assessment, who were sometimes in sympathy with local sentiment. In 1901 the commission outlined several features of a plan then under consideration for remedying undervaluation.[1] One alternative was the abolition of the existing method of choosing assessors and the substitution of some mode of selection calculated to secure more efficient men and make them free from political and local influence, with tenure of office to depend upon efficiency. This feature of the commission's dream of administrative reform has finally been realized in the income tax assessors. Other suggestions advanced in 1901 have not yet materialized; for instance, larger assessment districts, less frequent assessments, longer time for making the assessment, and sufficient compensation to command the services of competent men.

Finally, it must be remembered that the commission was dealing with the general property tax and it is doubtful if even the strictest measures would have sufficed to prevent evasion and undervaluation as long as the uniform rule was in force. Ohio's recent experiment with an actual state assessment of all property was not successful in securing all intangible property.[2] It was still too early to talk of abandoning the general property tax in Wisconsin in 1902, and the commission's suggestions for local administrative reform were destined to be accepted but slowly. Its real problem, therefore, was to get the most out of the general property tax with the local officials at its disposal. Comparatively little could be done to combat the local and special interests

[1] Wisconsin Tax Commission, *Report*, 1901, pp. 151, 152.

[2] Cf. below, pp. 506, 507, 510.

which were pressing for improper standards of local assessment. The indefinite and sometimes sinister character of these influences prevented effective open attack, while the short term, small pay, popular election, and low standards of service prevented any substantial development of an official *esprit de corps* — pride in the establishment and maintenance of better assessment standards.

The very crudeness of the local assessors suggests, however, one possibility of which more might have been made, though in view of the other circumstances it is of doubtful wisdom. This is a greater attempt to educate and train the assessor for his work and to provide him with pertinent information relative to values. The commission was in possession of considerable masses of data on values in each tax district which might have been made accessible, in a form that would have been of service to the assessors. The additional expense should be considered, and it is not at all certain that the results would have justified the outlay, since the people would probably have retired the assessors as fast as they came to know enough about their work to do it satisfactorily. The fact is, all of the circumstances in the case made a slump inevitable, and the commission was compelled to spend several years of solid constructive and educational work before the people were ready to abandon the general property tax, and to intrust the central authority with the administrative control of the substitutes for the old system.[1]

A more advanced stage of central supervision began in 1905 with the passage of two laws providing for the review of local assessments in certain cases of appeal. The first of these measures related to appeals brought by any taxing district against the action of the county board of review.[2] The commission was authorized to hold a preliminary hearing with power to order a reassessment upon the production of sufficient evidence. The appeal was to be brought by the officials of the district, in the name of the district, and the expense was to be charged to

[1] Cowles and Leenhouts, *How to Assess Property in Cities and Rural Towns*, 1914. This pamphlet, by members of the commission's staff, is a good example of the later educational material being issued.

[2] *Laws of Wisconsin*, 1905, ch. 474.

the county in the next apportionment of taxes. If a reassessment were justified the commission proceeded to review and reassess the property, but its jurisdiction extended only to the classes of property specified in the appeal and the result affected only the apportionment of the state and county tax. The original assessment held for the levy of all local taxes. In conducting such investigations, the commission and its assistants and experts were to exercise all of the powers of assessors, including the power to list property.

The fact that the cost is a charge against the county has restricted the use of this form of appeal, since the expense, if the appeal were granted, might exceed the amount by which the district could hope to reduce its proportion of the state and county taxes. The problem before the commission has been the development of a means of reviewing the work of assessment without making the cost prohibitive to the districts. On the other hand, the procedure has been simplified by transferring the jurisdiction in such appeals from the circuit court to the commission. This transfer may be expected to promote the interests of all concerned, for it is reasonable to suppose that with the information in its possession, or readily accessible to it, the commission could make a better reassessment than the appointees of a court.

Under this chapter, fifteen appeals were brought in 1913–14, of which the commission entertained twelve.[1] In ten cases it was possible to make the necessary adjustments from the commission's sales data with a small number of inspections, thereby reducing the expense. In two counties more thorough reassessment was necessary. One town was found to be charged with $4,443 more than its proportion, while another was escaping with $4,110 less than its fair share of state and county taxes in 1913.

The second form of appeal provided for in 1905 permitted any individual to complain to the tax commission against the action of a district board of review.[2] In these cases the commission was

[1] Wisconsin Tax Commission, *Report*, 1914, p. 39. Eight appeals were brought in 1915–16. One of these was dismissed and one was settled in accordance with the commission's suggestions. The disposition of the others is not recorded. *Report*, 1916, pp. 16, 17.

[2] *Laws of Wisconsin*, 1905, ch. 259.

authorized to order a reassessment of all property of a district, or of any classes of property, whenever it appeared that the law had not been complied with, or that the interests of the public would be served by a reassessment. The revaluation was to be made by properly qualified persons appointed by the commission, who were to have all of the powers of assessors. The county supervisors of assessments were to exercise all of their usual powers but the assessments were to be reviewed by a special board of review appointed by the tax commission. Six reassessments were ordered under this chapter in 1906. An aggregate original assessment for the six districts of $2,927,791 was advanced to $3,407,203, or an increase of $479,412.[1]

The chapter fell into disuse after 1906 owing to a suggestion from the supreme court, sustained by the attorney-general, that it was unconstitutional. Two members of the commission agreed with this interpretation and declined to entertain jurisdiction in further appeal cases.[2] The legislature of 1909 refused to repeal the measure and the courts later upheld it.[3] From this decision, in November, 1910, to the end of 1914 the commission received nearly one hundred appeals and granted about one-third of them. The conditions in Janesville and Racine are illustrative of the results discovered in these reassessments:

RESULTS OF REASSESSMENT IN JANESVILLE AND RACINE[4]

Property group	Janesville, 1911 % of true value	Racine, 1912 % of true value
All personalty, average	55½	51
Real estate	72	
Automobiles	88½	41
Pianos and organs	31½	..
Bank stock	80	69½
Moneys and credits	17	..
Merchants' stock	..	55
Horses	..	12½
Wagons, carriages, sleighs	..	20
All other personalty	33⅓	..

[1] Wisconsin Tax Commission, *Report*, 1907, p. 12. [2] *Ibid.*, 1910, p. 17.

[3] *State ex rel. Hessey* v. *Daniels*, 143 *Wis.* 649, 128 *N. W. Rep.* 565.

[4] This table is compiled from the data given in Wisconsin Tax Commission, *Report*, 1914, pp. 31, 32. The reassessments included only those classes of property for which percentages are given.

Concerning the general results of the reassessments of 1913–14, the commission said:[1]

> The inequality between different classes of property in individual districts was much more pronounced and the range in the ratios of assessed to true value much greater (than the average, which has just been discussed). . . . Still greater inequality is shown between specific individual assessments of the same class held under different ownerships. Higher assessments in the case of small and inexpensive as compared with larger and more valuable properties are almost universal.

This situation may well raise the question whether local assessment of property can ever be brought to the standard set by the law. It is useless now to talk of abandoning the principle of local assessment in Wisconsin, so it remains to be seen what changes can be introduced that will permit of the further correction of these inequalities. In the first place, certain signs of improvement have appeared in the last few years. The aggregate local assessment increased by $1,212,301,188 from 1910 to 1916. The local assessment of personal property in 1911, the last year in which moneys and credits, farm machinery, and household goods were taxable, was $366,870,379. Notwithstanding these exemptions, the total assessment of personal property increased to $510,137,587 by 1916.[2] The progress of local assessments is shown by the improvement of the local ratios of assessed to true value. The following table shows the number of counties in each percentage group since 1911:

PROGRESS IN THE LOCAL ASSESSMENT OF ALL PROPERTY, 1911–16[3]

Classification	1911	1912	1913	1914	1915	1916
Number of Cos. over 85%....	..	4	18	16	14	24
" " " 75%–84%...	3	13	19	28	31	20
" " " 65%–74%...	14	14	17	21	22	22
" " " under 65%...	54	40	17	6	4	5
Average ratio.....	64.86	73.20	81.78	82.66	83.32	84.43

The principal difficulty has been, and will be, caused by the various classes of personal property; and further exemptions of these classes would be an easy and obvious remedy.[4] State

[1] Wisconsin Tax Commission, *Report*, 1914, p. 33.

[2] *Ibid.*, 1916, pp. 158 ff. [3] *Ibid.*, 1914, p. 48; *ibid.*, 1916, p. 157.

[4] The commission has recommended this action, but it has also pointed out that it would probably work hardship in the rural districts and smaller cities, where per-

assessment of incomes has apparently been permanently adopted and the efficient results which have been obtained stand as a guarantee against the escape of much taxable capacity through the additional exemptions. There is little likelihood, however, that the assessment of personal property will be wholly abandoned or even that the present list of exemptions will be greatly extended. The commission's chief reliance, therefore, for the further improvement of local assessments is upon the influence and watchfulness of the income tax assessors, in their capacity of county supervisors of assessment. These officers have approached the problem of local supervision in a different spirit and from a different standpoint than the locally elected supervisors. Their inspection of the local results has been much more efficient, their guidance of the assessors more intelligent and satisfactory. Much of the progress that has been made in local assessments since 1911 has been due to their services.

The Income Tax

The experiences of the American states with the income tax have been in general very unsatisfactory, although widespread efforts have been made to utilize this method of raising revenue, so attractive in theory and so successful in some other countries. The failure of state income taxes has generally been attributed to defective administration, caused by the loopholes of self-assessment, the indifference of officials, the persistent efforts of some taxpayers to evade the tax, and the nature of some incomes which increased the difficulty of assessment.[1] The Wisconsin special tax commission of 1898 found no strong sentiment in favor of an income tax and regarded even the discussion of the subject as unprofitable.[2] Because of the numerous failures of this form of

sonal property is still about 25 per cent of the total valuation, and the element of "unearned increment" is least important. Wisconsin Tax Commission, *Report*, 1914, p. 129; *ibid.*, 1916, ch. IV.

[1] Cf. Kinsman, *The Income Tax*. Professor Seligman holds that the real difficulty was not defective administration but the impossibility of localizing personalty or income. He has pronounced any attempt to construct a successful state income tax "well-nigh hopeless." *The Income Tax*, 1911, pp. 425–429. Cf. his "Annual Address," in *Proceedings of the National Tax Conference*, 1914, p. 196.

[2] *Report of the Wisconsin State Tax Commission of 1898*, p. 168.

taxation, therefore, and the early apathy on the subject in Wisconsin, the recently enacted income tax law assumes new significance as a daring experiment in a field strewn with disasters. The way was opened for the experiment by a constitutional amendment of 1908. The tax commission had apparently taken little part in the agitation preceding the passage of this amendment, as practically no mention of an income tax occurs in any report previous to this time, and in 1909 it confessed to but hazy ideas regarding the kind of law that should be passed.[1] Once such a tax was made possible, however, the commission took up with enthusiasm the study of the subject and the resulting enactment was very largely its product.[2]

A detailed analysis of the bill is unnecessary.[3] Every effort was made to avoid the weakness that had been the downfall of other state income taxes, and the distinguishing feature of the Wisconsin measure was centralized administration. Special assessors of income were provided, to be appointed and removed by the tax commission. All appointments were to be made from a civil service list. This marks the first effort that has been made anywhere to take the work of assessment out of politics, and it is in most wholesome contrast with the recent Ohio experiment, wherein the appointment of county assessors was based almost altogether upon political grounds. The Wisconsin commission may divide the state into income tax districts consisting of one or more counties, but no county may be subdivided. Forty-one districts have been made, each in charge of an income assessor. Of the first appointees, nineteen had had previous experience as supervisors of assessment, an office the duties of which were by this chapter transferred to the new income assessors.

A complete presentation and discussion of the results thus far achieved under the income tax is superfluous in this connection. With state administration the income tax in Wisconsin is proving successful. The defects which have been encountered have not been of a fundamental character and further experience will

[1] Wisconsin Tax Commission, *Report*, 1909, p. 17.

[2] *Laws of Wisconsin*, 1911, ch. 658.

[3] An analysis of the law, by K. K. Kennan, is found in *Ann. Amer. Acad.*, 58, pp. 65–76.

reveal the improvements which are best suited to Wisconsin conditions. The cost of administration has been very low, as is shown by the following figures:

RELATION OF COST OF ADMINISTRATION OF INCOME TAX[1] TO THE AMOUNT OF TAXES ASSESSED AND COLLECTED

Ratio of	1912–13	1913–14	1914–15	1915–16
Cost to tax assessed.....	1.31%	1.11%	1.06%	1.30%
Cost to tax collected.....	2.77	2.33	2.20	2.62

The apparent discrepancy here is due to the considerable offset of income tax by the payment of taxes on taxable personal property. In 1914 about 46 per cent of the total tax assessed was offset in this way. In fifty-two counties more income tax was paid by personalty tax receipts than by cash.[2]

Wisconsin's experience with the income tax is overthrowing some of the long-accepted notions regarding tax administration and strengthening the authority of other principles as yet less widely held. The possibility of a successful state income tax is in a fair way to be demonstrated, though the consensus of opinion has been against the use of this tax by the states.[3] Also, the principle of stoppage at the source is shown to be practicable, as about 75 per cent of the tax was estimated to have been collected in this way in 1912.[4] The results also demonstrate the willingness of property owners to make true returns rather than false, provided the penalty for honesty be not confiscation. A moderate rate on incomes will yield, it is asserted, more than the former property tax at exorbitant rates.[5] On the other hand, it is equally clear that the salvation of the income tax has been in the strong, able, and impartial central administration which it has received. Under the decentralized administration once so prevalent the personal property tax broke down because the assessor's power to search out property was negatived by the taxpayer's control over him. The income tax assessor has become an impartial and

[1] Wisconsin Tax Commission, *Report*, 1914, p. 126; *ibid.*, 1916, p. 69. Cf. *ibid.*, 1916, ch. 3, for some valuable material on the distribution of the tax by income groups and by classes.

[2] *Ibid.*, pp. 127, 128.

[3] Cf. Seligman, *op. cit.*, pp. 425–429, and reference cited.

[4] Wisconsin Tax Commission, *Report*, 1912, p. 42.

[5] *Ibid.*, p. 41.

courteous, but rather formidable investigator, free from domination by any local interest. Whether such a standard of administrative efficiency could actually be established and maintained in all other states is uncertain, and for any such states the income tax might soon go the way of the personal property tax.[1]

The Inheritance Tax

The special tax commission of 1898 had recommended an inheritance tax as a more satisfactory means than the income tax for counteracting the loss of revenue and the inequality of incidence occasioned by the personal property tax.[2] Such a law was passed in 1899,[3] but was declared unconstitutional on the ground of unreasonable and unlawful classifications.[4] In 1903 the present law was enacted and the former defects were so successfully overcome that the statute was upheld by the state courts.[5] Indeed, one student of inheritance tax legislation has declared that the Wisconsin law of 1903 far surpassed any earlier law in the scientific character of its provisions.[6] This eulogy applied at the time more particularly to the adjustment of rates and classes of legatees, and not to the administrative features, which were left in rather uncertain status until 1911, when the tax commission was placed in charge.[7] Provision was also made for an inheritance tax investigator, to be chosen under civil service rules and to be paid a salary of $3000 and expenses. His duties were thus summed up by the commission:[8]

> The present inheritance tax investigator serves as counsel to public administrators in the several counties, appearing personally at the hearings

[1] Cf. the interesting analysis by Professor Bullock of the conditions under which the income tax should be used, *Taxation in Washington*, pp. 231–239; also, the same writer's statement in *Proceedings of the National Tax Conference*, 1916, pp. 374–384.

[2] *Report of the Wisconsin State Tax Commission of 1898*, pp. 160–168.

[3] *Laws of Wisconsin*, 1899, ch. 355.

[4] *Black* v. *State*, 113 *Wis.* 205.

[5] *Laws of Wisconsin*, 1903, ch. 44; *Nunnemacher* v. *State*, 129 *Wis.* 190.

[6] Huebner, "The Development of Inheritance Taxes in the United States," *Quart. Jour. Econ.*, xviii, p. 529.

[7] *Laws of Wisconsin*, 1911, ch. 450.

[8] Wisconsin Tax Commission, *Report*, 1912, p. 60.

in the larger estates and in case of conveyances made in contemplation of death, or made to evade the tax; counsels with the county judges as to the enforcement of the law; handles the correspondence and negotiations with foreign estates; examines the facts and issues permits to transfer stocks and other personal property where it is found that no tax is due; and reports to the attorney-general such litigated cases as involve appeals to the circuit courts and supreme court.

Investigation of the State Finances, and Supervision of Local Accounting

The first step in the direction of a complete reform of the state's budgetary practice was taken in 1909, when the legislature by a joint resolution requested the commission to investigate and report upon the finances of the state government. A special report was published on this subject in 1911, of which only the principal recommendations can be given space. They may be summarized as follows:[1]

1. The payment of the state debt;
2. Consolidation of all of the active funds of the state for disbursement purposes;
3. Uniform classification of expenditures, by departments, according to the purposes of the outlays;
4. Centralized audit system for all state boards and commissions under the direction of the secretary of state;
5. The installation of a uniform system of departmental and institutional accounts under the direct supervision of some administrative office;
6. Creation of a budget board charged with the duty of preparing appropriation bills.

These suggestions are all of great value for the reform of the state financial administration. It is as essential that money be spent wisely as that it be raised with the least burden and in the most effective and equitable manner. The reforms in taxation should be supplemented by such improvements as the commission has recommended, in order to secure a well-rounded financial system.

The commission had already been authorized in 1905 to require from counties, cities, and towns a report of expenditures, to inquire into the system of accounting used by the local units, and

[1] Wisconsin Tax Commission, *Special Report on the State Finances*, 1911, pp. 18–20.

to prescribe a uniform system of accounting for them.[1] This authority was broadened and made more definite in 1911.[2] The adoption of the accounting system and the audit of the local finances is purely voluntary with the local units, but the installations are proceeding about as rapidly as the commission can handle them. To the end of 1916 voluntary contracts had been made with twenty-four cities, twenty-four counties, eleven villages and thirty-three towns.[3] The expense of the installation is borne by the local unit. The most serious situation disclosed by the investigation and audit of the local records has been the absence of any adequate audit of local expenditures. Not only have many innocent shortages been found, but as well some serious defalcations, the amount of which in one case was more than $70,000. The alarming increase of local tax rates and local debts renders accuracy and honesty in the expenditure of public moneys most necessary; and these standards are not attainable without sound accounting methods and reliable and impartial audits.

Recommendations

No tax commission in the United States enjoys a higher position in the respect of the legislature and the people than the Wisconsin commission. This position has been won by the commission's own ability and sound sense. It has become a real leader in shaping both the policy and the details of financial legislation, and thus far it has encountered no serious objections even when its recommendations have involved large extensions of its own power. The legislature of 1914–15 was decidedly reactionary in tone, but the tax commission and its progressive legislation were spared.

A detailed review of the commission's recommendations is unnecessary here, as they have been noticed in the appropriate connections above. It suffices to say that the tax commission has practically recast the tax laws of Wisconsin, and has introduced some of the most effective administrative and fiscal measures to be found in any state.

[1] *Laws of Wisconsin*, 1905, ch. 380. [2] *Ibid.*, 1911, ch. 523.
[3] Wisconsin Tax Commission, *Report*, 1916, p. 115.

APPENDIX A

EXTRACTS FROM PERSONAL LETTER OF MR. A. E. JAMES, CHIEF STATISTICIAN TO THE WISCONSIN TAX COMMISSION. FEBRUARY 24, 1914

The case came before us in the form of an appeal from the equalization of the county board. We did not feel justified in relying upon our sales data for the readjustment of this equalization and inspectors were appointed with instructions to make a thorough examination by sample assessments of the various classes of land in the several towns of the county for the purpose of computing a true value in each of those towns utterly independent of the sales. The valuations for each district as computed from the sales data and as fixed by the inspectors thus appointed are set down in the table below:

District	Sales data	Per cent to total	By tax commission's inspectors	Per cent to total
Cassian T.	$448,838	3.98	$451,570	3.82
Crescent T.	266,308	2.36	277,450	2.34
Enterprise T.	626,314	5.56	498,750	4.23
Hazelhurst T.	406,016	3.60	350,250	2.94
Little Rice T.	279,032	2.48	260,970	2.20
Lynne T.	468,972	4.16	555,010	4.67
Minocqua T.	1,315,280	11.70	1,785,850	15.03
Monico T.	308,600	2.74	445,030	3.74
Newbold T.	308,838	2.74	325,360	2.74
Pelican T.	898,164	7.96	677,050	5.70
Piehl T.	231,374	2.05	256,990	2.16
Pine Lake T.	224,286	1.99	273,290	2.30
Schoepke T.	342,146	3.04	381,320	3.21
Sugar Camp T.	451,006	4.01	510,600	4.29
Three Lakes T.	906,926	8.05	906,300	7.63
Woodboro T.	215,546	1.91	174,490	1.47
Woodruff T.	202,754	1.80	201,530	1.69
Rhinelander C.	3,364,220	29.87	3,543,770	29.84
Totals	$11,264,620	100.00	$11,875,580	100.00

The first remarkable feature of the above table is that the values fixed on re-examination were approximately $600,000 in excess of the sales computation of the county total. In other words, the difference between the two figures was less than 5½ per cent. Very few persons would be willing to guarantee that two experts valuing a single piece of property or a group of twenty, forty or one hundred properties would agree within 5 per cent. The result in its total was a remarkable confirmation of the general accuracy of the sales data.

Taking up individual districts, the towns of Cassian, Crescent, Little Rice, Newbold, Piehl, Pine Lake, Schoepke, Three Lakes and Woodruff, and the city of Rhinelander can practically be passed without question, the

differences being relatively slight. The difference in all other cases grows directly out of the fact that the proportions of property assessed to property sold in the given districts of each of the several classes were vastly different. Take Minocqua as an illustration. Timber land was assessed in Minocqua at 68 per cent, wild and cut over lands at 124 per cent, improved land or farms at 20 per cent, lake frontage at 20 per cent, village plat at 64 per cent, and timber land of the most influential individual in the town at 16 per cent. The same individual owned a logging railroad taxable as personal property, worth $70,000, which was not assessed at all.

Under these circumstances it is remarkable that we got within $470,000 of the true value in the town of Minocqua. We had a disproportionate amount of property sold in the village of Minocqua. Had we separated our sales into the village plat and the outside property and made two computations instead of one for the town as we have done for the town of Eagle River, Vilas county, where similar conditions prevail, we would have arrived at a practically correct sales valuation for the town of Minocqua. In other words, the sales method carries within itself the main possibilities of correction of extreme cases such as existed in this town.

The conditions presented here are the most extreme to be found in Wisconsin and are undoubtedly far more extreme than could be found in any portion of Ohio. Northern Wisconsin is just emerging from the lumberman's stage into a stage of sparse settlement. The settlers are very poor and some under the conditions not uncommon in pioneer communities are not wholly regardful for the property rights of outsiders. They sometimes regard it as legitimate to run the tax rates up unnecessarily high so long as the money is expended within their own community. As a result two conditions are likely to be found in a northern town — (1) the gross underassessment relatively of the improved property of the resident, and (2) extravagance and sometimes corrupt mismanagement on the part of those controlling the official machinery of the town. The opposite condition is not infrequent where lumber companies still operate their mills and control the politics of the community. Under these circumstances it would be expected that all sales values, taking the chances they do of being representative, would err widely in individual cases. The fact that the greatest error in this investigation was approximately 25 per cent I regard as an extreme confirmation of the sales values rather than as in any way a reflection upon them. A more representative situation is that disclosed by reassessments ordered by the commission in districts where assessments have not been made conformably to law. Such reassessments were ordered in 1913 for which comparable figures are available at the present time. (See table on the next page.)

In the table the original local assessment, the reassessment and the sales valuation of real estate are stated in each case. The valuations in Chippewa Falls, Black Earth, Cross Plains, Ripon, Peshtigo, North Milwaukee, Freedom and Dupont are remarkably close. The others fluctuate more widely. Internal evidence shows us that the reassessments in Ackley, Main, etc., are open to serious question. Nevertheless the total of all reassessments and sales valuations are less than 1 per cent apart (actual

RESULTS OF CERTAIN REASSESSMENTS IN WISCONSIN

Assessment districts	Original assessment real estate	Reassessment real estate	1913 State assessment. Value of real estate in district
Chippewa Falls, Chippewa Co. .	$2,830,230	$4,620,157	$4,755,640
Black Earth, Dane Co.	406,596	645,705	614,102
Cross Plains, Dane Co.	1,143,965	1,729,430	1,759,920
Ripon, Fond du Lac Co.	2,073,440	3,203,570	2,153,540
Millville, Grant Co.	121,402	264,180	195,293
Ackley, Langlade Co.	804,885	959,900	1,131,828
Maine, Marathon Co.	452,400	1,090,972	1,290,064
Mosinee, Marathon Co.	181,570	569,250	475,990
Peshtigo, Marinette Co.	367,045	490,940	491,182
Greenfield, Milwaukee Co.	7,917,035	9,154,205	8,581,680
N. Milwaukee, Milwaukee Co...	1,572,390	2,351,185	2,135,220
Apple River, Polk Co.	221,235	339,173	426,514
Somerset, St. Croix Co.	529,255	1,028,710	1,194,010
Spooner, Washburn Co.	429,258	538,256	628,720
Dupont, Waupaca Co.	560,120	991,150	972,046
Totals.....	$20,850,703	$30,011,899	$29,821,289

percentage 100.64 reassessment over sales value), again a remarkable confirmation of the sales valuations.

The state assessment of 1913 had been made on the basis of sales data which had been collected from these various districts. The reassessments show that in most cases the results of the sales ratios were very close to the actual value.

APPENDIX B

FROM A PERSONAL LETTER FROM PROFESSOR T. S. ADAMS, MEMBER OF THE WISCONSIN TAX COMMISSION. FEBRUARY 24, 1914

The essentials of the Wisconsin method of valuation are thoroughly understood by the representatives of the railroads subject to the Wisconsin tax. On the basis of reports submitted by the companies in question and after revision, tentative valuations are prepared by capitalizing gross and net earnings for five-year periods and one-year periods. This presents four distinct valuations. The stock and bonds are then valued in accordance with market quotations after elimination of non-operating properties and the valuation is distributed or apportioned according to track mileage, gross earnings and net earnings. Three additional valuations are thus prepared. In addition similar valuations are determined in accordance with a method devised by Mr. Haugen, which consists in taking the bonds at market value, subtracting the interest paid on such bonds from the net earnings

and capitalizing the remainder in the fashion described below. The aggregate of the bond values and the capitalized earnings thus secured is then distributed to Wisconsin on the basis of the proportionate track mileage, gross and net earnings, respectively. Moreover we have before us a physical valuation representing the cost of reduplication in present condition and frequently the commercial valuation prepared by T. A. Polleys. Averages of these valuations are then computed, one a simple average, the other a weighted average in which the capitalized gross earnings for five years are given a weight of 10, the capitalized gross earnings for one year a weight of 5, the capitalized net earnings for five years a weight of 35, the capitalized net earnings for one year a weight of 10, the average of the Haugen valuations a weight of 30, and the physical valuation a weight of 10.

The rates at which gross and net earnings are capitalized are with respect to steam railroads determined in the following manner. The roads are first classified in homogeneous groups and it is assumed that the aggregate valuation placed on such roads in the previous year is correct. This valuation is then divided into the gross and net earnings, as the case may be, the result being the rate at which their earnings were capitalized in the preceding year to reach the assessments actually imposed. The rates of capitalization were in the beginning determined with great care.

The weighted and simple averages above mentioned furnish a mechanical starting point. There is a presumption in favor of the valuations so secured, which can only be removed by positive evidence. We have, as it were, a mechanical *datum* unaffected by personal idiosyncrasy, from which to start. Just how these results are modified cannot be described, not because the process is in any sense secret, but because the considerations are too numerous and frequently too subtle to be depicted in an explicit way. Offers of sale; palpable evidence of mistaken policy in the construction of roads; consolidations or financial factors affecting the future of the properties in question — a thousand and one considerations such as the ordinary purchaser or buyer would take into account are considered. This is the element which in my opinion makes the ad valorem result preferable to the gross receipts result. Any set of reasonably honest and industrious men can modify any mechanically made computation in the direction of greater justice. It is very necessary that human judgment shall not be wholly unguided. A mechanical method is needed to keep the human mind in line. But starting with such a method human judgment or common sense can always improve upon averages. Contrast any set of gross receipts taxes with the corresponding ad valorem taxes that would be made by any set of men and the results in my opinion will usually be so startling as to carry condemnation of the gross receipts method. The discretionary element involved in the ad valorem tax is to my mind markedly less disadvantageous than the necessary injustice resulting from the mechanical rigidity of the gross receipts method.

In the assessment of street railway properties and the smaller public utilities in which market quotations offer no guide as to the proper rate of capitalization, we have used in recent years the following method. A group of the largest properties, whose securities are bought and sold, are treated

as the steam roads above, and their aggregate valuation divided into their gross and net earnings to ascertain the rate of capitalization actually employed in the preceding year to determine their valuation. The same process is then applied to a group containing the smallest properties in the state. This furnishes the extreme limits of the capitalization rates, and between the two the rate is increased regularly corresponding to the increase in the size of the properties. This is of course only a rough method but compare it with the variation of rates in gross receipts taxes. With respect to these properties a main classification is also maintained, dividing those whose values are plainly above the physical value and those whose values are plainly below the cost of reduplication in present condition.

Corporations subject to the Wisconsin ad valorem tax laws are fully informed as to the general processes employed by the commission and encouraged to present any facts bearing upon the valuation process. There is in this process no more uncertainty and no more discretion; no more exercise of human judgment than is employed every day in the valuation of the great mass of real estate and other similar property placed upon local assessment rolls. The ad valorem system of corporation taxation has all the defects and all the advantages which characterize the system of direct ad valorem taxes in general, for which the American people plainly express so deep a preference.

CHAPTER IX

THE BOARD OF STATE TAX COMMISSIONERS OF MICHIGAN

THE tax situation in Michigan during the closing decades of the nineteenth century was the counterpart of that which prevailed at the same time in many other states. Property was underassessed; there was but a feeble attempt at equalization; and the grossest inequalities had developed among taxing districts, individual owners, and classes of property. The assessed valuation was rising but slowly while the inadequate state equalization effected a very imperfect distribution of the tax burden and steadily aroused a greater dissatisfaction with the existing tax system. The situation was aggravated by the deficiencies of corporate taxation, especially of the public service corporations which were generally believed to be paying less than their fair share of taxes. From many points of view there was good cause for the strong demand for tax reform which set in during the nineties.

Various governors had urged reform measures during the preceding thirty-odd years,[1] but it was reserved for Governor Pingree, who had made "equal taxation" the keynote of his campaign, to initiate the most extensive and important changes in the tax system.[2] In a series of urgent messages to the legislature he stated the case for reform vigorously and effectively, outlining two principal plans of remedial legislation.[3] One of these looked to a change in the methods of taxing public service corporations

[1] Inequalities in the tax system were emphasized in the messages of Governors Bagley, 1877, Croswell, 1877, Luce, 1887 and 1891, Winans, 1891, Rich, 1896. Cf. Hedrick, *History of Railroad Taxation in Michigan*, p. 35.

[2] This policy is referred to rather slightingly by Snider in his discussion of gross receipts taxation in Wisconsin, on the ground that Pingree was a firm believer in the general property tax. However conservative his view on this point, the significance of his recommendations for central supervision must not be overlooked. Cf. Snider, *op. cit.*, p. 102.

[3] Cf. *Special Message of Governor Pingree*, May 6, 1897.

and the other to the creation of a department of taxes and assessments which was to exercise general supervision over the whole tax system. After three years of continued agitation, during which at least two special sessions were devoted to the discussion of tax problems, measures embodying these policies were adopted by the legislature. The bill for taxing corporations, known as the "Atkinson law," was nullified by the courts, a fate which necessitated a constitutional amendment.[1] Under this amendment, adopted in 1902,[2] have been effected the changes in the taxation of public service corporations which will later be discussed.

The most significant feature of the second part of Governor Pingree's program was the creation of a board of state tax commissioners, consisting of three members who were to be chosen by the governor with the consent of the Senate for terms of two, four, and six years respectively. The full term thereafter was to be six years and the salary was to be $2500. This board was given considerable powers of supervision over the whole tax system. In addition it was instructed to investigate the conditions of corporate taxation, especially with a view to appraising the properties of those corporations which were paying specific taxes. It was also to ascertain the rate of ad valorem taxation which would yield an amount equal to the specific taxes paid.

In the early years of its existence the board performed its work with vigor and as far as valuations were concerned the results were, on the whole, satisfactory.[3] In investigating the system of corporate taxation the famous "Cooley-Adams" physical appraisal of railroad property was made, and as the result of its findings the gross receipts method was abandoned for the ad valorem method of taxing certain classes of public service corporations.[4] The assessment was to be made by the board of tax

[1] *Public Acts of Michigan*, 1899, No. 19. Cf. Hedrick, *op. cit.*, p. 37. Also, *Pingree* v. *Attorney-General*, 120 *Mich.* 95.

[2] *Constitution of Michigan*, Art XIV, § 10.

[3] The Ontario Railroad Commission of 1905 spoke with especial approval of the first Michigan Board of State Tax Commissioners. Cf. *Report of the Commission on Railway Taxation of Ontario*, 1906, p. 46.

[4] *Public Acts of Michigan*, 1901, No. 173.

commissioners acting as a state board of assessors. Partly by reason of the increased labor involved in this extension of its functions and partly because of the appearance, even at this early date, of the partisan strife which was later to be so detrimental to the board's work, the number of members was increased to five.

The popular approval which greeted the board's work in the beginning was diminished by its aggressive policy and strong feeling developed against it. So powerful had this opposition become by 1905 that the law of 1899 was emasculated and most of the really effective powers of supervision and control were eliminated, while the membership was reduced to three and the appropriations were materially cut down.[1] Hampered both by this policy of financial restriction and by the narrow sphere of authority which remained after the legislation of 1905, the board steadily lost its grip on tax conditions in the state. In 1909 came the beginning of a more liberal policy. The assessment of telephone and telegraph companies was added to the work of the state board of assessors and the governor was made an ex officio member of this body.[2] In 1911 the powers of supervision which had been so ruthlessly cut into in 1905 were restored and even broadened, so that today the Michigan tax commission is once more legally entitled to resume the position of leadership with which it was originally endowed.[3]

The question naturally arises, why has the board had such a checkered career? The first factor to be mentioned in an exceedingly complicated situation is that of local sentiment. At the outset the board of state tax commissioners was a very popular institution, but its good standing lasted only until the realization had become statewide that all were expected to pay taxes on the same basis. The policy of leveling up assessments toward full value, which was vigorously applied in the early reviews conducted by the board, naturally excited opposition among the tax dodgers, a feeling which was fostered by the local assessing officers who were being overridden in such a roughshod manner.

[1] *Public Acts of Michigan*, 1905, No. 281.

[2] *Ibid.*, 1909, No. 49. The provision of an ex officio member is not regarded as one of the improvements.

[3] *Ibid.*, 1911, No. 17.

The state supervisors' association,[1] an organization of the local assessors, became a powerful enemy of the board and its work, and by 1905 it had become strong enough politically to contribute materially to the change.[2]

Sharp opposition to the board developed from another quarter, the railroads and other corporations which were being assessed by it. The whole political strength of these interests was centered upon its destruction; but they gained little relief in the changes of 1905, a fact which has since transformed the railroads into allies of the tax commission in the endeavor to elevate the level of general property assessments.[3] In one of the early railroad cases against the tax commission two members made affidavit regarding the ratio of assessed to true value on the basis of which the average rate applied to the railroads was computed, and the affidavits were used by the complainants in their case.[4] Public suspicion was directed against these officials who were thus felt to be betrayers of the people's trust, though the material of the affidavits related simply to the board's conclusion that, in gen-

[1] The local assessing officer is called the supervisor.

[2] The following set of resolutions illustrates the attitude of local officials toward the board. They are dated October, 1903.

"Whereas: The highest legal authority in the state, the attorney-general, is opposing the state tax commission's methods, in a suit against the railroads, he takes the position that the commissioners have not only sympathized with the railroads, but have gone beyond their official duties to help the railroads in their efforts to avoid their full share of taxes.

"Whereas: The proceedings of the commission in Wayne county indicate very plainly that the attorney-general has good ground for his contention, as the commissioners appear to be raising assessments beyond cash value with the purpose of lowering the rate of taxation for the railroads.

"Whereas: Such violation of their oath is a menace to the general and individual taxpayer of Wayne county and the State of Michigan and is a contradiction of the purposes for which the commission was created, and Whereas, It has become a duty and a necessity for the board of supervisors of Wayne county and local assessing officers throughout the state to take some action for the protection of their constituents, therefore be it resolved

"Resolved: That the county clerk be, and is hereby instructed to transmit copies of this resolution to the boards of supervisors of all counties in Michigan, to the end that a permanent and effective organization of assessing officers may be formed whose obligation will be to secure justice for the general taxpayer."

[3] Cf. below, pp. 312, 313.

[4] *Michigan Central* v. *Auditor-General. Transcript of evidence*, pp. 21 ff.

eral, property was assessed at about 82.7 per cent of actual cash value.

A third factor which has affected the board's destiny has been political manipulation. Practically all of the earlier appointees were selected on purely political grounds, and while some of the incumbents of the office have wrought zealously for the state in the discharge of their duties, the spoils system has been too prominent in the process of selection. It is especially unfortunate that Michigan governors have persisted in regarding the office in this light. The controversy between Governor Osborn and Commissioner Robert M. Shields in 1912 exposed the strong political feeling that had grown up between the two men.[1] No more certain way of destroying absolutely the efficiency and independence of the board of state tax commissioners can possibly be devised than that of political manipulation. The whole department should be placed at once upon the basis of strict efficiency and should be judged from that basis. This ideal is being applied by the present members of the board in dealing with their own employees. The personnel of the commissioners was completely changed in 1911–12, and an earnest fight has since been made for the elimination of all politics from the department.[2] The argument for making the governor a member of the state board of assessors was that the executive head of the state might thus come more directly in contact with the assessment process; but it developed in the Osborn-Shields controversy that the governor had not attended the sessions of the board of assessors and had refused to sign the report until assured by the attorney-general that the state could not collect the taxes from the public utilities until his signature had been affixed.[3]

As would be expected from the above review of its shifting fortunes the functions of the Michigan board of tax commissioners have varied somewhat in importance. Originally supervision of the local officials was the function actually possessed and exercised, together with the duty of collecting information on certain

[1] Files of *Detroit Journal*, 1912, *passim*, especially facsimile of letter from Governor Osborn's campaign manager to Mr. Shields, Jan. 25.

[2] Board of State Tax Commissioners, *Report*, 1912, p. 6; *ibid.*, 1914, pp. 11, 12.

[3] *Detroit Free Press*, June 3, 1912.

other subjects, chief of which were the valuation of the corporations paying specific taxes and preparation of the data to be used in the state equalization. With the transition to the ad valorem system in 1901 corporate valuation became an important and responsible task. The state equalization has continued to be the task of a separate state board which has had before it certain materials collected and prepared by the board of tax commissioners. The only relation of the latter to the work of equalization has been that of preparing materials.

The State Equalization

Previous to 1911 the state board of equalization was composed of the elective state officers acting ex officio. In this year the lieutenant-governor was replaced by the chairman of the board of tax commissioners. The representation upon the equalizing board of the state department best informed concerning valuations and assessments is so logical that such delay in making the substitution for some elective officer is incomprehensible. The state equalization of real and personal property assessments occurs only in connection with the appraisal of real estate which had been conducted quinquennially previous to 1911, but which was thereafter to be performed in every third and fifth year, *e. g.*, 1914 and 1916. There has been no state equalization of personal property in the intermediate years.

The method used by the board of tax commissioners previous to 1914 in preparing the materials for the state equalization was the collection of information relative to sales of real estate. The equipment of the Michigan board for statistical purposes has not been as complete as that of the Wisconsin commission, and the sales material was not handled in as scientific a manner as by that commission; but fairly effective precautions were observed against the inclusion of improper data and the results were by far the most valuable guide to the conditions of real estate assessment that existed in the state.[1] The sales data were supplemented by

[1] The methods used in preparing the ratios have been described in various places. Cf. State Board of Equalization, *Report*, 1901; Board of State Tax Commissioners, *Report*, 1902, pp. 35–49. It has been the practice to exclude sheriffs' sales and other

appraisals of sample pieces of property which had not been recently transferred. The results of the sampling process were usually checked by the judgment of local men conversant with real estate values and then compared with the assessed valuation. From these "pickups," as they were called, and the sales data covering a three-year period, a ratio of assessed to true value was computed for each county.[1] The "pickups" were given less weight in the calculation of the ratio than were the sales data, and while the testimony of a former commissioner in the railroad case already referred to indicates that different results were obtained from the two sets of figures he remarked that there was "not difference enough to talk about."[2] One of the field men testified in the same case that at first there had been no special effort made to get at least one parcel from each section, but that this was later uniformly done. It should be said that the "pickups" were used only in those districts in which the volume of sales data was insufficient for the construction of a trustworthy average. The sales for the three years preceding 1911 aggregated over 200,000 transactions.

The first seven months of 1914 were spent by the new members of the tax commission in preparing the report for the state board of equalization, and their first move was to discard the sales method.[3] This was done partly on the ground that the vitiating elements, such as nominal considerations, unusual motives for purchase or sale, sales to non-residents, could not be excluded with certainty. These objections really amounted to a confession of the inadequacy of the Michigan statistical organization, for the Wisconsin tax commission has unquestionably succeeded in meeting such difficulties fairly well. Another objection has

forced transactions; sales to relatives; and all dollar sales in which the true consideration could not be obtained. In addition the records were scrutinized to discover changes in improvements and to note the correspondence of property sold and assessed. Cf. Board of State Tax Commissioners, *Report*, 1900, pp. 61, 62, for further description. The system has been somewhat improved since that time.

[1] *Michigan Central* v. *Auditor-General. Transcript of evidence*, pp. 112 ff, remarks of Ex-Commissioner Freeman. Cf. also State Board of Equalization, *Report*, 1901.

[2] *Michigan Central* v. *Auditor-General. Transcript of evidence*, p. 216.

[3] Board of State Tax Commissioners, *Report*, 1914, pp. 6–8.

greater weight. In 1911 the Michigan board began a thorough review of assessments, county by county, and the continuance of the sales method meant the use of different methods for different counties since the board intended to use its own results in the reassessed counties. For the sake of uniformity, therefore, the whole state was "sampled" and an effort made to construct for the unreviewed counties an estimate of true value that would approximately coincide with the results in those which had been reviewed. In the latter group, comprising eighteen counties, the local figures for 1914 were accepted with minor changes.[1] For the other counties the quantity of each class of property was computed from the local assessment roll and samples were taken in each district for real estate, tangible personalty, mercantile and industrial properties. Public utilities and industrial establishments were either separately assessed or sampled. The true value of securities, credits, and bank stocks was estimated. The ratio of assessed to true value for the property sampled was applied to the whole quantity of property in order to arrive at the estimated aggregate value. Special agents of the commission examined in all 68,072 parcels of real estate, with a valuation of $161,637,362, or 17.68 per cent of all assessed real estate in the districts covered. They also appraised 9798 lots of personal property, representing 34.44 per cent of all personalty in the districts investigated.

The weakness of this plan, it is evident, is the assumption that the local assessors had listed all of the property of each class in the district. This assumption was doubtless sufficiently correct in the case of real estate but it was much more questionable in the case of the various forms of personal property. Some of the cautions that are required in the use of the sales method should be observed here also, such as ascertaining exact correspondence of the parcel assessed and sampled in each case, and the possible inclusion or exclusion of improvements in one appraisal or the other. Care should be taken also that the properties selected

[1] The law forbids the local assessor to reduce his figures below those established by the commission for a period of three years. The local assessment of 1914 was, therefore, at least as high as the commission's findings in previous review proceedings. Cf. below, pp. 325, 326.

represent fairly all grades of property of the class in the district. These and other difficulties suggest that a satisfactory equalization is as difficult by the sampling process as by the sales method, but under the circumstances the board probably acted wisely in changing its method of procedure.

The collection of data for the equalization of personal property in 1914 was the most complete that had ever been undertaken by the Michigan board. The materials accumulated in the various reappraisal proceedings afforded a fairly satisfactory basis for equalizing certain classes of personal property such as mercantile stocks, live stock and some other groups of tangible property. Bank stocks were likewise accessible, but the attempt to ascertain the true amount of moneys and credits was pure guesswork. With respect to most classes of property, however, the commission's report to the state board of equalization in 1914 undoubtedly represented a closer approximation to the true quantity and value, and made possible a better state equalization, than had ever been made before. This possibility was realized for the state board of equalization complied more closely with the recommendations than had been its previous custom. Indeed, before the addition of the chairman of the tax commission to the state board of equalization in 1911, that body had been unaccustomed to make any important use of the data collected by its expert collaborators. Rather, the sort of material to which the board of equalization had apparently given greatest weight is that which has filled the pages of its periodical reports, *viz.*, the statements by the representatives of the counties. The law provides that a hearing shall be given to persons representing the counties and it had become a custom for those to be sent as representatives who could most vividly describe the unprosperous features of the county's situation. In the good old days, as the commission has put it,[1] " The occasion for the state equalization is generally one of days filled with woe and gloom. Messengers who are sent from the counties are those who can best picture the swamps, barren and unfruitful fields, and who can leave the deepest impression of great desolation."

[1] Board of State Tax Commissioners, *Report*, 1900, p. 44.

These exaggerated representations have been of greater weight than the tax commission's calculations in most of the state equalizations since the latter was created. In 1901 the commission made an earnest effort to persuade the state board of equalization to equalize on the basis of full cash value.[1] This position was sustained by the attorney-general, who pointed out in his ruling that the constitutional and statutory requirement of full value should be made the basis of the equalization, not only in the interests of equity among counties but in order to protect certain funds which were supported by levies on the valuation as determined by the state board of equalization. In further support of its contentions the commission submitted elaborate data regarding values for both real and personal property; but in spite of these efforts it confessed with evident disappointment that the equalized valuation was still many millions below the value of real and personal property in the state.[2]

Evidence of the lack of harmony in 1906 is seen in the following comment, taken at random from the clipping files of the tax board:[3]

> It is said on good authority that the state board of equalization . . . has become satisfied of the unreliability of the tax commission's estimate of valuations, and that the commission's figures have been used only incidentally in making the tentative assessments now under consideration. . . . However conscientious the tax commission may have been in the preparation of its estimates, it is claimed that it did not have the necessary force of employees to make the required investigations, and that necessarily its estimates had to be based largely on guesswork.

Having satisfied its scientific conscience by rejecting, on the ground of inadequacy, the only careful attempt at proper valuations which had been made, the board was then at liberty to turn to the time-honored custom of hearing the orators from the various counties, on the basis of whose misrepresentations the equalization was largely made.

The presence of the chairman of the board of tax commissioners on the state board of equalization has induced the latter to receive the commissioners' recommendations since 1911 with much

[1] Board of State Tax Commissioners, *Report*, 1902, pp. 35–49.
[2] *Ibid.* [3] *Iron Mountain Tribune*, August 29, 1906.

greater respect, though it has not sufficed to secure their acceptance without change. The following table indicates the improvement that has been effected. It is a grouping of the percentages of values as equalized to full values as recommended by the commission. In 1906 the equalized valuations covered a wide range and a number of counties were equalized at greatly different percentages of the estimated true value. In 1911 the

NUMBER OF COUNTIES IN PERCENTAGE GROUPS REPRESENTING THE RATIO OF EQUALIZED TO FULL VALUE[1]

Percentage groups	Number of Counties in 1906	1911	1914	1916
55–59.9	1	1	..	..
60–64.9	2	5	..	..
65–69.9	7	7	..	1
70–74.9	8	7	1	5
75–79.9	8	42	4	31
80–84.9	13	15	4	46
85–89.9	15	5	70	1
90–94.9	16	..	3	..
95 and above	12	..	1	..
	82	82	83	84

range was still excessive though there was much greater concentration about the percentages 75–85 per cent of full value. In 1914 seventy of the eighty-three counties were equalized at 85–89.9 per cent of estimated full value. For reasons best known to its members the board of equalization scaled down the tax commission's figures but the counties were left more nearly in a relatively equitable position than had ever been the case before, although the above figures do not reveal the vicious favoritism that was displayed. The average for the state was lowered to 84 per cent by the singular treatment of Wayne county containing the city of Detroit. This county was equalized at 75 per cent of the commission's estimate. Since it contained a total valuation of $630,613,132, this action was really a discrimination in favor of about one-fourth of the entire wealth of the state. The representatives from Wayne county made a very strong appeal to

[1] Compiled from data in the Reports of the State Board of Equalization.

the board of equalization and attacked with especial severity the methods and results of the state tax commission in the city of Detroit.[1] All in all, however, there was a much closer adherence to the scale of values recommended by the tax commission in 1914 than had ever been known before. No sufficient explanation appears for the consistent scaling down of the commission's recommendations to approximately 84 per cent of estimated full value.

The results in 1916 indicate a greater disregard by the board of equalization of the tax commission's figures than in 1914, as shown by the use of a lower percentage of full valuation and by greater discrimination among the counties. As in 1914 special favor was accorded Wayne county, which was equalized at 70.5 per cent of the tax commission's estimate of its full value. This reduction lowered the percentage of full value for the state as a whole to 77.0 per cent. The lower percentage of the commission's estimate of full value was accepted, ostensibly at least, in order to prevent an increase of taxes through larger appropriations for school purposes. These appropriations are fixed by law as a certain levy upon the equalized valuation as established by the state board of equalization.[2] The board proceeded, therefore, to equalize in 1916 by distributing the equalized aggregate for 1914 — $2,800,000,000 — among the counties. The commission's aggregate for 1916 was $3,634,000,000. According to the usual practice, more weight was again given to the loose and offhand statements of the representatives from the counties than to the carefully prepared report of the tax commissioners. The politicians on the board of equalization probably felt that they should make some display of authority. They certainly had a deeper regard for the political strength of the county representatives than for the specialized attainments of the tax commission. It is evident that they must rely upon advice from some source, for they are clearly much less capable of defending or justifying any percentage of the commission's figures that they might have chosen than the commission was to uphold its own results after the time and labor spent in preparing them; but the choice of advisers has been quite unfortunate.

[1] State Board of Equalization, *Report*, 1914, pp. 131–151. [2] *Ibid.*, 1916, p. 14.

One undesirable result of the board's action was the demoralizing effect on the commission's fight for higher valuations. The latter has been working steadily since 1911 for full cash value, and in recent years it has made more thorough and drastic use of its powers of review and reassessment than any other tax commission in the United States. Its efforts in this direction were not furthered by a general reduction in equalization, one inference from which would be that the commission's figures were in excess of full value.

This summary treatment of the commission's results must also impair the prestige of the latter in the opinion of the general public. The newspaper item quoted above[1] illustrates how readily a certain element in the state acclaimed the discomfiture of the expert administrator at the hands of the politician.

From this review of the commission's share in state equalization it is clear enough that the state board of equalization is a superfluous institution and should be abolished.[2] The board of state tax commissioners is now assisting in this function and is the only administrative body in the state qualified to exercise it. Formal approval of its results by a state board of equalization will do neither harm nor good, but the possibilities of obstinacy or partizanship offer too serious a menace to be tolerated.

The Administration of Corporation Taxes

As was indicated above, the creation of the board of state tax commissioners itself had been, in Michigan as in Wisconsin, the result of efforts to subject the corporations to their fair share of taxation. Throughout the nineties and even earlier there had been general dissatisfaction with the system of corporate taxation and the discontent was increased by the greater weight of the taxes laid on other property during the years of hard times. In his exaugural message Governor Rich had recommended at least six new taxes, four of which were to be upon various classes of corporations.[3] Governor Pingree was even more emphatic in his

[1] Cf. above, p. 298.

[2] The tax commission recommended this change in 1914. *Report*, 1914, p. 33.

[3] Hedrick, *op. cit.*, ch. 3.

denunciation of the results achieved under the methods then in use. In his inaugural message he said: [1]

> The system of taxing earnings began in 1871. It has worked disastrously for the state. It is objectionable in many ways. It opens the door for fraud, against which the state has no protection. The state is practically compelled to accept the reports made to it by the railroad companies.

The criticisms against the gross earnings system were well summed up in the first report of the board of state tax commissioners.[2] The first objection was that the apportionment of earnings to Michigan on a car-mileage basis was unfair to that state. Instances were on record in which the average earnings for a system were far above the average earnings credited to Michigan mileage. In the second place there were large sums omitted from income owing to the rule of the Interstate Commerce Commission that only the net balances for car mileage and switching charges need be shown. It was estimated that the reported gross income was annually reduced millions of dollars by this practice. Thirdly, the statute was unjust in that it took no account of the differences in operating cost and thus did not affect the roads uniformly. Finally, the receipts from this source were too unsteady to constitute a reliable feature of the state financial system. For all of these reasons the agitation against the gross earnings tax was increasingly successful, culminating ultimately in the removal of that tax.

This change was accomplished only slowly, however, notwithstanding the dissatisfaction which prevailed. The opponents of railroad tax reform were able to defeat immediate changes, even in 1899, by substituting the proposal for a tax commission which should study conditions and report at the next session of the legislature. Similar tactics were being pursued in Wisconsin at the same time and for the same purpose,[3] but in both states the delay was only temporary and the gross earnings system was overthrown, largely through the efforts of the respective tax commissions.

[1] *Inaugural Message of Governor Pingree*, 1896. *Sen. Jour.*, p. 53.
[2] Board of State Tax Commissioners, *Report*, 1900, pp. 143 ff.
[3] Cf. above, p. 239.

In furtherance of their obstructionist policy the conservatives introduced into the tax commission bill of 1899 a provision for a valuation of the corporations paying specific taxes. The equivalent rate of ad valorem taxation was to be calculated and then the specific taxes were to be compared with the taxes paid by other property in the state.[1] In fulfillment of this duty the commission was finally led, after a thorough examination of the methods then in use in the various states for corporate valuation, to adopt the physical appraisal.

The history and details of this famous project are too well known to be entered upon here.[2] Briefly it consisted of a survey and valuation of all the physical property by a corps of engineers and experts, headed by Professor M. E. Cooley of the Engineering School of the University of Michigan. The intangible elements of value were appraised by Professor H. C. Adams, for many years statistician of the Interstate Commerce Commission. The result was the demonstration of the contention which had been urged for so long, *viz.*, that the railroads were paying a much lower rate of taxes than other forms of property, though the difference was not as great as the advocates of ad valorem taxation had expected.[3] Following this appraisal and the constitutional amendment of 1900, a law was passed providing for ad valorem taxation of railroads, union station, express, stock car, and equipment car, companies.[4] The valuation was to be made by a state board of assessors composed of the board of tax commissioners. Sleeping car companies were added in 1905 [5] and telegraph and telephone companies in 1909.[6] Notwithstanding the popularity of the physical appraisal no trace of its influence is to be found in the law itself, which omits all reference to the subject in the enumeration of the data prescribed to be compiled by the state assessors.

[1] *Public Acts of Michigan*, 1899, No. 154.

[2] Cf. Board of State Tax Commissioners, *Report*, 1900, pp. 66–70. Also, *Report of the United States Industrial Commission*, 1901, ix, pp. 373–387.

[3] *Testimony of H. C. Adams before the Industrial Commission of 1901*, ix, p. 381.

[4] *Public Acts of Michigan*, 1901, No. 173.

[5] *Ibid.*, 1905, No. 282.

[6] *Ibid.*, 1909, No. 49.

The several classes of corporations are required to report annually to the state assessors the following general data regarding every company's business, the statements to be supported by the oath of the president or other leading officer:

1. Organization data, including name of company, state issuing charter, addresses of officers and of the Michigan agents.
2. Capitalization data, including number of shares with par and market value.
3. Property data, including a detailed statement of personal property, with a list of the moneys and credits owned in Michigan on assessment day; the real estate and personal property owned outside the state; mileage of the system within and without the state.
4. Financial data, covering the income accounts and balance sheets.

In addition to the above information, specific provisions are devoted to each class of corporations, covering the further details to be reported by them. The board of state assessors is empowered to call for any further information which it may desire, though in the case of sleeping car companies it is limited to requiring further statements relative to the information required by the original act. Since the information to be furnished under the original act is of a very general character the proper assessment of these companies is somewhat hampered.

The physical appraisal has been used for the telegraph and telephone companies as well as for the railroads. Its application to the first two classes of corporations has involved no principles or results which call for special discussion. After noting briefly some points which have arisen in the assessment of the other classes of corporations, attention will be turned to the important topic of railroad appraisal and valuation.

Sleeping car and express companies are to be valued on the mileage basis. The state assessors may fix the value of the cars, in the first case, and of the stocks and bonds in the second case, according to such data as may be obtained. This valuation for the entire system is to be assigned to the state on the mileage basis; and it is to be taxed at the average state rate for state purposes. The problem of assessing express companies was greatly complicated at first by their contention that ocean mileage should be included in the distribution of values, though it was

admitted that the business done over ocean routes amounted to only about one-twentieth of the total business; or, as the ocean mileage was three times the railroad mileage, to about one-sixtieth of the total business on a mileage basis.[1] The board of assessors labored with this difficulty until 1909, effecting such compromises with the companies as it could. In this year an amendment was secured authorizing the board to "make such allowance for such ocean routes of any company as in its judgment will bring such routes upon a parity with its other routes, being guided therein by the relative mileage values and earning capacities of such ocean and other routes."[2] Since this amendment the board has had no difficulty in arriving at a proper basis of apportionment of the business between the two kinds of mileage.

Notwithstanding the disposal of this difficulty the question may well be raised in Michigan as elsewhere whether the ad valorem system provides the ideal method of assessing such businesses, practically the whole tangible property of which is of such a migratory character. It is very much like "assessing the birds" as the commission's chief clerk put it, to assign values to the business of these companies in any particular state; and aside from the difficulty of an effective administration, the problem of accurately determining the real taxable capacity of such companies is still largely unsettled.

The methods to be followed in the valuation of railroad property were left practically untouched by the statute except for the suggestion that the assessors should be guided by the proportion of main track mileage within and without the state. The term "property" was extended, after a considerable struggle in the legislature, to include franchises, though "said franchises (were) not to be directly assessed, but (were) to be taken into consideration in determining the value of other property." The Cooley-Adams appraisal valued the "corporate excess" by capitalizing the residuum of net earnings, obtained by deducting from gross income suitable allowances for expenses of operation, a fair return

[1] Board of State Tax Commissioners, *Report*, 1906, pp. 37–40.

[2] *Public Acts of Michigan*, 1909, No. 49.

on the physical investment, and taxes. The combination of the physical and the intangible elements of value gave the total.

At the outset of its experience with an ad valorem tax and before the actual work of valuation had begun, the board of tax commissioners seemed convinced that the only safe and sound method of procedure was by an open and public valuation, performed by men of such standing and experience "that not the faintest suspicion would attach to the assessing board or to the corporations themselves."[1] So strong was its conviction that it added, "Any private office valuation would lead to grave charges."

The administrative and other difficulties imposed by such an ideal program were too great, however, and it was not long ere the board was found explaining its failure to adhere to the rules of procedure which had been so confidently enunciated before the magnitude of the task had been fully realized. Thus, in 1902, it said:[2]

> The definition of cash value is so broad in this state that it necessarily includes every element of value, and the conception of the valuation of railroad property that does not include its meaning must be incomplete. It is, therefore, the opinion of this board that no one plan may be arbitrarily applied, but that each individual property should be subjected to an examination covering every possible phase of the question.

The Ontario Commission on Railway Taxation, who were much impressed with the work and results of the Michigan board, expressed thus the reasons for this change of method:[3]

> The Board of Tax Commissioners were themselves compelled to extend the range of their basis of valuation until they seemed to cover every known method. In the end, as . . . one of the Commissioners stated, "When it comes to a question of the ultimate valuation of railroads, each member of the board has his own opinion." The result has been that the valuation which is actually put upon the railroads is a sort of compromise, which differs very materially indeed from the expert valuation of Professors Cooley and Adams. Their new method has also compelled the Board of Tax Commissioners to depart so completely from their original ideal of having the grounds of valuation made a public record, that no factor in the valuation of the railroads is made public. An aggregate and final valuation is simply

[1] Board of State Tax Commissioners, *Report*, 1900, p. 64.

[2] *Ibid.*, 1902, p. 51.

[3] *Report of the Commission on Railway Taxation of Ontario*, 1905, pp. 47, 48.

placed upon each railroad by a method which, however conscientious on the part of the assessors, neither the railway nor the public is permitted to discover. Indeed, one cannot but sympathize with the perfectly frank admission of the board that were they to reveal the grounds of their valuation they would simply invite endless criticism and objection on the part of the railroads and other corporations which they are required by law to assess.

The experience which apparently rewarded the efforts of the Canadian Commission to discover more detailed information with regard to the actual methods used in determining valuations has been repeated more recently by the present writer. From all of the replies to questions and from all of the statements that could be found concerning the methods used, it may safely be said that the final figures have been the result of compromises among conflicting factors and interests. The Ontario Commission ventured the shrewd suspicion that the members of the board of assessors did not have a definite policy of railroad valuation, and added the very pertinent criticism that[1]

> . . . such a system has the fatal defect of making it impossible for the railroads or the public to distinguish between the most accurate and conscientious valuation, and mere ignorant guesswork or quite prejudiced and even dishonest returns.

The view that the usual result has been a compromise is supported by the well-known fact that the members of the board have generally divided into "high-value" and "low-value" men through their allowance of varying degrees of importance to different indicia of value. Not infrequently has the press of the state set forth, as among the qualifications of proposed appointees, their attitude toward a high valuation of the railroads.[2] The figures for 1903 indicate the presence on the board at that time of a majority of "high-value" men. The level of this year has never again been reached though the assessments have shown some advance in recent years.[3]

Comparatively little use appears to have been made of the Cooley-Adams appraisal in the actual valuation as those figures have been allowed to become obsolete. No effort has been made

[1] *Report of the Commission on Railway Taxation of Ontario*, 1905, p. 53.

[2] Cf. data in the clipping files of the Board.

[3] Cf. figures below, p. 329.

to keep them up to date except through such data as the railroads themselves have supplied. In 1910 these data as well as the whole method of physical valuation were rejected as being unsatisfactory and unsuited to Michigan conditions.[1] The feature most criticized was the inclusion of corporate excess when it existed and the failure to make a deduction from the physical value when a fair profit was not being earned upon the investment. Of the one hundred and twenty-three roads assessed, twenty-six had an element of corporate excess in 1910 while the remaining ninety-seven had none. For the latter group the engineer's figures were taken as the assessed valuation with no deduction for the fact that the operations were being conducted at a loss. It should be pointed out, however, that the board's application of an ability-to-pay theory to railroads is not in harmony with the spirit of the general property tax, under which many other forms of property, varying widely in productive capacity, are taxed at the same rate and without lawful deductions. In his testimony before the Industrial Commission Professor Adams anticipated this objection by showing that such reductions below the cost of reproduction were not made in the assessment of other property.[2] The opposition to the physical valuation has disappeared with the change of personnel in the board of tax commissioners and in 1914 a reappraisal of railroad property was recommended, with special reference to the use of such data for assessment and taxation purposes.[3] Two years later the board stated that the basis of the system of valuing public utilities was the physical appraisal, but inasmuch as this gave reproduction cost and not "cash value," it was necessary to modify this result in the light of the earnings of the various companies.[4] This reversion to the former policy has been but the application of the full-value idea which the present board has been following in its vigorous review and reassessment of the other property in the state. The railroads should be

[1] Board of State Tax Commissioners, *Report*, 1910, pp. 55 ff. Also, R. H. Shields, "Railroad Taxation Problems," in *Proceedings of the National Tax Conference*, 1910, pp. 231–241.

[2] *Report of the United States Industrial Commission*, 1901, ix, p. 381.

[3] Board of State Tax Commissioners, *Report*, 1914, pp. 38, 39.

[4] *Ibid.*, 1916, pp. 14, 15.

put on the same basis of valuation as general property and to this end a reappraisal has seemed necessary.

The problem of equity between the railroads and other property has occasioned much difficulty for the board, which has been led by circumstances to deal more leniently with the railroads than the facts of actual valuation would seem to warrant. The board has held the view that without the compensation of a lighter assessment the corporations would have suffered an actual injustice. In brief the difficulty has been as follows:

The state constitution requires that all property which is to be assessed by the state board of assessors shall be taxed by a uniform rule, and that "the rate of taxation on such property shall be the rate which the state board of assessors shall ascertain and determine is the average rate levied on other property upon which ad valorem taxes are assessed for state, county, township, school, and municipal purposes." The board of assessors held this provision to be capable of more than one interpretation and in its first assessment it took the position that the constitution required it to impose the same tax burden upon each class of property.[1] That is, the board believed that justice required it to equalize the assessments of corporate property to the same percentage of full value which had been used by the local assessors in listing other property.

Proceeding on this interpretation, which was strengthened by an able opinion from the attorney-general, the board attempted in 1902 to equalize between the property taxed under general laws and that assessed by the central authorities by raising the assessed valuation of the former to the true cash value, according to its investigations into the relation of assessed to true value.[2] This lowered the average rate of taxation, based on true value, and lessened the amounts which the localities received from the corporate properties within their jurisdictions. Suit was brought by the Detroit Board of Education for the correction of the assessment and the state supreme court sustained the complaint, ordering a redetermination of the rate.[3] The principal ground for

[1] Board of State Tax Commissioners, *Report*, 1902, p. 69. [2] *Ibid.*, 1904, pp. 35–37.

[3] *Board of Education of Detroit* v. *Board of State Tax Commissioners*, 133 *Mich.* 116.

the decision was that the law for years had provided for full cash value and all of the recent administrative improvements strengthened the assumption that this law was obeyed, an assumption which should be accepted in the absence of clear proof of fraudulent departures from the legal standard of full valuation. This was very flimsy ground for such a decision as it was a matter of common knowledge, of which the court could hardly escape taking judicial cognizance, that, on the average, property was not assessed at full value and had not been for many years. Every investigation made by the commission had confirmed this conclusion, while every effort that it has been able to make thus far points to the impossibility of attaining, under the present tax system, perfect assessment of all property at full cash value.

For the purpose of remedying this alleged inequality between corporate and other property the legislature passed in 1905 the so-called "Galbraith law," which introduced the standard of true cash value of general property, as ascertained by the board of tax commissioners, as the basis for determining the average rate of taxation for corporations.[1] Though the sole motive of the board of assessors seems to have been that of attaining more exact justice in the taxation of the two classes of property, this law and the first assessment under it called forth a fierce storm of protest in which the board was accused of showing favoritism to the railroads, in determining for them a lower rate than that which was imposed upon the poor farmers and merchants. Prompted in part by this popular feeling and in part by his own belief that the law was unconstitutional, the attorney-general brought a test case to the state supreme court. The law was there held void on the ground that the constitution required the state assessors to ascertain the average rate which was *actually* levied on other property and that any attempt to create a fictitious sum to be used as a divisor in determining the rate would be clearly inharmonious with the true intent of the constitution.[2]

[1] *Public Acts of Michigan*, 1905, No. 282. Cf. Board of State Tax Commissioners, *Report*, 1906, pp. 18–24.

[2] *John E. Bird, Attorney-general* v. *Board of State Tax Assessors*, 143 *Mich.* 73.

Since this decision there has been no opportunity to equalize between corporate and other property, except by making such allowance in the original assessment as seemed proper in order to secure approximate equality of tax burden. The board has perhaps been less aggressive in its valuations than it would have been had its construction of the constitution prevailed, though it would not be officially admitted by any member of the Michigan board of assessors that such considerations had been allowed to influence the assessment of railroad or other corporate property.

The state board's theory of determining the average state tax rate would have increased tremendously the significance of the methods used by the tax commissioners in ascertaining the percentage of assessed to true value. It would have necessitated a better organization of the work of collecting equalization data and a far more rigorous scrutiny of that material than has been exercised by the Michigan officials. The success of the sales method in Wisconsin removes all question that results satisfactory to both sides can thereby be attained, and the Wisconsin practice of equalizing the rate of taxation on corporate property centrally assessed is a valuable precedent for the equity of this procedure.

It was the view of the Commission of Inquiry into Taxation, however, that such a failure to equalize could not be regarded as necessarily inequitable. It pointed out the possibilities of classification of property, and cited the oft-instanced argument that differences in the rates on various classes of property might be necessary to equality.[1] But in reply it should be said that until such a principle has been definitely formulated and approved in Michigan, there is no guarantee of justice in such *sub rosa* applications thereof.

The board of tax commissioners has been working in recent years toward another solution of the difficulty. The first steps have been taken toward separate taxation of intangibles,[2] and as classification proceeds the tangible property can be placed on the duplicate at approximately full value without fear of great dis-

[1] *Report of the Commission of Inquiry into Taxation*, 1911, p. 53.
[2] *Public Acts of Michigan*, 1911, No. 91.

crimination. This is now being done through the exercise of the board's sweeping powers of reassessment, and as the general property of the state is reviewed and materially advanced, the corporations may fairly also be assessed upon a full value basis. For this purpose the board asks authority to make a new physical appraisal of railroad property.

Inasmuch as the ad valorem method was introduced primarily for the purpose of increasing corporation taxes, it will be of interest to see in how far this object has been achieved. The following figures show the relation between the state tax on general property and the taxes paid by the railroads.

STATE TAX, TOTAL RAILROAD TAXES, AND THE AVERAGE TAX RATE[1]

(000 OMITTED)

Year	State tax	Railroad taxes	Average tax rate	Year	State tax	Railroad taxes	Average tax rate per $1000
1898	$2,158	$1,091	....	1906	$3,384	$3,409	$16.47
1899	3,725	1,240	....	1907	4,886	3,650	17.6
1900	2,908	1,356	....	1908	4,194	3,733	18.01
1901	3,835	1,483	17.49	1909	5,929	4,377	20.67
Totals	$12,629	$5,173		Totals	$18,393	$15,169	
1902	2,669	3,288	16.55	1910	4,730	4,347	20.53
1903	4,003	3,756	16.91	1911	6,523	4,372	20.71
1904	2,958	3,330	16.92	1912	5,472	4,387	20.80
1905	3,871	3,527	17.40	1913	8,591	4,620	21.56
Totals	$13,502	$13,901		Totals	$20,296	$17,726	

The most striking fact presented by this table is the steady and rapid increase in both the state tax and the taxes upon the railroads. The quadrennial totals show an advance from 1898–1901 to 1910–13 of over 60 per cent in the state tax and over 240 per cent in the railroad taxes. The latter increase is so great because of the relatively low taxes that were paid under the gross earnings system, as compared with the later tax burden. In the last quadrennial period under the gross earnings tax the contributions of the railroads amounted to only 41.7 per cent of the state tax; while in the first quadrennial period under the ad valorem system the tax receipts from the railroads amounted to 103 per cent of the state tax. These facts constituted a perfectly satisfactory explanation for everyone in the state, with the exception of the rail-

[1] Compiled from the biennial reports of the Board of State Tax Commissioners.

road owners, of the soundness of the contentions used as slogans in the fight for the ad valorem system. If the railroads were being favored under the old system the new method has equalized matters, and the principal motive for the change — the relative increase of railroad taxes — has certainly been attained.

The figures for the next quadrennial period, 1906–09, reveal a more rapid increase in the state tax than in those paid by the corporations centrally assessed. It is unnecessary, of course, that the railroad taxes keep pace with the state tax. The slower advance of the former is partly accounted for by the fact, already explained, that the corporations were being somewhat more lightly assessed because of the theories, or scruples, of the state board of assessors regarding the equity of the existing methods for ascertaining the average rate of taxation. The state expenditures increased very rapidly after 1905, the annual outlay being nearly $5,000,000 greater in 1913 than in 1905. This increase has been most marked since 1910 and by 1913 it had carried the volume of state tax to such a level that it now appears doubtful if the corporation taxes would adequately supply the state needs, even with more effective assessment. Since the report of the Special Commission of Inquiry, in 1911, there has been little sentiment in favor of separation of sources and the above figures furnish a strong argument against undertaking such a program, so far as the state finances are concerned.

Another point to be noted is the rather striking periodicity of the taxes levied and the average tax rate. The odd years show a distinct tendency to higher state taxes and since 1903 this has been true also of the railroad taxes, though the variations have not been so marked. This fluctuation is a natural resultant of the biennial legislative session. The greater flexibility of the ad valorem system has steadied the state tax on general property by equalizing somewhat the strain of the heavier appropriations. Under the specific system the direct state tax must bear the full burden of any changes in the volume of appropriations.

Fully as significant, in some respects, as the more direct financial gains here shown, has been the changed attitude of the corporate interests, especially the railroads, toward tax reform. This

transformation does not indicate an outburst of altruism, but merely the struggle to escape, or shift, a part of the tax burden. After the efforts to lighten this burden by legislative interpretation of the constitutional provision for an "average rate" proved unavailing, the railroads resorted to the other alternative — that of seeking to compel the local assessors to advance general property assessments to full value. To this end the railroads at one time organized an informal railroad tax commission and employed a former member of the board of tax commissioners. This agent of "tax reform for the other person" was able to accomplish but little directly in the way of higher assessments. The work of the state board in the collection of sales data was practically duplicated, but beyond this little was achieved. And yet, the fact that the powerful railroad interests were with, instead of against, the tax commission in its own fight for better assessment conditions was of material significance in the movement toward greater justice in the tax system. Wherever the influence of the railroads was capable of influencing local elections and the actions of local assessors — and under the present system of locally elected and responsible officials the exertion of such influence has been entirely too common — such influence would be used in securing the increase of local assessments and in holding up the hands of the tax commission in its efforts to secure a full listing of all taxable property at full cash value.

The Administration of Mine Taxation

The ad valorem method of taxing the mining properties of the state was adopted in 1891 as a substitute for the former combination of tonnage tax for state purposes and local ad valorem tax.[1] Either the inadequacy of the method or the insufficiency of its administration, or both, had given rise to the most general dissatisfaction. To remedy this situation nothing directly was done in the reform legislation of 1899, and the only relief possible was that which might have come incidentally from the more effective supervisory control exercised by the board of tax commissioners over the process of local assessment. Even this avenue of ap-

[1] Board of State Tax Commissioners, *Report*, 1900, pp. 54–59.

proach to the problem of a proper assessment of the mining properties was virtually closed in 1905 by the narrow restriction of the board's power of review.[1] In consequence the matter of the proper assessment of these properties drifted along until 1911 when the legislature directed the board to conduct an inventory and appraisal of the mines of Michigan.[2] This dilatory policy, the responsibility for which rested in part with a former board,[3] did much to create enemies among the undiscriminating, as every instance of a review of local assessments afforded an opportunity for a tirade against the injustice of the mine assessments. The newspapers of the period are full of emphatic and at times bitter protests against the discrimination which was apparently being shown.

The appraisal of 1911 was made by an expert mining engineer and the results were submitted in the form of an extensive and comprehensive survey and valuation of the ore and mining property.[4] On the basis of this report the board ordered sweeping advances in the assessed valuation of the mines, though in establishing the taxable valuations the engineer's figures were used merely as the basis on which more conservative calculations were made. Thus, the expert had calculated the existence and extent of ore deposits which, though not explored, could nevertheless be assumed to exist on the basis of the position of known bodies of ore. These ore beds had been valued by the engineer and included in his totals, but the board of tax commissioners rejected such indefinite estimates.[5] In 1911 the local assessors, following and applying the old methods of assessment, had placed a total valuation of $19,623,508 on the iron mines; the expert appraiser had valued the same properties at $119,150,000, while the state board, revising the local figures in the light of the Finlay appraisal, found the taxable property to be worth, for purposes of taxation, $85,642,500.[6]

[1] Cf. below, p. 324. [2] *Public Acts of Michigan*, 1911, No. 114.

[3] In 1901 the tax board had advised the board of equalization that the assessors' returns on iron mines were correct except in one county. *Report*, 1902, p. 45.

[4] *Appraisal of the Mining Properties of Michigan*, 1911, J. R. Finlay, Engineer.

[5] *Interview with the Michigan Board of State Tax Commissioners*, June, 1912.

[6] Comparative figures from Report of the board, 1912.

The inventory and appraisal extended to all of the other more important mineral resources of the state,[1] though in no other case were the amounts involved so large or the ensuing action of the board so drastic. In the case of the copper mines the engineer's report made it clear that no increase of assessments was necessary, as these properties had been assessed for years on a much higher basis than the iron mines. Thus, in 1900, the copper mines of Houghton county alone had been assessed at nearly three times the total for all of the iron mines of the upper peninsula.[2] The coal area was found to be irregular, not thoroughly explored, and to have been the scene of many costly failures; under proper conditions, however, it constituted a field of profitable operations to which the same principles of valuation should be applied as to any other mining property. Salt, limestone, cement, and brick clay deposits were investigated but in every case the expert's verdict was that such resources contributed little or nothing to the value of the land and should not be made the basis of additional taxes. The salt business was conducted so largely as a subsidiary industry in connection with sawmills that it was construed not to be a mining industry at all.

The authorization of a state assessment of mines lapsed after one year, but the tax commission has naturally assumed a leading part in the subsequent valuation of mining property. Since they are acting without authority here, their participation has been made possible only by the consent of the mine owners, who have realized the inefficiency of the local assessors. The board has naturally made the Finlay appraisal of 1911 the basis of its subsequent appraisals, making such adaptation as has seemed necessary to meet local conditions. Beginning with 1913 the state geological survey has supplied the expert assistance necessary for estimating the tonnage and collecting the other data requisite to the appraisal.[3] It is beyond the scope of this work to

[1] In 1914 the board reported that the copper mines were still assessed at cash value. *Report*, 1914, pp. 14, 15.

[2] Finlay, *op. cit.*, pp. 66–82. For a criticism of the Finlay method, cf. Uglow, "Mine Valuation and Assessment," *Wisconsin Geological Survey*, Bull. XLI, 1914, pp. 33–46.

[3] Board of State Tax Commissioners, *Report*, 1914, p. 58.

enter into a discussion of the principles of mine valuation. The subject is complicated and there is wide diversity in the methods employed by different tax commissions and mining experts.[1] The method in use in Michigan will, therefore, be only briefly stated in order to bring out the relation of the board of tax commissioners to the problem of mine valuation.

The data on mine property and operations are first collected by the state geologist, who then visits each mine for the purpose of calculating ore reserves and checking other returns that have been made. The commission's preliminary valuations, which are based on the recommendations of the expert appraiser, are open to the operators who may appear at public hearings and submit additional data or arguments relative to the value of their respective properties. After these hearings the assessed valuations are formally fixed and reported to the local assessors, by whom they are placed on the tax rolls. The theory of appraisal under the Michigan system is that "the value of an iron mine . . . is the present worth of the sum of money representing the calculated difference between total receipts from sales of ore and the cost of marketing the product based on the entire tonnage which the mine may be expected to produce."[2] The total tonnage of available ore is calculated by the geological expert; the factor of profits is found from the financial record of the preceding five years; and the interest rate used in capitalization is that which experience has found to be necessary to attract capital into the mining industry. The results of the appraisals since 1911 are shown in the table below:

IRON MINE ASSESSMENTS, 1911–14[3]

Year	Valuation	Year	Valuation
1911.....	$85,529,075	1913.....	$82,534,231
1912.....	81,097,089	1914.....	91,572,115

In 1912 the board was without the expert assistance necessary to make a proper appraisal and its figures fell off from those of 1911.

[1] Cf. Discussion in *Proceedings of the National Tax Conference*, vii, 1913.

[2] Board of State Tax Commissioners, *Report*, 1914, p. 59.

[3] R. C. Allen, "Michigan Iron-Ore Reserves; Method of Appraisal for Taxation." Reprinted from *Mining and Engineering World*, September 12, 1914.

The subsequent improvement registers the advantage to be secured from the assistance of experts.

By means of the administrative machinery the operations and results of which have been outlined in the foregoing paragraphs it has been possible to improve materially the assessment of the main classes of public service corporations and of the more important mining properties of the state. There still remain outside the fold of centralized administration, however, certain classes of public service corporations as well as the whole field of private corporations, the operations of some of which are sufficiently extensive and important to suggest placing them under the jurisdiction of the state board for assessment purposes. Of the so-called public service corporations the assessment of which should be centralized at once, the more important are the interurban lines, the street railways, and the hydro-electric companies. In many cases the lines of the larger concerns extend over several tax districts, forming a single profit-producing plant which can be valued properly only when regarded as a unit. Yet the assessment of these plants is still performed in the antiquated and entirely inadequate fashion of a piecemeal valuation of the tangible property in each district by the local assessor. The wisdom of central assessment of these corporations is slowly being realized over the country, and a considerable development of the principle of centralized assessment may be expected within the next few years. Such a policy has frequently been recommended by the Michigan board but thus far without success.

The Special Commission of Inquiry of 1911 proposed a plan of central assessment for private corporations, which included central control of accounting systems and very elaborate returns to the state authority.[1] The present board of tax commissioners recommends that all corporations doing business in the state be required to make reports to the central board, but does not go so far as to suggest central assessment.[2] The data in the proposed reports are presumably to be used by the local assessors and in review proceedings by the board itself.

[1] *Report of the Commission of Inquiry into Taxation*, 1911, pp. 47, 48.

[2] Board of State Tax Commissioners, *Report*, 1912, pp. 27, 28. *Ibid.*, 1916, pp.

CENTRAL SUPERVISION OF THE LOCAL OFFICIALS

As already indicated the duty of supervision was the one positive function conferred upon the board of tax commissioners by the original act, in contrast with the various lines of advisory investigation which were later to develop into important duties.[1] The supervisory authority conferred involved in its exercise both advisory and mandatory relations with the local officials and in each of these directions the work of the Michigan board has been important, though the results have only confirmed the experience of other states that more effective control over the local assessment process is essential. The relations of the state board to the local officials have been threefold in character — instructive, constructive, and corrective. By the first is meant the various ways in which the board has been a source of information for the assessors in their work; by the second the actual constructive work which has been performed by the board to assist the assessors in discovering, valuing, and listing property; and by the third the corrective powers exercised through reviews, reassessments, and removal of officials.

The educational work of the board was conducted, until 1913, along the conventional lines followed by tax commissions in other states. One of these has been the annual visit to each county as required by law. The board has recently condemned the compulsory routine of visits and has recommended that it be given liberty instead to concentrate its energy and attention each year in the counties most in need of visitation.[2] In the absence of county conventions of the local officials with compulsory attendance the present plan of an annual tour of the counties can be of little value as there is no possibility of meeting personally each township assessor in these necessarily hasty calls, to say nothing of making an adequate inspection of their work. Such inspections

27, 28. The board again suggests authority to compile data from the private corporations which would enable it to "suggest to an assessing officer the proper assessment when called upon to do so."

[1] Cf. above, p. 290.

[2] Board of State Tax Commissioners, *Report*, 1912, p. 30. In its reviews the board has pursued this policy.

would be practically worthless anyway as a basis of judging the character of the work done without an examination of a considerable proportion of the property in the district, and of this there could be no pretense.

A new spirit was introduced through the change of personnel in 1911–12 and a further extension of the board's supervisory powers in 1913.[1] The board understood this legislation to mean a popular demand for state-wide enforcement of the full value rule of assessment, and it rightly assumed that public opinion would endorse and sustain any businesslike program for hastening the work of placing assessments at full value. Accordingly it changed its whole attitude toward the local officials. A plan of state-wide coöperation with the latter was announced, a new "assessor's manual" was published, and a pamphlet on "cash value assessments" was issued for wider circulation. The new manual is entirely free from dry legal chaff and is filled with helpful suggestions and advice for the assessor. It is a really valuable manual on assessment practice. The pamphlet outlined the board's plan of coöperation, explained the benefits to be had from full value assessments, and assured the people at large of the board's cheerful determination to enforce the law. This wholesome program had a bracing effect upon public opinion, which quite generally rallied to the board's support.

The constructive phase of the board's supervision represents a more extensive attempt than has been made in any other state, with the possible exception of Massachusetts, to collect data for the assistance of the local officials. That the results have been no greater is strong evidence of the inefficiency of the tax system under which the administration has worked. The data collected have pertained to several of the more elusive classes of personal property, the failure to list which has been the source of much of the mischief in the local administration of the general property tax. The largest task undertaken in this connection has been, of course, the valuation of the iron mines. These are legally assessable by the local assessor but the process has virtually been transformed into a state assessment.

[1] *Public Acts of Michigan*, 1913, No. 153.

Aside from the mines, the board's principal constructive work has been in the search for certain forms of personal property. The most extensive compilation of material of this sort has been that of the data relating to mortgages which were taxed under the general property tax previous to 1911. The local registers of deeds were the active agents in compiling this information, which included the names of the parties, name and residence of the owner of the mortgage, the amount unpaid, and the amount assessable for the current year.[1] These data were classified and sent out to the assessors who were expected to use them in obtaining a more complete assessment of mortgage credits. The total mortgage assessment of 1899 did not exceed $10,000,000, and in the first two years the board discovered and placed on the tax rolls more than $45,000,000 of additional mortgages. The governor's action in vetoing a bill for the exemption of all mortgage credits was approved by the board, not only because of the impossibility of reconciling its provisions relating to railroad mortgages with the system of railroad taxation recently introduced, but also because of its disapproval of the general policy of mortgage credit exemption.[2] The success of the first few years of central supervision may have led the board to believe that such property could be successfully listed under centralized administration. Such an expectation could hardly have been realized, judging from general experience; and the facts show that it was not realized in Michigan. This is seen from the following statement of the mortgages returned for taxation in Michigan since 1901.

MORTGAGE CREDITS ASSESSED IN MICHIGAN, 1901–11[3]

Year	Amount	Year	Amount	Year	Amount
1901....	$55,250,106	1905....	$47,514,678	1909....	$42,524,594
1902....	56,681,305	1906....	48,144,334	1910....	....
1903....	53,583,526	1907....	46,684,549	1911....	39,148,509
1904....	52,762,921	1908....	44,341,263		

[1] The system is described in Board of State Tax Commissioners, *Report*, 1902, p. 34; *ibid.*, 1908, pp. 14–24.

[2] *Ibid.*, 1902, pp. 34, 35.

[3] From data in the biennial reports of the Board of Tax Commissioners. The figures for 1910 are not available. There is no evidence of a decline in the total mortgages in the state. The amount of mortgage debt on farms occupied by their

The board accounted for the steady decline after 1902 in various ways, such as the removal of owners from the state, cancellation and investment in other forms of property, and an assignment of the mortgage to non-residents with an unrecorded reassignment back to the resident owner.[1] In the effort to locate Michigan capital invested outside the state the board in 1905–06 extended its investigation of the ownership of mortgage credits into neighboring states.[2] These inquiries covered the counties adjoining the state line in Ohio, Indiana, and Wisconsin; and one county in Minnesota, Iowa, and New York, respectively. The total face value of the mortgages thus discovered was $3,173,486, indicating a tendency to borrow outside the state. In his study of mortgage taxation for the Wisconsin tax commission, Professor T. S. Adams concluded that the conditions of mortgage taxation in Michigan were furthering this resort to lenders outside the state.[3] The conditions referred to were the vigorous efforts which were being made by the board to locate and assess all taxable mortgage credits. Further efforts in this direction were abandoned in 1911, and a mortgage registry tax, modelled after the New York law, was substituted for the uniform rule.[4] The administration of this registry tax is largely in the hands of the county officials, and the only duty imposed upon the state board is the apportionment of the tax upon mortgages covering property within and without the state. In making this determination the board is to consider only the value of the tangible property covered by the mortgage, due regard being given also to prior incumbrances thereon. In 1914 the board condemned the principle of a registry tax and suggested the substitution of a special annual tax on all intangibles other than the stocks of corporations and banks. The present law was declared to be an expedient for exempting secured debts while it left unsecured debts, bank deposits, and other credits subject to the high rates of the general

owners in 1890 was $64,414,986, and in 1910, $75,997,030. Cf. *13th Census*, v, p. 166.

[1] Board of State Tax Commissioners, *Report*, 1908, p. 22.

[2] *Ibid.*, pp. 14, 15.

[3] Wisconsin Tax Commission, *Report*, 1907, p. 314.

[4] *Public Acts of Michigan*, 1911, No. 91.

property tax. Reasonable classification of property was advised, though no definite program was offered.[1]

In addition to the mortgage data, information relating to several other classes of personalty has been collected and distributed to the assessing officers, though with but little better results than had attended the efforts to secure a larger return of mortgages. Especial attention was given to "vessel property," the records of which at the Michigan ports of entry were checked each year just previous to the date of assessment and distributed to the local officials. Similarly, the returns of personal property made in probating the estates of decedents and by corporations claiming a domicile within the state have been scrutinized and the information so received has been classified and distributed to the districts where such property would be taxable. These reports on the taxable property of corporations show the amount of capital stock, the value of the real estate, and personal chattels, credits and debts, and the assessed value of the personal property.[2] More than 6000 of these reports are prepared annually. The book value of bank stock is likewise compiled and distributed. All of this information would be of the highest value to the earnest and conscientious assessor but it might be neglected altogether by the careless or indifferent one. Previous to 1911 the board had no power to compel its use or to force from the assessor an explanation of his failure to list the taxable property thus shown to exist in his district. The board's records of personal property assessments do not contain figures sufficiently detailed to permit one to ascertain the exact condition of local personalty assessments. It may safely be said, however, that Michigan offers no exception to the general results of the attempt to tax personal property under the uniform rule. The Commission of Inquiry of 1911 asserted that corporate tangible personalty was grossly underassessed in many districts and it concluded that the problem demanded a more effective centralization of the machinery of assessment.[3]

[1] Board of State Tax Commissioners, *Report*, 1914, p. 48.
[2] *Ibid.*, 1912, p. 13.
[3] *Report of the Commission of Inquiry into Taxation*, 1911, p. 31.

Of the three phases of supervisory activity that of correction is most important. In every state there is undoubtedly much to be gained through an extension of the educational and constructive relations between central and local officials and with the growth of the central department, possessing many facilities for the accumulation of valuable data, these forms of supervision will undoubtedly expand in importance. But much of the progress of this sort will be worthless unless there exists also the power to correct improper tendencies, to discipline local officials if necessary, and to prevent distracting local influences from taking possession of the assessor.

The Michigan board of tax commissioners now has extensive corrective powers. It may prefer charges against any delinquent or negligent local official to the governor, with whom the final removal power rests. No officials have actually been removed under this provision but in the pamphlet of 1914 the board serves fair warning that its powers in this respect will be vigorously used when necessary.

The powers of review and reassessment have been the center of much of the contention which has raged around the board almost from its origin. The act of 1899 gave the board authority to hear complaints concerning inadequate or fraudulent assessment of property and to take such proceedings as would correct the inequalities complained of, if found to exist. Under this provision the right of review was restricted to complaints and to the property complained of; but the board's policy in acting on complaints in the first years of its existence was so strenuous that in 1905 the power of review was restricted to those complaints which were made by a taxpayer resident in the district in which the assessment complained of had been made. The protection afforded by this change became the source of numerous discriminations by local officials against the property of non-residents, for whom no relief was possible except through tedious and expensive litigation.[1]

This obviously unjust feature of the power of review was retained until 1909 when an amendment restored the right of

[1] Board of State Tax Commissioners, *Report*, 1906, pp. 9–11.

appeal to any taxpayer, irrespective of his residence or the location of his property. The ambiguous language of the amendment of 1909 made possible the interpretation that the board had been empowered to initiate reviews on its own motion. The attorney-general ruled in support of this view and his construction was sustained in 1911 by an amendment which gave the board power to initiate a review and reassessment of any property, or of a whole district.[1] It was further provided that after a valuation had been placed upon a property or a district in the course of a review, the local assessor could not reduce that valuation for three years except by the written consent of the state board. This measure indicates a growing lack of faith in the ability of the local assessor to withstand the assaults of special interests and is significant in its transfer of responsibility to the central authority. The law was amended again in 1913 and renewed emphasis was laid upon the board's duty of enforcing the standard of cash value assessments. Practically unlimited power of review and correction was given and the duty of initiating removal proceedings against delinquent or negligent officials was again plainly stated.

These enlarged powers brought corresponding energy and aggressiveness and the board is again displaying the vigor and zest that marked its work previous to 1905, before the prospect of its dwindling powers had left it apathetic and anaemic. A very energetic, and on the whole, successful campaign for state-wide elevation of assessments has been conducted. This was begun in 1911 in a series of county reviews. Under the three-year rule the commission was able to hold these counties in line while it proceeded to review and increase others. The iron counties were first reviewed on the request of the mine owners that other property in those counties be assessed on the same basis as the mines. In three years the board had reviewed twenty-five counties and has brought most classes of property therein substantially to full cash value. In 1914 a general movement toward full value for the entire state was launched, the preliminary educational cam-

[1] Board of State Tax Commissioners, *Report*, 1910, pp. 22–24; also, *Public Acts of Michigan*, 1911, No. 17.

paign of which has been described. Conferences were held in thirty counties in 1914 and a force of special examiners was sent out to instruct and assist assessors. These examiners assessed the public utilities and large private corporations.

This program has been steadily pushed forward and in 1916 only fifteen counties, all small and unimportant, and that part of Wayne county outside of Detroit, remained to be reviewed. The staff of special examiners has been kept at work in collaboration with the local assessors and in collecting data with which to check the local returns. In the counties reviewed in 1914 the board's agents examined independently 17 per cent of the real property and 34 per cent of the personal property as returned by the assessors.

The first result of this state-wide readjustment of assessed values has been a very rapid increase in the aggregate valuation. The total assessment of property since 1912 is here given: [1]

TOTAL ASSESSMENT OF PROPERTY IN MICHIGAN, AS EQUALIZED, 1912–17

1912.....	$1,898,100,000	1915.....	$2,765,400,000
1913.....	2,078,700,000	1916.....	2,968,200,000
1914.....	2,345,700,000	1917.....	3,625,800,000

This is a remarkable result, involving as it does the addition of $1,727,700,000 to the tax duplicate, or an increase of almost 100 per cent in five years. It is an indication of what effective administration can accomplish when it has the support of public sentiment in its undertaking. The people of Michigan were willing to stand for full value assessment and the board of tax commissioners received general support in its state-wide review. This alternative was a very much better choice than any percentage basis of assessment. The results in Michigan suggest what might have been accomplished in Minnesota and Washington if a similar state-wide review of assessments and increase to full value had been decided upon.[2]

Another result, and one which will reveal the vital interest which the average taxpayer has in full value assessment, is the

[1] Board of State Tax Commissioners, *Report*, 1916, p. 23.

[2] Cf. below, chs. 11 and 12.

effect on tax rates. In ten counties not yet reviewed the tax rates in 1915 ranged from $31.78 to $58.84 per $1000. In the ten counties having the lowest rates in 1915 the range was from $10.95 to $14.72 per $1000. More significant still, had the second group of ten counties not been reviewed by the board of tax commissioners, the tax rates would have been more than double those which were established after the final review.[1] Similar, and even more striking results were obtained in the tax rates of townships by the intracounty reviews conducted by the board.

The board concluded the discussion of this topic in 1916 by predicting that on December 1, 1917, all property subject to the general property tax would be on the assessment rolls at full cash value.[2] One need not be held lacking in appreciation of the noteworthy achievements of the Michigan board in the last five years, who expresses some doubt over this prophecy. Even the lower range of county tax rates for 1915 indicates clearly the fate of the owner of intangible property if this property is listed. With those as the minimum rates after such a drastic review as the greater part of the state has received, it seems highly improbable that any large part of the intangible property of the state has been listed, even by these thorough methods.

One of the recommendations proposed by the board indicates that the above criticism is admitted. In order to reach "much property now escaping taxation altogether or paying an inconsiderable sum," the board recommended the adoption of a constitutional amendment which would permit classification of tangibles and the levy of a tax on the income from intangibles.[3] If these changes are introduced, with the provisions for central

[1] The ten counties, with the rates before and after review by the board, were:

County	Rate before review	Rate after review
Monroe	$22.05 per $1,000	$10.95 per $1,000
Sanilac	30.47 " "	12.25 " "
Huron	17.54 " "	12.54 " "
Clinton	21.22 " "	12.69 " "
Allegan	22.58 " "	13.86 " "
Gratiot	26.79 " "	13.98 " "
Hillsdale	22.55 " "	14.09 " "
St. Joseph	25.07 " "	14.16 " "
Lenawee	20.31 " "	14.35 " "
Barry	24.40 " "	14.72 " "

Board of State Tax Commissioners, *Report*, 1916, p. 25.

[2] *Ibid.*, p. 25.

[3] *Ibid.*, pp. 33, 34.

administration which modern experience has proved desirable, there is every reason to expect that they will operate successfully in Michigan. The board of state tax commissioners has recently displayed such a commendable enterprise, vigor, and capacity in its administration of the tax system that it can safely be trusted with the direction of these new forms of taxation.

Recommendations

The duty of studying the tax laws and recommending improvements promises to become, in all of the states, one of the most fruitful of the functions exercised by the tax commission. The popular mind works slowly at times, especially when the inertia of custom, precedent, and ignorance must be overcome. No greater responsibility has been laid upon the leaders of tax administration in any state than the guidance of public sentiment along the path of genuine tax reform, avoiding the dangers of extremes of every sort. The recommendations of the Michigan board have not always commanded the attention of the state, because of the variable position in the public confidence which the board has held.

The principal recommendations in recent years have been the following:[1]

1. The classification of tangibles and a tax on the income from intangibles.
2. Statements from all corporations doing business in the state to the board of tax commissioners.
3. Reports from banks showing all real estate owned with assessed value of same.
4. Central assessment of all local utilities extending through more than one district.
5. Abolition of separate state board of equalization.
6. Limitation of tax rates.
7. Substitution of the county as the assessment unit, with a county assessor in charge, appointed by the board.
8. Statement of true consideration in deeds.
9. Reappraisal of railroad property for purposes of taxation.
10. Collection of the cost of reassessment and review from the tax districts concerned.

[1] Board of State Tax Commissioners, *Report*, 1914, pp. 47–57; *ibid.*, 1916, pp. 27–34.

APPENDIX A, CHAPTER IX

EQUALIZED VALUATION OF MICHIGAN RAILROADS, 1899–1915

Year	Valuation	Year	Valuation
1899.....	$186,511,585	1908.....	$207,305,000
..[1].....	....[1]	1909.....	211,764,500
1902.....	198,641,000	1910.....	211,716,000
1903.....	222,106,000	1911.....	211,075,500
1904.....	196,795,000	1912.....	210,884,500
1905.....	202,651,000	1913.....	214,306,500
1906.....	207,068,000	1914.....	....[1]
1907.....	207,130,500	1915.....	211,112,000

[1] Figures not published.

CHAPTER X

THE STATE TAX COMMISSIONER OF WEST VIRGINIA

THE tax system of the new state of West Virginia was modelled upon that in force in Virginia before the separation occurred.[1] It consisted of the general property tax, supplemented by a mass of license and other special taxes. The administration of these taxes in West Virginia was at first wholly local; some experiments in central administration were undertaken at different times, but the first important step in this direction was taken in 1882, when the board of public works was placed in charge of the state equalization and of the assessment of railroads. Under the system originally adopted, real estate was reappraised at irregular intervals by special assessment commissioners appointed for each tax district by the boards of county supervisors.[2] There was no state equalization of these reappraisals until 1875, when the governor was authorized to appoint a board of three commissioners for the purpose.[3] A plan of self-assessment of railroads, under central direction, was introduced by the code of 1868,[4] but the provision for central correction of the returns was exceedingly awkward and inefficient. The administrative changes of 1882, together with the revision of the law for railroad taxation, offered in theory the opportunity for a considerable improvement in tax administration. But the board of public works was an ex officio body consisting of the elective state officers; and under its administration very little gain was made.[5]

[1] Cf. *Laws of West Virginia*, 1863, ch. 118, and *Code of Virginia*, 1860, Tit. 12, ch. 35.

[2] *Laws of West Virginia*, 1866, ch. 51.

[3] *Ibid.*, 1875, ch. 54.

[4] *Code of West Virginia*, 1868, ch. 29, § 67.

[5] *E. g.*, the special commission of 1902 said: "Nothing has been more productive of dissatisfaction or of useless expense than the several reassessments of real estate . . . with the attendant attempts to get relief from them by means of state boards of equalization." *Final Report of the Commission to revise the Tax Laws*, 1902, p. 8.

It was a foregone conclusion that the locally administered general property tax would cause trouble; but it is rather surprising to find a special commission of investigation appearing as early as 1884.[1] The report of this commission has become widely known because of its emphasis upon the conditions of personal property assessments, and its conclusions are evidence of the insight of its members into the real state of affairs. The preliminary report proposed that intangible property be exempted if a full and complete assessment were not possible. The commission believed, however, that a full assessment of such property was possible if the assessor could be held strictly to his task, and the logical conclusion from this view — central supervision of local assessments — was unhesitatingly recommended.

No action was taken upon these proposals, which were exceedingly advanced for the time, and eighteen years elapsed before the tax situation was again investigated. In 1902 a second special tax commission, appointed to revise the tax laws, reported in favor of central supervision [2] and upon the basis of its recommendations the legislature in 1904 adopted a number of changes in the tax laws, of which the more important were the following: [3]

1. Creation of the office of state tax commissioner;
2. Assessment of railroad, telegraph, telephone and pipe line companies by the board of public works;
3. A series of changes which were to become effective on January 1, 1909. These were:
   (*a*) Annual assessment of all property, including real estate, at its true and actual value;
   (*b*) Local election of a county assessor in each county, for a four-year term;
   (*c*) Review of assessments by the assessor and his assistants, the number of which was to be determined by the population of the several counties.

[1] Reviewed by Chapman, *op. cit.*, pp. 64–66. Final report signed by only one member.

[2] *Report of the Commission to revise the Tax Laws*, 1902, p. 49.

[3] *Code of West Virginia*, ch. 29.

This new legislation was not carefully thought out, and at almost every session until 1909 the chapter on taxation was rewritten, though not all of the defects were removed in the successive revisions. In 1905 express and private car companies, and railroad bridge companies charging separate tolls, were added to the list of corporations centrally assessed.[1] In 1907 the board of public works was required to appoint a board of three persons in each county who were to act instead of the boards of assessors as a county board of review.[2] These appointees were to serve for six years unless removed by the board. On the other hand, no state equalization of the annual assessments was provided. The board of public works, an ex officio body, was made the real administrative head of the tax system, in the face of the experience of the preceding twenty years. The new tax commissioner was relegated to the position of expert agent who was to assist in the collection of data for the central assessment and who might, at the invitation of the board or the governor, attend the meetings of the former and assist in its deliberations upon assessment and revenue matters.[3] The only original jurisdiction of significance that was given him was the supervision of local assessments and here, as will be seen, his powers were inadequate to secure material improvement.[4] In order to bridge the interim to 1909, a final reassessment of real estate was ordered for 1905, under the direction of the tax commissioner.[5] The results of this reappraisal will be discussed below.[6]

The Administration of Corporation Taxes

The first law for the taxation of railroads, in 1863, simply required the railroads to apportion all of their property in the state, including rolling stock and moneys and credits, to the several counties where it was to be assessed by the county assessors.[7] In 1868 these returns were to be made to the state auditor,

[1] *Laws of West Virginia*, 1905, ch. 35.
[2] *Ibid.*, 1907, ch. 80.
[3] *Ibid.*, 1904, ch. 4. Cf. above, p. 57, for the New York plan of 1859.
[4] Cf. below, pp. 338–340.
[5] *Laws of West Virginia*, 1904, ch. 15.
[6] Cf. below, pp. 341, 342.
[7] *Laws of West Virginia*, 1863, ch. 118.

who was to lay them before the board of public works.[1] If this body were satisfied with the self-imposed assessment it ordered the certification to the tax districts; if not, it was to create a special commission consisting of one person from each congressional district, which was to correct the assessment. No one was to be appointed from a county containing a railroad. These commissioners were to be paid $3.00 per day and five cents per mile for expenses. Their decision was final. In 1882 the board of public works was put in complete charge of the assessment and a much more elaborate return was required of the railroads.[2] Under proper administration this new law would have permitted a fairly effective ad valorem assessment, but the board failed to use its opportunity and continued to make a piecemeal valuation of the property in each county. The tax commissioner stated in 1906 that railroads, like all other property, had always been assessed at much less than full value.[3]

Under the law of 1904 the corporations subject to the state assessment were to make certain returns to the tax commissioner upon blanks provided by him. These statements were to include the usual information regarding the history and general organization of the corporation, and a detailed list of the physical property owned and used in the business. The forms which the tax commissioner has developed are quite satisfactory but the law is in need of a careful revision. The principal defects of the latter have always been the excessive emphasis upon the company's distribution of its property by counties and the requirement that the board shall "assess and fix the true and actual value of all property (of each corporation) in each county . . . in which any property to be assessed is." While the probable intent of this provision was simply to secure a distribution of the final valuation to the counties on some equitable basis, the railroads contended that the intention was to perpetuate the old piecemeal valuation. This view was not sustained by the courts but the railroad argument is evidence of the earlier methods of the board of public works.

[1] *Code of West Virginia*, 1868, ch. 29, § 67. [2] *Ibid.*, 1882, ch. 161.
[3] State Tax Commissioner of West Virginia, *Report*, 1906, p. 29.

Though this board is nominally in charge of the corporation assessments and certifies the official assessments to the counties, the actual task of valuation has been performed by the tax commissioner in so far as any material revision or correction of the returns has been undertaken. The methods followed by the tax commissioner have been a combination of the cost of reproduction, the capitalization of earnings, and the stock and bond market values; and in addition, the consideration of " every element and condition which added to or detracted from the supposed value." [1] There has been no effort at a physical appraisal of corporate property and all calculations of the cost of the existing properties have necessarily been based upon the statements of the companies themselves. Obviously, reliable estimates of cost could hardly be made on the basis of figures from this source, unsupported by independent investigations. The tendency in recent years has been to place increasing reliance upon the capitalization of net earnings at 6 per cent, and in the absence of net earnings, to use the stock and bond valuation as a criterion of the investment in the property.[2]

The principle of the unit valuation was immediately contested by the railroads. By common consent the appeal of the Baltimore and Ohio Railroad Company was made a test case, and hearings were arranged before certain of the various county courts before which the company was entitled to appeal.[3] The unit rule and the results obtained from it were unanimously sustained.[4] This company had valued its property in the several counties through which it operated at $17,081,273, but the assessed valuation of the Baltimore and Ohio Railroad Company in West Virginia was fixed at $79,981,749. The data upon which this advance was made are not available except as they are described in the general language of the first report, above referred to. The net earnings assigned to West Virginia for 1906 were $5,494,-

[1] State Tax Commissioner of West Virginia, *Report*, 1906, p. 29.

[2] *Interview with ex-Commissioner T. C. Townsend*, April, 1911.

[3] The corporation may appeal to the circuit court of each county against the assessment of its property in that county.

[4] The briefs and arguments in this case are published as *Circuit Court Reports*, i, 1907.

094. On a 6 per cent basis this would give a valuation of more than $90,000,000, and in view of this fact the judges were impressed with the reasonableness of the tax commissioner's valuation. The officials of the company attempted to rebut this conclusion by emphasizing the misleading character of the statement of net earnings for West Virginia. One company official, in his testimony, said: "The actual figures lie somewhere between three and a half and four millions, net, probably four millions." This leads to the suspicion that the company was padding the West Virginia statement of net earnings in order to reduce the showing in other states, a practice in which it would have been encouraged by the easy-going methods of the board of public works. The judges exposed unmercifully the incompatibility of a property worth less than $18,000,000 earning between four and five millions a year, and they were able to excuse the officials of the company from the charge of insincerity only by crediting them with a belief that the taxable value and the selling or market value were not the same. This was a very lame excuse, but it served as a face-saving expedient. The courts did not hold that these two values were necessarily identical, but they refused to accept any such discrepancy as the railroads apparently wished to establish.

Although the application of the ad valorem method of corporate assessment in West Virginia is somewhat defective, as has been seen, it has resulted under more competent administration in extensive increases of corporation valuations, as is shown by the figures[1] in the table on the next page.

The principal improvement in the first years of central administration was the immense increase in railroad assessments, due to the revolution in the methods used. In later years the greatest advance has been in the assessment of pipe line companies. No attempt has been made to take cognizance of varying standards

[1] From the reports of the Tax Commissioner. The "Water and Light Companies" do not include those operated in connection with gas companies. These figures were combined in 1904 and 1906. The totals include toll bridge companies also. The omission of an important table in the report for 1916 makes it inconvenient to give more recent figures. Cf. *Report*, 1916, pp. 188 ff.

COMPARATIVE ASSESSMENT OF CORPORATIONS, 1904–13 (MILLIONS)

Corporation	1904	1906	1913
Steam Railroads	$28.8	$166.4	$186.0
Street Railroads	1.2	6.6	13.0
Oil and Gas Pipe Line Cos.	9.3	29.3	100.2
Water and Light Cos.			4.4
Telephone, Telegraph Cos.	.9	3.0	5.3
Express Cos.	.012	.170	.616
Private Car Line Cos.	.080	.662	.652
Totals	40.9	209.1	312.1

of local valuation in different parts of the state and to equalize the corporate assessments to these standards, as is done in some other states in which the assessment is made by a state board and the tax is laid by the local authorities. The assessed valuation of general property has been considerably increased since 1906 but there is no certainty that the advance has been uniform over the state; neither is there any means of knowing whether any class of property has been assessed at full value. The corporations have deserved a higher assessment; but they are also entitled to a fair equalization to the same basis as that used locally for other property.

A further defect in the tax laws relating to corporations is the provision that appeals against the central assessment may be carried to the circuit court of any county in which a part of the corporate property is located, for a review of the assessment in that county. The courts are required to give precedence to such appeals and are authorized to fix the true value of the property in that county, according to the facts proved. This method of review is very awkward and may actually prove very detrimental to the work of the board of review. The whole purpose of central corporate assessment is to secure more accurate results than were possible in a piecemeal assessment by local officials. The vast improvement in these assessments in West Virginia has been accomplished through the use of the unit rule, or the valuation of the property as a whole, and the apportionment of a fraction of that total to the state on the mileage basis. But the principle of judicial review of this action strikes at the very foundation of

its success. Especially is this true when the court is a county court, exercising jurisdiction only over the valuation within that county, for it is quite possible that a court not in sympathy with the methods of the state assessment might make a revaluation of the property in that county on the theory of corporate assessment which prevailed a generation ago. The favorable decisions in the Baltimore and Ohio case form a valuable precedent which will offer some resistance to the destructive effects of such a system of appeal; but they do nothing to relieve the awkwardness of the system and little to lessen the possible burden involved in defending the board's action in every county. The proper remedy, of course, would be to authorize the board to hear appeals from its own assessments, with final jurisdiction on all questions of fact. Ultimate resort to the courts in case of actual injury would still be open, while the work of the board would be protected against arbitrary and unskilled interference by unsympathetic or unintelligent court reviews.[1]

Because of the great value of the coal, oil, and gas resources of the state the problem of a proper method of taxing these companies has been one of the more pressing questions of tax reform in West Virginia. In 1905 the attempt was made to reach the enormous intangible values of the oil, gas and mining companies embodied in the privileges represented by leases of productive properties, but the failure to centralize more effectively the control of this assessment of leaseholds, or "chattels real," largely defeated this effort. The assistant tax commissioner, writing in 1908, said:[2] "Instead of adding two hundred millions to the rolls, it was the means of placing on the books property to the amount of approximately fifty millions only." The local assessors were either incapable of valuing the "chattels real" at their true value, or else they were unwilling to oppose the strong

[1] This transfer of appellate jurisdiction has been made, for instance, in Indiana, Wisconsin, Ohio, Kansas, and other states. Cf. below, p. 342, for the effect of the court review of the real estate appraisal of 1905. Cf. State Tax Commissioner of West Virginia, *Report*, 1908, pp. 23–28, for a list of the important cases reviewed by the county courts on questions of fact.

[2] T. C. Townsend, "The Taxation of Coal, Oil, and Gas," in *Proceedings of the National Tax Conference*, 1908, pp. 395–410.

influence of the operators by doing their duty. Both conditions were operative, without question. The tax commissioners have steadily recommended a production tax on coal, oil and gas, to be levied for state purposes, with rates graded according to object, and to quality of output in the case of coal.[1] There is no doubt that the present method of taxing these forms of wealth is utterly inadequate.

Supervision of Local Assessments

It was the apparent intention of the legislature to give the tax commissioner broad and extensive supervisory powers over the tax system, powers which were to extend not only to the assessors but to all other officials charged with any responsibility for the assessment or collection of taxes.[2] As a matter of fact, however, but little effective supervision has been exercised over the process of local assessment. The principal reasons for this condition seem to have been the following:

1. *The one-man commission.* The magnitude of the tasks in addition to supervision which have been imposed upon the tax department has been so great as to prevent the most efficient administration of any of the duties of the office. The problems of supervision in West Virginia have been pushed to the background by the greater apparent need of reforms in other parts of the tax

[1] Cf. Reports of the State Tax Commissioners, *passim.*

[2] The supervisory powers are conveyed in the following section: "Sec. 2. It shall be the duty of the state tax commissioner to see that the laws concerning the assessment and collection of all taxes and levies . . . are faithfully enforced. To this end he shall advise the auditor in the preparation of all proper forms and books for the guidance of assessors. . . . He shall from time to time visit the several counties and municipal corporations of the state, shall inspect the work of the several assessors, justices, prosecuting attorneys, clerks of court, sheriffs, constables, and collecting officers among whom are included commissioners of school lands, and shall confer with them respecting such work for the future. In such conference, or by writing or otherwise, he may inquire into the proceedings of any such officer, make to him such suggestion respecting the discharge of his duty as may seem proper, and give such information and require such action as will tend to produce full and just assessments throughout the state. . . . In case of the failure of any assessing or collecting officer in the discharge of any duty . . . the said tax commissioner shall proceed to enforce such penalty as may be provided by law, including in any proper case the removal of such officer, and to that end he is authorized to appear before any court or tribunal having jurisdiction. . . ."

system. For instance, the inheritance tax had become a complete farce, the license taxes were in extreme need of more effective administration, and the vicious practices of corporation assessment were greatly in need of correction. Attention to these more glaring defects has absorbed the time and energy of the single commissioner. In recent years the supervision and inspection of public offices, and the enforcement of the prohibition laws have been added to this burden.[1]

2. *Insufficient appropriations.* — The first difficulty might have been overcome, but for the second. The money appropriated has been used in building up the other parts of the organization to the neglect of the supervision of local assessments. This is indicated by the following statement, made in 1906:[2]

> The appropriations have been grossly inadequate for the purpose of properly carrying on the work of the office, and the work has been limited to a large extent by a lack of funds. . . . Field agents necessary to visit the assessors throughout the state, to consult with them and the other revenue officials of the state, to properly procure the equal and just assessment of all property, could not be employed on account of a lack of funds.

It will be found, however, that the commissioner did build up a force of inspectors who scoured the state to prevent infractions of the license laws. The fact is, there was not money enough to provide both services and the license inspection was preferred. One reason for this preference is seen in the next reason for the failure of supervision.

3. *Separation of the sources of state and local revenues.* — This separation caused the assessment of property to be regarded purely as a local matter and interference has been discouraged by public opinion. The policy of the separation of sources of revenue was worked out in 1905 by abolishing the state levy for state purposes after 1906, leaving only a small levy for state school purposes.[3] In 1912 this levy was only one cent on the hundred dollars of valuation. In 1913 a state levy of six cents was necessary on account of the loss of revenue from liquor licenses. The

[1] The Tax Commissioner complained of the increase of clerical work in *Report*, 1914, p. 5.

[2] *Ibid.*, 1906, p. 11.

[3] *Laws of West Virginia*, 1905, ch. 36.

amount collected for state purposes under this levy was $745,964.[1] Both the state tax rate and the revenue obtained for state purposes have increased rapidly in recent years. The state tax rate was ten cents in 1914 and fourteen cents in 1915, and the yield in the latter year was $1,801,000.[2] This rapid growth of the state tax increases the significance of the tax commissioner's supervisory functions.

4. *Inadequate powers of enforcement.* — The whole point of the section quoted above is thrown away by restricting the tax commissioner to the remedies already provided by law, since no adequate remedies for these particular administrative difficulties have been thus provided.[3] The only recourse of the tax commissioner, in case of refusal or neglect of an officer to perform his duty, is to institute suit for removal or for the imposition of the statutory penalty. The difficulty of proving deliberate or willful intent has been so great that practically no such suits have ever been brought. The various tax commissioners have construed this power as advisory only, since they have been unable to enforce their suggestions even when such enforcement was essential to the best operation of the tax system. Experience is proving that the removal of officers and the reassessment of property are the only effective means of securing local observation of the standards established by the law.[4]

Although effective supervision over the local assessment has not materialized, it is not to be inferred that the tax commissioner has done nothing in the direction of the local officials. The more common agencies for local advisory supervision have been used, such as the publication of printed instructions, the occasional assemblage of groups of assessors in conference, and visits to the counties. On account of the overworked condition of the department, however, these activities have probably not attained the maximum efficiency possible even with the limited powers. In

[1] State Tax Commissioner of West Virginia, *Report*, 1914, pp. 243, 246.

[2] *Ibid.*, 1916, pp. 314–316.

[3] Cf. above, p. 338, note 2. This provision of the form, without the real substance of authority, is a favorite device of legislatures.

[4] In 1916 the tax commissioner recommended the central appointment of the county assessor and the county boards of review. *Report*, 1916, pp. 13, 14.

March 1914, the first state conference of the assessors was held. The commissioner recommends that this be made an annual affair, with allowance of travelling expenses to the assessors.[1] The only attempt to use agents in the collection of data which would shed light upon property values over the state has been in connection with coal mining properties. The coal property assessments were materially increased through the use of the information collected by the special agents, but this class of property is still assessed far below true value.

The creation of a new tax department, the assessment of property at full cash value, and the adoption of a county assessor system have together, however, resulted in some significant gains in the assessment of property. An examination of these results will throw further light upon the weakness of the tax commissioner's position as supervisory head of the tax system under the existing legal limitations.

The first opportunity of the new tax department came in 1905, in the reappraisal of real estate. This was in reality a state assessment since the appraisers were appointed by the tax commissioner. The actual assessment produced significant gains, as the figures below indicate [2] but the commissioner admitted that the results were quite defective, especially with regard to mineral and timber lands.[3] The intracounty results of this reappraisal were reviewed by the county courts, to which any aggrieved taxpayer had the right of appeal. The board of public works made the equalization for the state. The aggregate increases of the latter

[1] State Tax Commissioner of West Virginia, *Report*, 1914, p. 10.

[2] Total Assessed Valuation of Lands and Buildings since 1903 (millions)

Year	Lands	Lots	Buildings	Total
1903	$91.0	$20.4	$53.2	$164.5
1904	91.0	20.3	56.8	168.1
1905	90.6	20.6	59.6	170.9
1906	270.0	82.5	126.1	478.7
1907	270.7	87.9	132.5	491.2
1908	255.4	83.2	137.8	489.8
1909	324.0	98.3	156.7	579.0
1910	330.0	103.8	165.2	600.0
1911	408.8	210.4	...	619.2
1912	412.6	221.2	...	633.8
1913	...	...	...	668.5
1914	...	...	...	683.1
1915	...	...	...	691.4

From the biennial reports. The separate figures are not given in the later reports.

[3] State Tax Commissioner of West Virginia, *Report*, 1908, p. 11.

do not quite offset the net reductions allowed by the former, and it is very doubtful if the net result of the two sets of changes were in the direction of greater equality. The county courts made nine increases, aggregating $4,384,484, and forty-five decreases (all other counties), aggregating $58,022,613, or a net decrease of $54,708,129. The most notorious cases were the following:[1]

CHANGES IN FOUR COUNTIES BY THE COUNTY COURTS AND THE BOARD OF PUBLIC WORKS

County	Decrease by County Court	Increase by Board of Public Works
McDowell	$20,557,701	$6,013,947
Fayette	10,676,743	6,503,725
Mercer	5,832,753	3,474,744
Wyoming	5,438,962	1,517,551
Totals	42,506,759	17,509,967

These counties lead in the production of mineral and timber products and the local reductions were in all probability in favor of these interests. The board allowed only two decreases, with a total net increase for the state of $52,493,922. It is clear, therefore, that a considerable portion of the additional $25,000,000 which the courts cut from these four counties was added, in the state equalization, to the other counties of the state, a process which did not promote equality of assessment among the counties.

The next marked improvement in the assessment of real estate occurred in 1909, with the introduction of the new local machinery of assessment and review. The increase of $68,800,000 in lands was borne chiefly by the mineral and timber lands, the values of which had been under investigation by the tax commissioner. This gain is suggestive of the general improvement which might have been effected by a wider and more thorough application of his methods. Indeed, those methods were much more applicable to the other classes of real estate than they were to the mineral and timber lands. The attempt to assess the extractive industries by guessing at the acreage value of lands underlaid with mineral or metal deposits will inevitably fail.

On the other hand, better gains have been made in the assessment of personal property than in some of the states with more

[1] Compiled from the biennial Reports of the Auditor of State.

effectively centralized administration. In view of the tax commissioner's limited supervisory powers the results are on the whole very creditable. A detailed analysis of the figures is given below.[1]

The first thing to be noticed in this table is the unusual increase in the total assessment of intangible property. More than half of this increase has been due to the steady growth in the assessment of moneys, which has risen from $13,300,000 in 1905 to $51,400,000 in 1914, or 286.4 per cent. The assessment of the other classes of intangibles has been more or less erratic, though in the case of bank stocks the data are readily accessible for a fairly complete and accurate valuation. The exact distinction between groups 1 and 2 and group 4 of the intangibles is not clear. The multiplication of items of personal property is a favorite expedient in the last stages of the general property tax, but in this case the additional group appears to add to the confusion. The suspiciously large amount, returned as miscellaneous moneys and credits (group 4), suggests that many persons have been making a nominal return here instead of a full return in the proper place. The very unstable character of the returns of credits and investments strengthens this suspicion. Group 3, moneys and credits in litigation, illustrates both the tendency to minute subdivision of the personal property schedule and the inequality of the uniform rule. The amount returned will vary, naturally, with the volume of property in litigation; but there is no escape and this property will be assessed in full amount and on a higher basis of value than similar possessions in the hands of those whose business affairs are not a matter of public record. The uniform rule operates here, as at other points, as a penalty on the helpless and the unfortunate.

The marked success which has been achieved in the assessment of intangibles is doubtless due principally to the exceptionally low tax rates which have been made possible by the great increase in the total assessment and the lower level of public expenditures. The aggregate assessed valuation rose from $272,829,659 in 1904 to $1,168,012,658 in 1913, while the average tax rate for the state

[1] Cf. below, p. 351.

declined from $2.155 per $100 in 1904 to $0.968 in 1913.[1] The lowest rate during this period was $0.765 in 1906, but the subsequent increase of expenditures caused an advance. The loss of revenue from the liquor licenses and the heavy expenses of the state government due to labor difficulties led the state auditor to caution against rapid growth along other lines, unless the people were willing to bear heavier taxes.[2] This increase, if reflected in the tax rates, will cause increasing difficulty in the assessment of intangible property.

Should the tax rate remain stationary, however, it is clearly impossible to secure a complete return of all of the taxable "moneys" in the state. This class includes, in West Virginia, all demand deposits as well as coin and other forms of circulating medium. In 1909 the aggregate individual bank deposits in the state were $83,426,460, and in 1914 this total had risen to $120,749,000. All of the progress in administration, plus the stimulus of one of the lowest tax rates in the United States, has only secured an assessment of moneys on a basis of not more than 35–40 per cent of full value. The experience of other states is demonstrating that much more drastic administration would not secure much, if any, better results under the uniform rule.[3]

In the class of tangible property the only group that calls for special comment is that of "chattels real," or leaseholds. In 1905 the legislature undertook this method of assessing the excess of taxable capacity of the oil and gas wells and coal mines.[4] The lease, which was declared to be a "chattel real," is properly to be classed as intangible property; but it represents so directly an interest in real property which is assessed by actual view and

[1] The average tax rate since 1904 has been as follows:

Year	Rate per $100	Year	Rate per $100
1904	$2.155	1909	$0.865
1905	1.841	1910	0.845
1906	0.765	1911	0.848
1907	0.839	1912	0.858
1908	0.846	1913	0.968

[2] Auditor of West Virginia, *Report*, 1914, p. 31.

[3] Cf. *e. g.*, the experience of Ohio. Below, pp. 505, 506.

[4] *Laws of West Virginia*, 1905, ch. 29. Cf. T. C. Townsend, "The Taxation of Coal, Oil and Gas in West Virginia," *Proceedings of the National Tax Conference*, 1908, pp. 395–410.

examination, that it is here grouped with the tangible forms of personalty. This method of taxing these properties is of doubtful value. It is certain to fail when administered, as it is in West Virginia, by the local assessors. In order to be successful at all, it would be necessary to know in great detail the facts concerning costs of operation, net earnings, the probable life of the well or mine, and the reserve supply of oil, gas or coal. In other words, much the same sort of investigation is required as for a complete ad valorem assessment of mines. The tax commissioner is not equipped to gather this information, and there is very little prospect that the state will grant this equipment. The production tax seems to be, therefore, the form of taxation best suited to the conditions. This has been consistently recommended by the tax commissioners since the office was created.[1]

It has already been shown that the tax commissioner does not possess the authority necessary to undertake a vigorous correction of the local results. One attempt was made to bring pressure upon the assessors through judicial proceedings, the recourse which the law suggests be employed. In 1906 mandamus proceedings were instituted in Fayette county to remove the assessor from office for neglect and failure to perform his duties.[2] The state supreme court of appeals denied the writ of mandamus on the ground that the evidence did not show that the local valuations had been fraudulently made. The evidence relied upon by the tax commissioner was the vast difference in the assessment and the selling price of the properties; but the assessor testified under oath that the assessments represented his honest judgment as to the value of the property and the case was dismissed. Such an outcome reveals the utter futility of this method of securing effective administration.

Administration of the License Taxes

The license taxes of West Virginia constitute an important body of tax legislation, much of which is distinctly regulative as

[1] State Tax Commissioner of West Virginia, *Report*, 1906, p. 25; *ibid.*, 1910, p. 70; *ibid.*, 1914, p. 15; *ibid.*, 1916, p. 10.

[2] This case is reviewed in the *Report* of the Tax Commissioner, 1906, pp. 15–17.

well as fiscal in character. The tax commissioner is required to prescribe all of the forms used in the issue of licenses and to hear appeals on any question regarding the action of the county clerk in the issue of the license, though strangely enough, his decision in such an appeal is subject to review by the circuit court of the county in which the license is issued.[1] This is another curious example of the survival of the older machinery of appeal along with the centralized administration that has more recently developed, and as in the other cases of its survival, the effects have been more restrictive than beneficial. Since 1909 the tax commissioner has had the authority to issue licenses and collect the fees from any person whom he may find to be liable for the payment of such fees, and he may, with the approval of the governor, appoint agents for the collection of such delinquent fees.[2]

The last-named feature of the law has greatly strengthened its enforcement. The agents of the tax commissioner go into every county and keep close watch upon the persons engaged in any of the businesses or occupations for the privilege of exercising which a tax must be paid. For the six years 1909–14 these agents brought into the state treasury a total of $128,517. Much of this sum would not have been collected except for this close inspection, since it was obtained principally from persons who had succeeded in evading the county officials.

Taken as a whole the receipts from the license taxes have been important for the state. In 1912 the total receipts from licenses was $818,741, while the total state revenue from all sources for this year was $5,491,201.[3] The bulk of the receipts came, however, from seven classes, which contributed in 1912, $791,000. The most important single source has been the tax on retail liquor dealers, from which was realized in 1912 over $574,000. The recent adoption of state-wide prohibition will necessitate replacement of this source of revenue.[4] Among the least important licenses in 1912 were those on fortune tellers ($30.45) nurseries

[1] *License Laws of West Virginia*, § 42–a.
[2] *Laws of West Virginia*, 1909, ch. 68.
[3] The figures are given in the reports of the auditor.
[4] Auditor of West Virginia, *Report*, 1914, pp. 29–32.

($99.00), and druggists ($657.58). Several other taxes yielded less than $5000 each.

There seems to be room for a reform of the system by eliminating a number of the less important license taxes. This would free the tax commissioner from a portion of his supervisory activity which yields so small a return to the state and make way for great concentration in the lines which will show larger results. Much would be gained, for instance, by permitting the tax commissioner to transfer the agents who now watch the administration of the license system so closely to the work of inspecting and supervising the local assessors of general property. If the smaller licenses are intended to be regulative and the revenues are to be regarded as purely incidental, then a more logical arrangement would be to place the administration of such licenses under the control of those officials who enforce the police regulations of the state. Such taxes involve the use of the police power, which is primarily invoked in their enactment; and the proper agency for their enforcement seems to be the police, rather than the taxing officials.[1]

The Inheritance Tax

The inheritance tax was first adopted in West Virginia in 1887, but until 1904 its administration was in the hands of the county clerks and the total collections for the seventeen years were only $55,765.94.[2] In 1904 the tax commissioner was placed in charge of the tax, and the collections have since averaged more than $100,000 annually. The budget estimates for 1915–16 placed the yield at $125,000.[3] While the law has been greatly strengthened by central administration it is still defective at some points. The tax commissioner does not yet have the authority to name a representative upon the local board of appraisers which values the property of decedents. In consequence, estates are quite generally undervalued and the commissioner is powerless to protect the interests of the state. The central administrative

[1] In 1916 the tax commissioner objected seriously to being compelled to act as prohibition commissioner. *Report*, 1916, p. 16.

[2] Auditor of West Virginia, *Report*, 1910, p. 32.

[3] *Ibid.*, 1914, p. 182.

control should be increased, in the interest both of the state finances and of justice among the various sections of the state, over which varying standards of assessing taxable estates prevail. This could be done either by allowing the tax commissioner to select a representative on the appraisal board or by permitting him to review, on his own motion, the findings of these boards.

The Supervision of Public Accounting

At the special session of 1908 the legislature passed an act providing for the inspection and supervision of public offices and establishing a uniform system of public accounting, auditing and reporting.[1] The tax commissioner was made, ex officio, chief inspector and supervisor of public offices. Subject to his approval, the state board of control, which was created in 1909,[2] was to prescribe the forms of vouchers, books, accounting systems and other features which might be introduced. This enlargement of state administration is in line with the practice of several other states in extending central control and supervision over the mechanism and forms of public accounting. The necessity for it in West Virginia is shown by the fact that in 1911–12 the audits conducted disclosed a total of $543,478 due the state, counties and other districts.[3] The tax commissioner of West Virginia deserves credit for his courageous performance of an unpleasant duty in the face of strenuous opposition. Two test cases were brought in which the defendants were supported by the sheriffs' organization. The validity and practicability of the law and of the system of accounting prescribed under it were completely sustained by the courts.[4] The vigorous enforcement of this law has brought into prominence the evils of the fee system and the need of a depositary law. Summary power should be given some central authority to enforce the discharge of duties imposed by law upon public officials, and to compel more prompt settlements by county treasurers at the close of the fiscal year and of their term of office.[5]

[1] *Laws of West Virginia*, 1908, ch. 33.
[2] *Ibid.*, 1909, ch. 58.
[3] Chief Inspector of Public Offices, *Report*, 1912, pp. 78, 79.
[4] *Ibid.*, pp. 6, 7.
[5] *Ibid.*, p. 7.

While this control may be said to be the first step in the development of a scientific budget system for state and local finances, and as such is the very foundation of the reforms of the financial system, yet the additional duties which are imposed by its enforcement have overloaded the tax commissioner. A department of accounting has been established, with a skilled accountant in charge, but the tax commissioner has not escaped the responsibility involved in this supervision. The burden of administering efficiently the tax system of the state is already too great for one man and the people are facing the practical certainty of a decline in the standards of the office by extending unduly the scope of the work. The function of supervising and inspecting public offices is highly important, but it should be met by an adequate increase in the organization of the tax department. The fourth biennial report of the tax commissioner, for 1911–12, evidences this pressure. Reference is made to some twenty-two pages of discussion of tax reform, written by a former commissioner in the report for 1909–10, and this discussion is said to be regarded as a part of the fourth report.[1] This is in lieu of any intensive discussion of the tax situation in 1912, and strongly suggests an official who is too hurried to study his own problem.

Recommendations

One of the most important functions of the tax commission in every state has been to direct public opinion and thought along the lines of progressive tax reform and to suggest legislative changes which will attain the improvements suggested by reason and experience. The West Virginia tax commissioners have steadily taken an advanced position on matters of tax reform and have contributed materially to the development of better laws and more effective administration. The text of the third report (1909–10) was given almost completely to an argument for the classification of property. Mention has been made of the other important reforms advocated by the commissioners, all of which have been in the direction of sound tax reform. In some respects

[1] State Tax Commissioner of West Virginia, *Report*, 1912, p. 5. A similar inclusion of the same material was made in the reports of 1914 and 1916.

it seems that there has not been sufficient pressure for needed changes, but the outsider can never judge adequately the local temper which might make such recommendations inexpedient. In view of the limited equipment of the commissioner's office and of the restrictions upon the proper exercise of the powers necessary to the efficient performance of the functions of the office, the work of the West Virginia tax department should be given approval and commendation.

APPENDIX A

PERSONAL PROPERTY ASSESSMENTS 1905–15[1] (MILLIONS OF DOLLARS)

	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915
I. Tangibles											
1. Farm animals	17.0	24.5	26.7	26.0	28.5	30.0	30.1	29.2	33.1	36.2	35.6
2. Household and personal	9.5	13.8	14.8	14.5	16.4	16.6	16.7	18.4	17.7	20.4	20.9
3. Tangible personalty of corporations	37.5	47.2	46.7	47.4	51.7	51.2	56.2	58.6	52.9	63.1	64.0
4. "Chattels real"	10.4	26.8	23.2	19.4	19.0	24.3	20.8	20.6	26.3	30.4	25.9
5. All other tangible personalty	12.3	20.7	20.7	22.8	23.9	22.8	21.2	21.7	25.1	28.0	26.4
Total tangibles	86.7	133.0	132.1	130.1	139.5	144.9	145.0	148.5	155.1	178.1	172.8
II. Intangibles											
1. Moneys	13.3	28.9	31.7	38.4	34.2	36.7	46.6	47.4	49.0	48.6	51.4
2. Credits and investments	5.2	6.3	8.5	6.7	9.7	13.7	6.0	15.0	7.7	12.5	7.4
3. Moneys, etc., in litigation[2]	1.8	4.1	5.6	4.3	2.0	9.8	2.6	1.1	6.5	5.0	5.3
4. All other moneys and credits	14.6	13.3	9.5	8.9	13.5	8.8	9.9	6.7	13.5	18.8	19.8
5. Capital, surplus and profits of banks	5.3	9.2	9.7	18.1	22.2	17.5	19.0	17.2	16.3	18.2	17.5
Total intangibles	40.2	60.8	65.0	76.4	81.6	86.5	84.1	87.4	93.0	103.1	101.4
Grand total	126.2	193.6	197.1	206.5	221.1	231.4	229.1	235.9	248.1	281.2	294.2

[1] Compiled from the biennial Reports of the Auditor of State.
[2] The complete title of this group is: "Moneys, etc., under control of a receiver, or invested by order of court to the credit of any suit."

CHAPTER XI

THE STATE BOARD OF TAX COMMISSIONERS OF WASHINGTON

WHEN the state of Washington was admitted to the Union in 1889 the general property tax had already been established as the basis of its financial system. The new state presented the relatively simple economic conditions which everywhere have proved the most favorable environment for the development of that system of taxation. The original tax administrative organization was simple and displayed the characteristic decentralization of real authority. The local assessment was in the charge of a county assessor over whom no central control existed. This officer had little real authority over the multitude of deputy assessors in the tax districts, a condition which was highly favorable to the emergence of the ubiquitous evils of undervaluation, evasion and discrimination in assessments. The state-wide existence of these conditions was evidenced by the establishment of a state board of equalization in 1891.[1] The duties of this board, originally composed of the secretary and auditor of state and the land commissioner, were transferred in 1893 to the board of land commissioners, a body which had superseded the single official in charge of that department.[2] In 1897 the legislature reverted again to the original plan of 1891.[3] These changes were due to the experiments that were being tried out in the organization of the land office. They suggest that the state board of equalization was not taken seriously and that considerations of convenience and economy, to say nothing of politics, took precedence over equitable tax administration.

The forces which brought forth the tax commission are difficult to trace. No evidence has been found of a strong public sentiment such as has so often been the forerunner and to some extent,

[1] *Laws of Washington*, 1891, ch. 140.
[2] *Ibid.*, 1893, ch. 125.
[3] *Ibid.*, 1897, ch. 71.

the progenitor, of the tax commission in some other states. So far as can be learned, no special investigations had been made before the board of tax commissioners was decided upon and the absence of a clear formulation of plans resulted in several years of piecemeal legislation in the effort to develop an efficient administrative body. To illustrate: the board of tax commissioners was established in 1905 and at that time was required to supervise the tax system, to assist in the state equalization and to administer the inheritance tax.[1] In 1907 the central assessment of railroad, telegraph, express and private car line companies was initiated and placed under the board's jurisdiction.[2] In this year also the board was placed in charge of escheats,[3] and in 1909 it was made an excise board with the duty of issuing, and collecting for, the annual liquor licenses.[4] The laws relating to the administrative authority of the board of tax commissioners evolved only slowly to the stage of a clear cut definition of that body's status and functions. They had hardly reached that stage in 1915 when the legislature removed the tax commissioners from the state board of equalization, leaving that body composed of the auditor, the commissioner of public lands, and a member from the public service commission.[5] This reaction toward a more primitive and clearly less satisfactory arrangement was only a temporary manifestation of the political struggle of which the tax department had been the center for years. The legislature of 1917 abolished the tax board and substituted a single commissioner, but returned him to the state board of equalization.[6] The work of the state board of tax commissioners from 1906 to 1914 will be described, together with a brief account of the equalization of 1916 under the new board.

EQUALIZATION

The function of equalization was performed by the earlier ex officio state board of equalization according to the principles and

[1] *Laws of Washington*, 1905, ch. 115.
[2] *Ibid.*, 1907, chs. 78, 131.
[3] *Ibid.*, ch. 133.
[4] *Ibid.*, 1909, ch. 91.
[5] *Ibid.*, 1915, ch. 7. A more welcome change was the withdrawal of the tax commissioners from the board in charge of the public land office. *Ibid.*, ch. 6.
[6] *Ibid.*, 1917, ch. 54.

standards which have everywhere appeared to be characteristic of this type of organization. The limitations of the state equalization only served to heighten the indifference of this board toward its duty, and they will doubtless not strengthen the present board's sense of obligation for a thorough and exacting scrutiny of the local results. In Washington the state equalization is made chiefly for the purpose of apportioning the direct state tax. It is an equalization among counties and it leaves untouched the intra-county valuations which are the basis of all local levies. The incentive to a careful equalization is much less under such circumstances than it is in those states in which the figures as finally determined by the state board become the basis for the payment of all taxes. The steady but unequal depreciation in the basis of assessment under the earlier regime led to increasing inequality in the distribution not only of the state tax but of local taxes as well. The state board of equalization was hardly responsible for the relative decline in assessed valuations as it was in no sense a supervisory body. Furthermore, the state tax offered by no means the only incentive to undervaluation and evasion and the state board of equalization never possessed jurisdiction over local discriminations. Even a careful state equalization could have afforded little assurance of counteracting the very defective local assessment. The legislature was striking at the root of the inequalities in taxation in giving the tax commission supervisory control over the original assessment process as well as a share in the state equalization.

The only redeeming feature of the assessments made under the former board of equalization was the shifting of a somewhat larger proportion of the total tax burden to personal property; but the lack of administrative power and the absence of interest on the part of the state board made this changed proportion an incident of the local assessments rather than a result of the state equalization.[1] The total assessment of property in the state was less in 1905 than it had been in 1891, a fact which indicates clearly that the standard of valuation had been steadily depreciating

[1] Personal property was 12.8 per cent of the total assessment in 1895, and 19.5 per cent in 1905.

during this time. As is usual during a period of progressive undervaluation, the departure from the legal standard was productive of great differences in the basis of assessment in various localities and as applied to various classes of property. Evidence of these inequalities was speedily discovered by the tax commission, which began an investigation shortly after entering upon its duties. Commenting upon the situation it said:[1]

> It was frequently found that certain classes of property were assessed at 50 to 60 per cent of their actual value, while other classes of property in the same county and locality were escaping with an assessment not exceeding 15 per cent. . . . In some counties, it can safely be asserted, the average value of all property did not exceed 20 per cent of its actual value, while in other counties it approximated 50 per cent.

Upon the creation of the board of tax commissioners the state board of equalization was reorganized. It was thereafter to be composed of the tax commissioners, the auditor and secretary of state and the commissioner of public lands, with the auditor acting as president. In 1907 the secretary of state was withdrawn from the board and the tax commissioners were left in the majority. In practice the latter have prepared the equalization data,[2] a task in which they apparently did not encounter undesirable interference from the ex officio members. The tax commissioners were appointed too late in 1905 to participate in the equalization for that year;[3] but in anticipation of the assessment and equalization of 1906 special forms were prepared for the public service corporations and new lists were issued for the returns of general property. These lists called specifically for fifty-five different items of property, including a separate statement of the acreage and value of improved and unimproved lands. As the result of these changes and of the general stimulus of the new administrative forces, the total assessment of property was increased in 1906 to $530,209,882, or more than 62 per cent over 1905. It was estimated that approximately $50,000,000 of this amount consisted of property not previously assessed.[4]

[1] State Board of Tax Commissioners, *Report*, 1906, p. 5.

[2] In 1912 the assessors' convention adopted a resolution approving the proposed elimination of ex officio members from the board of equalization. *Proceedings of the Assessors' Convention*, 1912, p. 12.

[3] State Board of Tax Commissioners, *Report*, 1908, p. 6. [4] *Ibid.*, 1910, pp. 10, 11.

The methods pursued in the actual equalization do not appear to have been materially altered by the board of tax commissioners, except for the introduction of a variation of the sales method, which was applied only on the occasions of the biennial assessments of real estate. The board has described the preparation of this ratio as follows: [1]

> The Tax Commission first caused a list of transfers to be made in each county, describing the property conveyed therein during the preceding twelve months, giving the names of grantor and grantee and showing the consideration. The lists formed the basis for the interrogation of witnesses examined concerning the value of property. Sessions of the Board were held in each county, and all told eight hundred and eighty-five witnesses were examined under oath as to the actual price paid for property changing hands during the preceding twelve months. Stenographic records were made of this testimony, from which lists, describing the property concerning which testimony was taken, were made and forwarded to the county auditors, who were required to certify the assessed value of each description as equalized by county boards. Upon the return of these lists, the actual values were extended on them and the ratio of assessed to actual value was computed.

Such a method of computing sales ratios appears to be much less satisfactory than the elaborate procedure of the Wisconsin commission, or even than the somewhat less thoroughgoing methods used in Minnesota and Kansas, and consequently the results in Washington must be regarded as less valuable. The Washington board's plan of constructing the sales ratio is open to several objections.

In the first place, the investigations have hardly covered sufficient ground to be truly representative. The data have been collected for only one year in each case, while the number of persons examined has been too small to afford a representative list of transactions for each county. Only eight hundred and eighty-five persons in the whole state were questioned in 1910 and an examination of the stenographic reports of this series of inquiries showed that some of these witnesses had no definite evidence regarding actual transactions in real estate. In King county, containing the city of Seattle, the total value of the property concerning which

[1] State Board of Tax Commissioners, *Report*, 1910, pp. 10, 11; also, *ibid.*, 1916, pp. 71, 72.

testimony was taken was less than one per cent of the total assessed valuation of the county.[1] The assessor of Yakima county charged that the testimony taken in that county related principally to orchard lands and the assessor of Lincoln county stated that the tax commission seldom included poor land as well as good land, with the result that counties with a large proportion of poor land were assigned excessively high ratios.[2]

In the second place, there has been some tendency toward a professional witness list. In subsequent investigations practically the same list of witnesses has been used as in the first inquiry and the wisdom of the selections has been questioned by at least one former member of the board.[3]

Finally, in both the oral examinations of witnesses and the statistical compilations, sufficient precautions have not been observed against the inclusion of improper data. In view of the extreme care found by the Wisconsin commission to be necessary in order to detect and eliminate the various kinds of abnormal transactions, the Washington methods can hardly be accepted as usable.[4] The tax commissioners have not been unaware of these objections.[5] The truth of the matter is that the limited appropriations for the use of the department have not permitted the employment of the field and office assistance necessary for the compilation of a set of ratios on a more elaborate scale and in a more accurate manner.

The difficulty of using ratios based upon data collected biennially for the purpose of performing an annual equalization of certain classes of property, is, of course, obvious. Real estate values do not fluctuate according to a set biennial schedule. Grant for the moment that the ratios compiled in the even numbered years represent fairly well the relation of assessed to true value for those years. In the alternate years a certain shifting of real values will have occurred but this shift will not be evenly distributed. In some counties the increase in value will be

[1] *Interview with the assessor of King county*, July, 1911.
[2] *Proceedings of the Assessors' Convention*, 1914, p. 60; *ibid.*, 1912, p. 27.
[3] *Interview with ex-Commissioner T. E. Parrish*, Sept., 1911.
[4] Cf. above, pp. 239, 240, 244, 245.
[5] State Board of Tax Commissioners, *Report*, 1916, pp. 11, 12.

large, in others small; while in still other cases there may have been actual decreases in value. The condition of rapid and divergent changes in value applies particularly to the western states. The percentages do not then represent at all times the actual ratio of assessed to true value. For the distribution of the state tax this may be of comparatively little moment, except as values are changing more rapidly in some than in other sections of the state. But it does result in greater unfairness in the distribution of corporate valuations in the odd numbered years, penalizing the corporations when other real values have advanced, favoring them when real values have declined, as compared with the values of the even numbered years.

But of course it cannot be granted that ratios constructed by such methods do accurately display the relation of assessed to true values for the various counties, even in assessment years. The improbability of equitable distribution of the state tax is increased, therefore, especially as among the several classes of property. Regarding simply the ratios themselves, the board succeeded in eliminating the more extreme variations and in showing a closer approximation to equality of assessments. The percentages of 1914 have less range and are more closely grouped around the mean, than those of 1908. Yet this evidence of greater uniformity proves nothing unless the figures themselves are thoroughly reliable, and the board's statistical methods reflect considerable doubt upon this point. Personal observation of these methods confirms the conclusion of unreliability, a conclusion which is further strengthened by the fact that the attempt has been made to construct county ratios for both real and personal property from the information obtained. The utterly inadequate volume of sales data is thus made the basis of a comparison with the aggregate of real and personal property in the state and the statistical value of the resulting ratios is correspondingly diminished.

In the equalization of personal property returns, no effort has been made to check up the local figures either as to quantity or as to values; and in the majority of items the county returns have been accepted without question. In the earlier years it was cus-

tomary to make some changes in the valuations of farm animals, vehicles, watches, musical instruments and sewing machines.[1] These classes have generally been equalized at certain average values. But all of the remaining classes of personal property, comprising about thirty-eight out of fifty-five items, have usually been approved as returned by the county boards. Since 1910 the whole of the personal property schedule has been approved as returned from the counties without change, and apparently without debate.

Because of these defects of method the state equalization in Washington, as performed by the board of tax commissioners, appears to have been inadequate to deal with inequalities either among counties or classes of property. The use of the ratios has effected certain changes in the real estate assessments of the counties and to that extent has negatived the local efforts at avoidance of the state tax. It is true, also, as the board has recently said, that granting the strong probability of error in the ratios, they were nevertheless the most nearly accurate system that had been devised or adopted in the state up to that time.[2] The new state board of equalization, created in 1915, continued to use the ratios prepared by the tax commissioners in 1914. No new sales data were compiled in 1916 and since this board has a legal existence of not over twenty days in each year there is no likelihood that any future revision of these 1914 ratios will ever be made by it. Rapidly changing land values will soon render them wholly obsolete and leave the state board of equalization completely at sea.

The restriction of the state equalization to the adjustment of county totals has always prevented the board from dealing with some of the worst features of the local assessment of property. The burden of local taxation greatly exceeds that of the direct state tax and since its distribution is entirely unaffected by the state equalization, there has always been ample incentive for local undervaluation and evasion. The practice of adopting the

[1] The proceedings of the state board of equalization are published in the biennial reports of the state board of tax commissioners, separately published in 1916.

[2] State Board of Tax Commissioners, *Report*, 1916, pp. 11, 12.

local personal property returns with little or no attempt at check or corroboration has increased the inequality, since the strong probability is that the assessor who undervalues real estate is also returning the personal property of his district below full value. There is also the possibility that the proportion of personal property which escapes the assessor will vary in different counties, and against the effects of this variation the board's methods and practice have made no provision.[1]

The Washington tax law has always required an assessment at full value. The actual basis of local assessment had become hopelessly depreciated, and but little progress had been made under the board of tax commissioners toward a higher basis of valuation. In 1913 the legislature, thinking apparently to remedy the situation, enacted an amendment which provided that property should be assessed at "not to exceed 50 per cent of full value."[2] State legislatures have done many queer things, the country over, but it would be difficult indeed to find anywhere a measure which surpasses this one. Any percentage of full value below 50 per cent, which the assessor cares to select, is a legal basis of assessment and the various assessors are free to give full rein to their fancy and to the desires of constituents. The tasks of equitable equalization and of effective supervision are tremendously increased by this absurd provision. The board of tax commissioners recommended the adoption of a uniform basis of assessment, and expressed a preference for an assessment at full value, with appropriate tax and bond limit legislation.[3]

As long as the process of equalization concerns simply the distribution of the state tax its significance will remain small. For two reasons, however, there is need of greater accuracy. The first of these is the outcome of the existing methods of taxing public service corporations, which is by the levy of local rates upon valuations centrally determined and apportioned to the taxing districts upon a mileage basis. Justice demands that corporate property be equalized in each tax district to the same

[1] In 1914 the board referred to numerous instances of admitted discrimination by the assessors. *Report*, 1914, pp. 16–17.

[2] *Laws of Washington*, 1913, ch. 140.

[3] State Board of Tax Commissioners, *Report*, 1916, pp. 28–30.

proportion of full valuation as that used in the assessment of other property, so far as this basis can be ascertained. The determination of the ratio of assessed to true value becomes therefore a problem for very careful study in order to insure a thoroughly satisfactory equalization for both corporate and other property. The commission has not attempted to prepare ratios for each tax district. The ratio is for the county, intended to assign to any county its share of a common burden. But the basis of assessment may differ widely within the county. Farm lands, city real estate, timber lands, undeveloped land, personal property — these may all have been assessed on different bases in different tax districts or by different deputies. The purpose of the equalization is largely defeated when corporate property is apportioned at a uniform ratio to a number of districts in each of which property has actually been assessed on ratios different from that which the commission has established for the county as a whole.[1]

A second reason for more careful and complete testing of the local assessment process is in the increasing importance of the intracounty tax burden. This evil is not now reached by the state equalization, but the scope of that process should be broadened so as to reach down to the individual assessment for all purposes. At present it must be met by the commissioner under his supervisory powers. A thoroughly reliable sales ratio computed for tax districts over a three or a five year period would prove a very helpful means of testing the local assessments and of making the necessary corrections in the course of supervision. But in order to accomplish this, the department's resources must really be considerably extended. The compilation of sales ratios was discontinued after the tax commissioners had been with-

[1] Cf. above, ch. 8. The Wisconsin Tax Commission has demonstrated the variability of the ratio of assessment of different classes of property. It is hardly a sufficient defense to rely upon the results of the equalization by the county boards to secure intracounty uniformity. The chairman of the board of tax commissioners suggests this in a recent letter (date of May 16, 1916). The variations which have occurred within the same county in other states, notably Wisconsin, were not corrected by the work of the county equalizing boards. Cf. above, pp. 255, 276. In the Washington report for 1916, the board asserts that the practice of local discrimination results in many inequalities which the county boards do not succeed in eliminating. State Board of Tax Commissioners, *Report*, 1916, p. 30.

drawn from the state board of equalization and it remains to be seen whether the new tax commissioner will be permitted to introduce improved methods in the preparation of future ratios.

The Administration of Corporation Taxes

At the time of the creation of the board of tax commissioners in 1905 the public service corporations were still being assessed by the local assessors for local purposes only. The natural and inevitable concomitants of such a primitive system — evasion, inequality and undervaluation — were all abundantly manifested in Washington. No two counties were assessing the railroads on the same basis. The board's influence over local corporate assessments was small and the uniform schedule of values which was unanimously agreed upon by the county assessors' convention in 1906 was completely abandoned in practice.[1] Express companies evaded the tax law so completely as to secure virtual exemption from all taxation, and there was not even a law providing for the taxation of private car companies.

Under the leadership of the board of tax commissioners the legislature was persuaded to change the system of taxing public service corporations in 1907. The board recommended the ad valorem method in preference to the taxation of gross earnings, being influenced in part by the experience of Wisconsin and in part by the erroneous view that the use of interstate receipts as a measure of taxation was unconstitutional.[2] The Wisconsin policy was not strictly adhered to, for the centrally determined valuations were made taxable at the local rates instead of at the average rate for state purposes.[3] Centralized administration was also extended to street and electric railroads, but included only such operating property of the latter as was used for transportation purposes. The local assessors remained in charge of the assessment of the property used for electric lighting, power and other purposes. Express, telegraph and private car companies were also included in the central assessment. No logical reason existed

[1] State Board of Tax Commissioners, *Report*, 1906, p. 89.
[2] *Ibid.*, pp. 72–121, especially p. 90.
[3] The board had recommended the Wisconsin plan.

for the selection which was made of the companies to be centrally assessed and some important classes of public utilities have been omitted which should have been included.

The first central assessment of corporate property was for the year 1908. The returns to be made by the railroads, including street and interurban electric railways, may be summarized as follows:

1. Organization data, including corporate history, names and addresses of officers, location of principal offices.
2. Capitalization data for the various issues of stocks and bonds.
3. Description of the real property owned or operated in Washington, and of the personal property for the whole system with a statement of the amount to be apportioned to Washington; and a list of the other assets, such as stocks in other companies, etc.
4. Statement of the income account.

The methods used by the Washington board in valuing the railroads are, as in some other states, uncertain and difficult to ascertain. The minds of the members have apparently not always been entirely clear on the point and personal interviews and correspondence have not yielded satisfactory results. But it may properly be inferred from these sources that the chief factor has been the stock and bond valuation supplemented by consideration of the gross earnings.

The situation was complicated — though it should have been cleared — by an amendment to the railroad commission law of 1907, whereby that commission was given the authority to value the railroads for the purpose of regulating rates and conditions of service. The board of tax commissioners followed the practice of accepting the physical valuations made by the railroad commission in all cases in which the latter had made valuations of the operating property and used its own methods only in those cases in which the railroad commission had not yet acted.[1] In 1910, however, the tax board advanced the assessment of the Oregon Railroad and Navigation Company from $19,500,000, the figure established by the railroad commission, to $27,529,771. The court sustained the methods and results of the railroad commission on the ground that the legislature had intended to give this

[1] State Board of Tax Commissioners, *Report*, 1908, p. 19.

board precedence over the board of tax commissioners, since the amendment to the railroad commission law was passed subsequent to the act authorizing the board of tax commissioners to assess the railroads, and, further, because the former act had been passed with an emergency clause while the latter had none. In the course of the decision the court compared the methods used by the two commissions, to the detriment of that employed by the tax commission, using in part the following language:[1]

> The amendment to the railroad commission act was not only passed and approved subsequent to the passage of the tax commission act of 1907, but as against the "bookkeeping," "stock and bond," and "capitalization" methods of ascertaining value, to which the tax commission was empowered to resort, with a view of the property if it deemed it necessary, the railroad commission was directed to find the actual value of the property; not by resort to bookkeeping methods or at the peril of the fluctuating stock market, but by reference to the cost of reproduction; not the market value of its stock, but the real value of its property, considering its physical character and its earning capacity. In other words, it was provided that the property of railroads should be valued as the stock of the merchant or the land of the farmer is valued. Although we are reminded by counsel that the taxing authorities are not bound to consider physical value, but may resort to the "stock and bond," or "capitalization of earnings" method of taxation, we are undivided in our answer that it was undoubtedly the intent of the legislature, mindful of the evasions of railroad companies in years past, to avoid these methods and to put them on the same plane as the individual whose acre is under his feet. Such methods were and are unfair — unfair to both parties to the tax; and we may well assume that, in passing the amendment to the railroad commission act, the legislature intended just what it said, that *when ascertained*, the value fixed by the railroad commission, after a full judicial hearing and with the aid of its engineers, accountants, experts and practical and experienced men in every department of railroad engineering, accounting and construction, should be binding and conclusive upon the public and upon the railroad companies.

The author of the above language did not realize, apparently, that a very important factor in the value of both the farmer's acres and the railroad's property was earning capacity, and was led, in consequence, to emphasize unduly the merely physical elements in the total value of a corporation the business of which required the use of large amounts of fixed capital. The tax commissions of Wisconsin and some other states use the elaborate calculations made by their engineers chiefly as a guide and the

[1] 65 *Washington*, 535.

final figures of the Wisconsin commission have always been higher than those prepared to represent the mere physical value. While various tax commissions are inclined to insist that they exclude intangible elements of value, the prevailing practice indicates that they do not regard an engineer's inventory as adequate for the proper valuation of the physical property, which after all may be only another way of saying that intangible elements are allowed unconsciously to influence the results.

In the decision quoted above, the court proceeded to say that in the case of any property not yet valued by the railroad commission its value might be estimated by the tax commission " until such time as the railroad commission could determine the *true value* of the property." To the extent that the Washington railroad commission had completed its valuations such identity was rendered compulsory by this construction of the statute.

In 1911 the railroad commission act was recast and that body emerged as the public service commission. The judicial interpretation of the act of 1907 was written into the act of 1911 in a section which made the findings of the public service commission not only admissible as evidence, but conclusive evidence of the facts as to the data of the valuation, in any proceedings in which any official or department of the state and the company affected were interested.[1] The railroads opposed this restriction upon the tax board, and in 1913 an amendment was adopted which excepted the purposes of assessment and taxation from the scope of the public service commission's findings of fact.[2] It is significant that having secured their amendment the railroads should move at once upon the tax commission with requests for reductions aggregating $40,000,000. Some of these were allowed but some advances were also made so that the net reduction in 1913 from the valuation of 1912 was about $309,000. The assessed valuation of steam railroads since 1912 are given below.[3] These

[1] *Laws of Washington*, 1911, ch. 117. [2] *Ibid.*, 1913, ch. 182.

[3] The assessed valuations of railroads in Washington since 1912 have been as follows:

1912.....	$135,522,077	1915.....	$140,595,186
1913.....	135,213,180	1916.....	138,653,188
1914.....	137,538,331		

State Board of Tax Commissioners, *Report*, 1916, p. 38.

figures indicate that the railroads have not found the tax board as lenient as they evidently supposed in 1913 it would be. The latter has no facilities for valuing the physical plant but if this factor is to become important in the appraisals of the two commissions, the wise plan would seem to be that followed in Wisconsin. Here the railroad and tax commissions control jointly the engineering staff which performs the physical survey and inventory; but the use to be made of the engineer's data is left to the discretion of the respective boards.

It should be added further that the Washington railroad commission did not confine itself entirely to the "cost of reproduction," nor did it altogether disregard some of the more indefinite criteria of value which were so heartily condemned by the court. In fact, this body rejected the ruling of the Minnesota court to the effect that the controlling, and in fact practically the only element necessary to be considered in ascertaining the value of a railroad for rate-making purposes was the cost of reproduction.[1] The Washington commission reacted so far from this narrow view that it collected data upon every element of value which it believed that an intending purchaser would consider.[2] While the equipment of the railroad commission for a valuation of this character was probably more complete and its results therefore possibly more reliable than those obtained by the board of tax commissioners, the sweeping and invidious contrast of methods drawn by the state supreme court was not justifiable.

Notwithstanding this snarl in which the administration of the corporation taxes lay for some time, centralized administration has effected a better distribution of the tax burden between the railroads and other property. In 1900 the railroad assessment was 10.2 per cent of the total. This proportion had declined by 1907 to 7.5 per cent, but it advanced to 13.5 per cent in 1911 and to 14.6 per cent in 1915. In 1916 it was 14.1 per cent of the total.

In one respect the tax board is still dependent upon the public service commission, according to the ruling of the court in a

[1] Cf. *Findings of Fact relative to the Valuation of Railroads by the Railroad Commission of Washington*, 1909, pp. 6, 7.

[2] *Ibid.*, pp. 7–13.

recent case. This case involved the right of the former board to classify railroad property as operating or non-operating property. The tax commission had classified as non-operating certain tracts which had previously been classed as operating property by the public service commission. The local assessors were directed to list and assess the properties in question. The court held that the tax commission was without authority to reclassify the property which had previously been classified by the public service commission. The former body must therefore wait until the latter has acted before including new acquisitions of property in its assessment as operating property and before assessing property the use of which has been changed.[1]

The preservation of equity between the assessments of railroads and other property subject to the same rates of taxation demands that the former be equalized to the same percentage of true value that has been used in each district in assessing general property. Such an equalization was provided by the legislation of 1907, and thereby the legislature candidly recognized the condition into which general assessments had drifted; but it did not provide the machinery and funds for an adequate equalization of this property, and so it failed to appreciate the real difficulty of the problem before the tax board. Equalization in this sense imparts to the board's methods much greater significance than they could have had if used merely as the means of distributing the state tax. The defects in the Washington plan of constructing the sales ratios have already been discussed. The importance of accuracy is seen in the fact that in 1914 the board found the true value of the railroads to be less than in 1913, but because of changes in the ratios the assessed valuation of this property was higher in 1914 than in 1913.[2] The railroads have criticized the ratios as being too high;[3] on the other hand, the assessors are interesting in dodging state taxes — and criticisms from the board of tax commissioners — by overestimating their percentages,[4] and as a guide to an impartial course between these con-

[1] State Board of Tax Commissioners, *Report*, 1916, pp. 23–26.
[2] State Board of Equalization, *Proceedings*, 1913, p. 82, and 1914, p. 84.
[3] State Board of Tax Commissioners, *Report*, 1914, pp. 18, 19.
[4] State Board of Equalization, *Proceedings*, 1909, p. 9.

flicting claims the commission's only aid is its sworn testimony collected biennially.

Street and electric railroads and telegraph companies have been valued as units in much the same manner as the railroads, and the equalized values have been apportioned to the tax districts on a mileage basis. The proper valuation of electric lines is complicated by the restriction of the board's jurisdiction to the operating property while the local assessor remains responsible for the assessment of the light and power plants. It is often very difficult for the company to make a satisfactory segregation of values and any division made by the board and the local assessors is purely arbitrary.[1] The aggregate valuation of the telegraph companies is not large nor are the tax receipts important *in toto*, and their significance is still further diminished by diffusion among the taxing districts. Local taxation of such property is relatively uneconomical and its ineffectiveness is an argument for diverting the tax into the state treasury.

Previous to 1907 the express and private car companies had practically escaped all taxation. The latter had never been assessed, while the total taxes paid by the former had never, in any year since statehood, equaled $1000, which was the amount that the state usually offered each year in rewards for the apprehension of express robbers. Taxes were paid only upon the tangible property and at such valuations as the company officials chose to return to the local assessors. Bills providing for the taxation of express companies on their gross receipts had been introduced into the legislature for each of the six years preceding 1906. These measures had always passed the lower house but had invariably encountered indefinite postponement in the senate.[2] In view of this preliminary agitation in favor of the gross receipts tax and also in consideration of its use for express companies in the majority of the states the board of tax commissioners recommended a tax of 4 per cent on gross receipts, to be levied for state purposes as a privilege tax in addition to the local tax on tangible property.[3] The estimated yield was put at $10,000 to $15,000 per year but the actual receipts have risen from $42,459 in 1908 to

[1] State Board of Tax Commissioners, *Report*, 1912, p. 17. [2] *Ibid.*, 1906, p. 106.
[3] *Tax Laws*, ed. of 1907, p. 142. The rate actually adopted was 5 per cent.

$48,129 in 1916. The tax is levied on all sums earned or charged, whether actually received or not, for business done within the state. The returns of gross receipts have been checked by inspecting the books and various omissions have been detected and corrected.[1]

The privilege tax of 7 per cent on the intrastate gross receipts of private car companies has not proved a source of any considerable revenue for the state. In no year has the total exceeded $4000, and in 1916 it was only $1083. The usual difficulties have been encountered in checking the returns from these companies and doubt has been expressed by members of the board whether the private car lines were paying their fair share of taxes, though no data were available to prove or disprove the suspicion.[2] The greatest drawback to the system of gross receipts as applied in Washington is the restriction to intrastate receipts, leaving untaxed the state's share of the receipts from interstate business. Notwithstanding the obvious inadequacy of intrastate earnings as a basis of taxation, the board recommended the gross earnings principle in this form, because of its views on the constitutional aspect of the case. The board was clearly in error in its opinion of the constitutionality of taxes properly levied on the basis of interstate receipts, and since 1907 the state has lost considerable sums which might have been collected had another view prevailed, fortified by a wider knowledge of the law.[3] This loss is magnified by the fact that the company determines the proportion between state and interstate business and is subject to no effective supervision in making the separation.

The Supervision of Local Officials

Supervision over the entire tax system was one of the functions conferred upon the board of tax commissioners by the original act of 1905. The appearance of this feature of the modern reform

[1] *Interview with the Board*, July, 1911. In 1910 it was found that the companies had omitted the receipts from the money order business.

[2] *Interview*, July, 1911.

[3] Cf. *Maine* v. *Grand Trunk Railway* (1891), 142 *U. S.* 217. Also, Plehn, "The Taxation of Public Service Corporations," *Proceedings of the National Tax Conference*, 1907, p. 640; also, Holcomb, "The Assessment of Public Service Corpora-

movement in Washington marked the beginning of state control over the local assessment west of the Mississippi. The insertion of such a provision in the Washington law is therefore significant, not only because of its appearance in a state so far removed, both geographically and economically, from those states in which centralized administration had already emerged; but also because the Washington legislature passed over the problem of corporate taxation to introduce central supervision of local assessments, an order of development that has been quite out of the ordinary.[1]

While the law provided for central supervision of the local assessment process, the statutory provisions were too general to secure the best results. For instance, the commission was given the power to " advise, confer with and direct assessors, boards of equalization and county commissioners as to their duties under the law," and to direct proceedings against any of these officials for neglect or other violation. For the proper exercise of this function authority was also given to " examine and test the work of the assessors during the progress of the assessments or at any time when it was deemed necessary and convenient." To this end some member of the board was required to visit the counties, though no regular round of official calls was prescribed.[2] The plan for direct personal supervision offers great possibilities in promoting uniform assessments but its significance is materially diminished in Washington by the provision for the procedure in case improprieties are discovered in the assessor's work. The board is to bring the matter to the assessor's attention, and, if the latter refuse or neglect to make the proper changes, the board is to report the facts to the county commissioners who shall present them to the county board of equalization. A more effective way of dissipating the suggestions and control of the central authority could hardly be devised. This policy is in striking but unfavorable contrast to the sharp and sure remedy available to the Kansas commission under similar circumstances, namely, removal of the assessor and reassessment of the property. The only way open in

tions," *Proceedings of the National Tax Conference*, 1911, pp. 188, 189 and cases cited. Also, *Report of the Connecticut Commission on the Taxation of Corporations*, 1913, pp. 18–20.

[1] Cf. above, ch. 1.

[2] Quotations are from the *Tax Laws*, ed. of 1907, pp. 113, 117, 118.

Washington for the removal of an official is that of prosecution before the proper court, a proceeding the chief result of which is apt to be loss of prestige for the board itself.

The advisory relations between the board and the assessors have been maintained through visits, correspondence, and conferences, following the practice of most states having the county assessor system. The visits have been made at irregular intervals and, beyond furthering the acquaintance of members and assessors, have accomplished no results worthy of special comment. The correspondence has been extensive and varied and has been addressed to both taxpayers and officials. A valuable feature of the first biennial report was the publication of the more significant portion of the correspondence with officials upon questions of principle and procedure. Instead of assembling the assessors in official conferences the annual meetings of the assessors' association have been utilized for this purpose. This association held its eighteenth annual convention in January, 1916. Membership in the association is entirely voluntary but the tax commission now requires all assessors to attend the annual conferences. The travelling expenses are paid by the counties. The program is prepared jointly by the officers of the association and the tax commissioners and is supplemented by the reports of a series of committees. The recommendations contained in these reports have not always carried much weight, for the commission records that in 1906 the convention voted unanimously for a 60 per cent basis of assessment which was later as unanimously abandoned in the field.[1] A schedule of values for railroad assessment received the same treatment. One characteristic of the convention's recommendations in 1910 was the emphasis upon the expert work which might be done, but which presumably had not been done, for the benefit of all the counties by the tax commission. Thus, the board was urged to visit each county in order to examine and adjust operating property of the railroads. These corporations are always ready to secure local exemption by extending the scope of their local operating property.[2] The court's recent ruling

[1] State Board of Tax Commissioners, *Report*, 1906, pp. 8, 89.

[2] Cf. *Proceedings of the 17th Annual Conference of the County Assessors*, 1915, p. 34.

renders the tax commission helpless to correct such evasions, though the latter may continue to exercise precautions to insure that local assessors are informed as to the property which should be locally assessed. Another committee suggested that all steamboats and registered floating property be listed and that the vessels assessable in each county, with the names of the reputed owners, be reported to the various assessors.[1] A third committee requested the appointment of an expert to value the mining property of the state and a fourth made the same suggestion regarding the telephone lines.[2] In 1916 the tax commission entered into an agreement with the assessors whereby it determined the valuation of the leading telephone companies as units and apportioned these valuations to the various counties. The real property of these companies was assessed locally. The assessment of the personal property was based on a physical valuation of their property which had recently been made by the public service commission. The net result was an increase of about $1,000,000 in the valuation and a much more equitable distribution of the valuation among the tax districts.[3]

The central feature of the tax commission's supervisory authority is the power of "general supervision of the tax system." This expression has occurred in almost every law creating a tax commission; and it has generally been construed to mean a kind of harmless advisory supervision which has been unaccompanied by any authority to enforce the suggestions made or the advice given. The Washington court has construed the term to mean more than this, though the leading case did not involve, nor did the decision indicate, how far the commission might go in enforcing its suggestions.[4] Thus, the court held that "general super-

[1] Later conferences began to recommend central assessment of all registered craft and in 1916 the tax board proposed a bill for this purpose. Cf. State Board of Tax Commissioners, *Report*, 1916, pp. 31–33.

[2] *Proceedings of the 12th Annual Conference of the County Assessors*, 1910, pp. 9, 11. The suggestions offered in 1910 are typical of the practical recommendations offered by the conventions. The agitation against the tax commission was strongly condemned in *ibid.*, 1913, p. 14; and at different meetings the federal government has been urged to hasten the survey of the unsurveyed lands, amounting in 1912 to 450,000 acres. *Ibid.*, 1914, p. 37.

[3] State Board of Tax Commissioners, *Report*, 1916, pp. 26, 27.

[4] *Great Northern Railway* v. *Snohomish County*, 48 *Wash.* 478.

vision" meant more than a mere advisory oversight, but it did not then state just how much more. This point was dealt with more definitely in a more recent case, in which the court sustained the commission in a specific order to a county assessor and a county board of equalization. The court held that the state board's supervisory power included the right to direct the county taxing officials.[1] These cases have established the commission's legal right to assume a thorough supervision of the tax system. But for two reasons little supervision of a positive character has been attempted.

In the first place the law provides no thorough and effective means of control, such as the power of removing an official or of ordering a reassessment. Without some such recourse, general supervision, even as interpreted by the court, is of little practical avail since there is provided no method of effective procedure against the delinquent official. The commission must act, in all removal proceedings, through the regular slow-moving legal channels. Too much initiative in discovering abuses would be decidedly inconvenient if the only corrective lay in successful impeachment proceedings. The actual interference with local conditions is further diminished by the absence of appeal from individuals or tax districts to the tax commission. As a result of this absurd anomaly, the whole question of the equitable distribution of the tax burden within the county really falls outside the jurisdiction of the board of tax commissioners, and all appeals for relief of local inequalities go, very illogically, to the superior court of the county instead of to the board most fitted by its experience to deal with them.

A second excuse for comparative inaction previous to 1913 was the general unwillingness to increase valuations excessively because of the opportunities for local extravagance which would be thereby created. The situation paralleled that of Minnesota. The legal standard of true cash value for assessments had been lost for so long that the tax levies and many forms of expenditure had become adjusted to the condition of low valuations. In creating a body which was expected, through its supervisory

[1] *State* v. *Cameron*, 90 *Wash.* 407.

powers, to reform the basis of valuation, the legislature failed to place a limit upon the amount of money which might be levied or expended and this omission virtually blocked any action looking toward full valuation. The assessors voted again in 1910 to use a 60 per cent basis but the situation went along without change until 1913 when the law was changed to require an assessment not in excess of 50 per cent of full value.[1] This action relieved the commission of its embarrassing position, though it offered little prospect of more equitable assessments. The commission may now push more energetically for the full legal valuation without the deterring influence of possible local extravagance to follow. On the other hand, the most unfortunate phrasing of the law permits the assessor to regard any percentage below 50 per cent of full value as a legal basis of assessment and this renders the problem of equitable taxation quite as disturbing as before. It certainly does not lessen the need of strong central supervision of the original assessment.

In addition to the more imposing supervisory authority outlined above the board enjoys certain powers of a general administrative character, such as the prescription of blanks and forms, the power of compelling the appearance and testimony of witnesses, and the production of documentary evidence. These powers are accessory and are attributes of every tax commission. Ordinarily they present no unusual opportunity for great reforms in the administrative system, though careful attention to them may eliminate much friction and loss of energy. In various directions the board has introduced changes in the forms and methods used by local officials, some of which have been fruitful, others not.

The first improvement deserving of special mention is that of a land and timber cruise of the state for the purpose of estimating the quantity and value of timber and timber land and other unimproved land. Such a survey of the state's land and timber resources has been of great value in the assessment of these forms of wealth, and up to 1914 it had added approximately $72,000,000

[1] *Laws of Washington*, 1913, ch. 140.

to the tax rolls.[1] The acreage of timber lands was not reported separately prior to the timber cruises, but the board estimated that in 1905 such lands were assessed at an average value of $4.88. In 1914, 5,057,908 acres of timber land were assessed at an average value of $18.29 per acre. The timber cruises and the land maps which the counties have prepared are of rather unequal value. The cost was borne by the respective counties but some counties were unwilling to engage first-class cruisers, with the result that the returns were not entirely reliable. The assessor of Thurston county—in which Olympia is situated—professed to regard the cruise of that county as practically worthless for the existing condition of the county, as it had been made years before and had not since been properly revised.[2] This has been a general defect in the cruises. But notwithstanding the shortcomings of these surveys, they constitute the only possible means of properly assessing timber lands and they were emphatically endorsed by the county assessors in their annual convention of 1910.[3] The assessors' committee on timber lands in this year urged that the state board of equalization use the cruises instead of the acreage in comparing the different timber counties. This suggestion indicates that the equalization methods then in use impressed even the county assessor as inadequate.

Another change instituted by the board has been the extension of the personal property list to include some fifty-five items. This enlargement of the list of items marks the entrance upon the last phase of the struggle to tax personal property under the uniform rule — the theory being that evasions can be diminished by designating with great fullness the kinds of property which the assessor is to seek. It cannot be shown that this enlargement of the personal property schedule has anywhere accomplished its purpose.

[1] The returns of timber and unimproved lands as equalized by the county boards have been as follows: (millions)

	1906	1908	1910	1912	1914	1916
Unimproved land	$89.6	$55.9	$63.3	$62.6	$69.2	$66.6
Timber land	....	73.9	76.4	89.4	93.5	85.8
Total	$89.6	$129.8	$139.7	$152.0	$162.7	$152.4

[2] *Interview with the county assessor*, July, 1911.

[3] *Proceedings of the Annual Conference of the County Assessors*, 1910, pp. 8, 9.

Many of the items added by the Washington board have brought only insignificant amounts of property upon the tax rolls, and all of the groups added relate to various forms of tangible property. Thus, in the group of farm animals, there are eight items, with a total of fourteen subdivisions; and for unproductive personal property, such as household furniture and personal belongings, there are at least seven items. Notwithstanding these efforts to improve the assessment of personal property there has been but little real gain. The total amount of taxable personal property, after deducting the exemptions, has risen only from $82,100,000 in 1906 to $124,500,000 in 1916, or an average yearly increase of about $4,000,000. Further, owing to the exemption of credits in 1907, the increases have been almost entirely in the tangible groups, as is to be seen in the table given as an appendix to this chapter.[1]

It is evident from this table that since the amendment of 1907, which excluded " mortgages, notes, accounts, moneys, certificates of deposit, tax certificates, judgments, state, county, municipal and school district bonds and warrants " from the definition of property subject to taxation, the term " personal property " has referred in Washington almost exclusively to tangible personalty. The results of the assessment of this class show that the largest relative increases have been made in household and personal effects, and vehicles, both of which are, in the main, unproductive forms of property. The largest absolute increase occurred in the assessment of merchants' and manufacturers' materials and merchandise, although the assessment of this property was doubtless inadequate, even on a 50 per cent basis. A smaller proportion of the increase has been borne by farm animals than has been the case in some other states.

The attempt to tax intangible personalty under the general property tax has been the cause of more inequality and injustice in the American tax system than any other single factor. In this respect the Washington board of tax commissioners found a most unsatisfactory state of affairs. The agricultural counties, with small population and less wealth, were paying taxes on larger

[1] Cf. below, p. 384.

assessments of moneys and credits than the counties containing the cities of Tacoma and Seattle.[1] This distribution of the assessment was equalized somewhat in 1906, though the total amount of moneys and credits returned was only $6,168,412, while the banks of the state reported deposits of nearly $130,000,000. In view of these disappointing results, the members of the board submitted, in their first biennial report, individual statements setting forth their views upon the subject of credit taxation.[2] A majority took the position that "all property in the state, except such as is devoted to the use of religious and charitable institutions, should be taxed in some form and in some amount." The discussion of the problem led in 1907 to the recommendation of a constitutional amendment which would have permitted the classification of property. The legislature voted to submit the amendment, but it was lost at the polls in 1908 by a large majority. This adverse vote was due to the failure of many people to understand the purpose of the proposed amendment, to the belief of the clergy of the state that the exemption of church property was endangered, and to the opposition of the railroad interests.[3]

The report of the minority member of the commission, who had advocated the exemption of all credits, was virtually accepted by the legislature in the bill for the exemption of credits, which was passed in the same session in which it had endorsed the classification amendment.[4] This act was promptly contested in the courts and in the assessment of 1908 the board ordered assessors to list moneys and credits, but the order was not generally obeyed.[5] The state supreme court sustained the constitutionality of the law except as to "moneys," on the ground that the taxation of credits was double taxation and not in harmony with the constitution.[6] On the other hand, it said that money "possesses such value by

[1] State Board of Tax Commissioners, *Report*, 1906, p. 159.

[2] *Ibid.*, pp. 130–162.

[3] *Ibid.*, 1908, p. 44.

[4] *Laws of Washington*, 1907, ch. 48.

[5] Custis, "Taxation of Intangibles in Washington," *Quart. Journ. Econ.*, xxiii, p. 718.

[6] 50 *Wash.* 164.

way of immediate purchasing power as, in effect, robs it of a mere representative character and clothes it with the dignity of property having intrinsic value."

As thus construed, the act remained doubtful on one or two points. It was obviously not the intention of the legislature to exempt bank stocks, as an act providing for their taxation had been passed in the same session.[1] But the status of other stocks and bonds has remained unsettled though the consensus of opinion has been that they were to be exempt. Similarly, the board held that bank deposits were "money" and ordered the assessors to list them. The assessor of King county refused and his example was followed by many others. The returns in the table below show that moneys have been virtually exempted by common consent. The table shows too that the general property tax has broken down, and is fast becoming simply a tax on tangibles. The legislation of 1907 has hardly remedied the situation, which requires a thoroughgoing revision of the constitutional provisions relating to taxation as the basis of sound tax reform. The commission has consistently advocated the abandonment of the uniform rule, but thus far (1917) without success.[2]

From the above review, it is clear that centralized administration of the tax system in Washington has not yet gone far enough for the most effective results. In consequence, the board was able to push its reforms just far enough to fall foul of criticisms from all quarters. Valuations were raised but the tax burden remained oppressive. The legal basis of valuation has been lowered but it now authorizes more chaotic assessments than had prevailed under the old system. The courts have sustained the commission's attempts to exercise coercive power but adequate remedies and procedure for the achievement of effective results are still lacking. Without these remedies the county assessor may display all of the traits of inefficiency and incompetency which are usually regarded as the attributes of the township assessor. The most troublesome classes of intangibles have been exempted

[1] *Laws of Washington*, 1907, ch. 46.

[2] Cf. State Board of Tax Commissioners, *Report*, 1910, pp. 21, 22; *ibid.*, 1912, pp. 13, 14; *ibid.*, 1914, pp. 12–20; *ibid.*, 1916, p. 28.

but serious inequalities remain in the assessment of real estate and tangible personalty. The tax board was charged with the supervision of the tax system of a great state but the legislative appropriations did not permit the development of an administrative staff of sufficient dimensions to maintain vital contacts with the local officials. The people have not generally appreciated these defects in the tax administrative system and the board of tax commissioners received the censure for the failure to accomplish more. So strong was the criticism in 1912–13 that an attempt was made to secure the abolition of the board. The removal of the tax commissioners from the state board of equalization was quite evidently a political move inspired by those who sought the ultimate destruction of the board of tax commissioners.

There has been the beginning of a reaction from the county assessor system under the county option plan of allowing the people to decide between the county and the township forms of local organization. In 1908 Spokane county adopted the township form and in 1910 the same step was taken by Whatcom county. The board declared these changes to be "disastrous to uniformity in assessment and equality in taxation," and cited the sworn testimony of the Spokane county assessor to the effect that he was obliged to reduce the ratio of assessment in the incorporated cities in order to protect them against the discrimination being practiced by the township assessors.[1] The county assessor in these counties remains in general charge of the assessments, and the board, following the parallel of the Great Northern decision, has ruled that his supervision over the township assessors was mandatory in character.[2] But, as in the case of the central authority and the county assessors, no adequate means exists for enforcing the suggestions that have been made, and so the supervision remains only a name.

[1] Cf. State Board of Tax Commissioners, *Report*, 1910, pp. 17, 18.

[2] *Circular letter of May 2, 1911.* In the files of the Board.

The Inheritance Tax

The inheritance tax was adopted in Washington in 1901,[1] but owing to the failure to provide for its effective administration it fell into decay and was evaded by most estates.[2] The board of tax commissioners was required to supervise the collection of the tax and it began at once an energetic search of the county probate records, followed by prosecution of all possible cases for the collection of back taxes. Within a year the probate files had been examined in approximately 20,000 cases in 19 counties, and taxes aggregating $41,558 had been collected in 192 cases, while 470 other cases were pending in which a tax was due but had not been collected. In many cases, in which the estate had consisted of personal property, a settlement had been made and the property transferred to nonresidents. In 1916 the board reported that several thousand old unreported cases had been discovered. Investigation of these cases added greatly to the work of the department but yielded very small financial returns to the state.[3]

The board has continued its activity in scrutinizing the reports of probate cases and has handled about 3500 returns annually. This has involved a considerable additional burden since all estates returned must be examined whether a tax is due or not. In addition to the purely administrative duties imposed, the board has been called upon to assist in the defense of the law before the highest state court. Furthermore, the labor of prosecuting the claims of the state has fallen upon it, necessitating an appearance in hundreds of cases before the various state courts.[4]

The most serious weakness in the inheritance tax law, from the administrative side, has been the lack of influence which the board might exercise over the appraisal of estates taxable under the law.[5] The board may file with the court an exception to the appraisement and the court will then review the valuation placed

[1] *Laws of Washington*, 1901, ch. 55.
[2] State Board of Tax Commissioners, *Report*, 1906, p. 8.
[3] *Ibid.*, 1916, p. 7.
[4] *Ibid.*, 1914, pp. 7, 8.
[5] *Ibid.*, 1906, p. 16.

upon the property; but without the privilege of being represented upon the original appraisal board it is at times difficult to detect undervaluation.

The State Excise Board

In 1909 the board of tax commissioners was made a state excise board with the duty of supervising the issue of annual state liquor licenses and collection of the charges therefor.[1] This additional drain upon the time and energy of the board presents the advantage of bringing another of the state's sources of revenue under the jurisdiction of the head of the fiscal system. There is the possibility, however, of diverting the board from the more fundamental duties of its office through the multiplication of relatively unimportant tasks in connection with minor sources of revenue. This is true of the present case, in which public welfare demands that a certain supervision be exercised over the conditions attending the traffic in liquors. It is not within the board's province to undertake adequate supervision of the liquor traffic, and to do so would involve the neglect of more important duties. On the other hand, this business requires a certain supervision which it will not receive while the board is in charge. As in the case of West Virginia, the writer is inclined to recommend that the tax board's time and energy be freed for more significant phases of the fiscal administration.

Escheats

Following the board's recommendation the function of escheating officer for the state was given it in 1907.[2] It was well known that in many cases the laws providing for the escheat of property had not been enforced and that it was increasingly easy for impostors to take advantage of this laxity. The board has fought these cases with diligence, and for the biennium 1913–14 the collections amounted to $59,158.[3]

[1] State Board of Tax Commissioners, *Report*, 1910, p. 34.
[2] *Ibid.*, p. 129; *ibid.*, 1908, pp. 99, 100.
[3] *Ibid.*, 1914, p. 36.

Recommendations

The Washington board of tax commissioners has been very active in recommending changes in the tax system, and has had the satisfaction of seeing some of its suggestions adopted. The principal instance of the adoption of a minority view upon an important question was in the case of the exemption of credits in 1907. Some of the more important recommendations of recent years have been the following:[1]

1. A series of constitutional amendments designed to remove the uniform rule from the constitution and vest the legislature with greater discretionary power over the tax system.
2. A revision of the method of taxing timber lands by basing the tax upon the cut instead of upon the standing timber.
3. Central assessment and taxation of all public utilities.
4. Compulsory statement of the true consideration in deeds.
5. Central taxation of all motor vehicles for the benefit of the state highway fund.
6. Assessment of all registered water craft by the state board.
7. The exemption of household goods and mechanics' tools.

From a confidential but authoritative source comes the following account of the recent legislative manipulations:

Recommendations for the substitution of a single tax commissioner for the board of three members were made by Governor Lister in 1913, 1915 and again in 1917. The suggestion was not taken seriously by the legislature in 1913. When it was renewed in 1915, the legislature, which was more than three to one against the governor, attempted to abolish the tax commission entirely and parcel its duties out to deputies in various other offices. This plan was admittedly one to punish the governor. The bill was passed and was vetoed by the governor, and, although the majority in the legislature had sufficient votes to pass it over his veto, they got cold feet at the last minute; or, what is reported to be the case, they found that they would be one vote short in the senate, and would not call up the matter for a vote. This left the State Board of Tax Commissioners intact, but its members, through other legislation passed at the same time, were removed from the State Board of Equalization and from the State Land Board. In 1917 the governor renewed his recommendation and had a bill presented to the legislature providing for a tax commissioner at a salary of $3600 and an assistant commissioner at a salary of $2400 together with such other help as was necessary. The legislature, which was again of another political faith,

[1] State Board of Tax Commissioners, *Report*, 1912, pp. 13–31; *ibid.*, 1916, pp. 7–33.

passed the bill but, as a measure of punishment, placed the salary of the commissioner at $3000 and that of the assistant at $1800, and *cut down the appropriation to such a point that no more help could be employed than was had under the board of tax commissioners.*[1]

[1] Italics supplied by the present writer. However the politicians may have fared in such disgraceful brawling, it is certain that the heaviest punishment was borne by the taxpayers.

My correspondent added that the tax board had been the football of politics since its establishment, because of the desire of other state officials to divide the patronage which it controlled, and the belief of certain classes that its duties were such as could be performed by lesser clerks and deputies at a financial saving to the state.

APPENDIX A, CHAPTER XI

ANALYSIS OF PERSONAL PROPERTY ASSESSMENTS, 1906–16[1] (MILLIONS OF DOLLARS)

	1906	1907	1908	1909	1910	1911	1912	1913	1914	1916
I. Tangibles										
1. Farm animals	15.0	16.3	16.9	18.4	19.3	19.3	18.7	19.9	20.3	20.8
2. Vehicles	2.1	2.7	3.0	3.5	4.1	5.0	5.2	6.1	6.9	10.6
3. Household, personal, office, musical instruments	11.8	17.0	19.7	23.0	26.2	29.8	30.6	27.7	27.4	26.1
4. Tools, machinery, steam vessels	10.0	15.2	15.7	19.3	18.7	19.5	18.9	19.1	20.7	19.4
5. Materials, mfgrs. merchandise	21.2	26.7	27.9	32.0	33.6	38.6	38.2	38.9	41.2	33.2
6. Personalty of certain corporations	18.6	20.1	6.3	7.5	9.8	13.1	16.2	17.9	15.1	17.1
7. All other tangibles	5.8	7.7	8.2	7.7	11.7	5.7	4.4	7.2	8.4	12.9
Total tangibles	84.5	105.7	97.7	112.4	123.4	131.0	132.2	136.8	140.0	140.1
II. Intangibles										
1. Moneys and credits of bankers, brokers	4.8	6.0	9.4	10.4	12.5	12.1	.5	.4	.047	....
2. Moneys	3.1	.003	.974	2.4	1.3	.975	.186	.368	.280	.172
3. Notes, accounts	3.0	.3	....	....	....	....	....	....	....	....
4. Bonds, stocks, shares	.7	2.7	.134	.185	.522	2.3	13.3	13.1	12.0	12.1
5. Royalties and patent rights	.1	10.2	3.	1.9	1.1	1.3	.9	1.4	1.3	.7
Total intangibles	11.7	19.2	13.7	14.9	15.4	16.7	14.9	15.3	14.5	12.9
III. All other personalty	1.8	3.0	2.4	3.2	3.6	3.4	2.8	3.5	3.0	1.4
Total personal assessment	97.9	127.9	113.8	130.5	142.4	151.1	149.9	155.5	157.7	154.4
Less exemptions	17.1	21.4	24.9	27.9	30.9	31.5	32.0	33.3	32.8	29.9
Total taxable	80.1	106.5	108.9	102.6	111.5	119.6	117.9	122.2	124.9	124.5

[1] The stock of banks was included with other bonds, stocks and shares in 1911 to 1914. Previous to 1911 bank stock had been returned with property of bankers and brokers. Since 1912, also, item 6 of the tangible group, "Personalty of Certain Corporations," has included the franchise valuation as well as the tangible property. The figures for 1915 were not published.

CHAPTER XII

THE STATE TAX COMMISSION OF MINNESOTA

IT has already been seen that the first regular state boards of equalization appeared in the middle west. Minnesota was admitted as a state in 1858 and two years later the legislature provided for a state board of equalization.[1] The forces which were operating to render such boards necessary in neighboring states were doubtless exerting their influence also in Minnesota. The transition from territory to state had occasioned a considerable administrative expansion.[2] The basis of the revenue system was the general property tax and this meant that the characteristic evils were in all probability present in greater or less degree. The conventional models of the time were followed in the first act on the subject and the state equalization board was given authority to equalize the biennial assessments of real estate only. The problems of personal property assessment were intensified by the great financial strain of the Civil War, and in 1867 the board was required to equalize the annual assessments of personal property also.[3] No documents have been available which would shed any light upon the work of the state board of equalization in its earlier career, but it is a reasonable inference from the course of legislation that the experience of other states was being repeated. For instance, the original act establishing a board of equalization provided that the reduction of the local aggregate by the state board should not exceed one per cent. In 1878 the secretary and treasurer of state were withdrawn from the board, and the governor was required, with the consent of the senate, to appoint one member from each judicial district.[4] The inclusion

[1] *Laws of Minnesota*, 1860, ch. 1. This board was composed of the elective state officers, ex officio.

[2] Cf. Minnesota Tax Commission, *Report*, 1914, ch. 8, especially pp. 176, 177.

[3] *Laws of Minnesota*, 1867, ch. 46.

[4] *Ibid.*, 1878, ch. 1.

of members more directly representative of various districts, or more concerned with the tax burdens of those districts, is suggestive of the competitive struggle that was in progress to shift those burdens. The one per cent limit prevented the most successful use of log-rolling tactics in equalization but there was nothing to prevent a steady and rapid decline in the basis of original assessment, an outcome which the state board of equalization apparently could do nothing to check.

Because of the early introduction and steady extension of the gross earnings method of corporate taxation, administrative problems of this sort have been historically less important or certainly less acute, than those arising from the general property tax. The first use of the gross earnings tax was its application to the St. Paul, Stillwater and Taylor's Falls Railroad Company in 1873.[1] Other railroads were given the option of being taxed by this method and the state treasurer was made the collector of such taxes. The system of gross earnings taxation had been extended to several other classes of corporations by 1907, but the administration of these taxes remained in charge of various state officials until 1913 when the state tax commission was given complete administrative control of this division of the tax system.

In 1901 the legislature created a special tax commission and instructed it to frame a new tax code. The infiltration of ideas of tax reform from other states is seen in the suggestion, advanced in the legislative resolution, that the new tax code should "include provisions for a permanent tax commission."[2] The special commission's report was profoundly influenced, as was natural, by the recent progress in near-by states, especially Indiana, Wisconsin and Michigan. The existing conditions were only briefly analyzed, but the few comments on the situation depicted the familiar practices of underassessment, evasion and discrimination.[3] As a remedy for the defective assessment of personal property it was proposed to extend the listing system and require the assessor to be more inquisitorial. This feeble makeshift was unconvincing

[1] *Special Laws of Minnesota*, 1873, ch. 111.
[2] *Laws of Minnesota*, 1901, ch. 13.
[3] *Report of the Commission to frame a New Tax Code*, 1902, pp. 12, 13.

even to the codifying commission itself; for it added that if such measures failed to produce results far more satisfactory than any the state had yet known, the sooner the taxation of many classes of personal property was abandoned the better.[1] Of most interest in the present connection, however, was the special commission's plan for central administrative supervision over the whole tax system, to be exercised by a permanent tax commission.[2] Extensive powers were proposed for this body and only the conviction that the central appointment of a county assessor would be too advanced for the community to tolerate prevented the inclusion of a provision to this effect.[3] County boards had been authorized in 1895, if it were deemed expedient, to appoint county supervisors of assessment,[4] but this official was left so completely under the control of the county boards as to give him no independent voice in the regulation of assessment conditions. Practically no use appears to have been made of this provision and the present commission has consistently urged the establishment of a county assessor or supervisor who should be equipped with adequate resources and authority.[5]

The report of the codifying commission was transmitted to the governor and legislature on January 10, 1902; but five years elapsed before the latter made any attempt to establish a permanent tax commission. As adopted, in 1907,[6] the plan for a central administrative head of the tax system was not materially modified. The governor, with the approval of the senate, was to appoint a state tax commission of three members for a term of six years, at a salary of $4500. The appointees were to be persons known to possess skill and knowledge in matters pertaining to taxation. The new tax commission was given power to equalize assessments, though the old state board of equalization was to continue in existence until 1909, with " full power and authority

[1] *Report of the Commission to frame a New Tax Code*, 1902, p. 15.

[2] *Ibid.*, pp. 117–123.

[3] *Ibid.*, p. 22.

[4] *Laws of Minnesota*, 1895, ch. 294.

[5] Minnesota Tax Commission, *Report*, 1910, ch. 7; also, *ibid.*, 1912, ch. 7, and *ibid.*, 1914, pp. 2, 232. A bill for this purpose failed to pass the senate in 1913.

[6] *Laws of Minnesota*, 1907, ch. 408.

to review, modify and revise all of the acts of said commission in so far as they related to the equalization and valuation of property assessed for taxation. . . ." Liberal supervisory powers over the local tax system were also provided, including authority to order reassessments. The diversified system of corporation taxes, embracing gross earnings and ad valorem taxation, was not disturbed and in consequence the commission's duties in this direction were in the beginning much less significant.

The most important problem which the commission faced at the beginning of its career was local undervaluation. This condition, the natural product of decentralized administration, had actually been fostered by the methods and attitude of the state board of equalization. Of the influence of the latter the special tax commission of 1901 had said:[1]

> The state board of equalization had unconsciously encouraged a disregard of the rule of taxation prescribed by the constitution. Members of the board, naturally solicitous for the welfare of their respective districts, have generally sought to depress rather than to raise valuations in the counties constituting their districts.

The act creating the commission made it appear that this body was expected to restore assessments to the legal basis of full cash value. But in undertaking this task several serious obstacles were encountered. Chief of these was the low level to which the actual assessments had fallen.[2] So completely had the legal standard been lost sight of that the legislature and all subordinate levying bodies had taken cognizance of the situation by adjusting the tax rates to the lower valuations. In addition, the salaries of various local officials, the limits of local indebtedness, and of different local taxes for specific purposes, had all been determined by the existing valuations, which, though in clear violation of law, had thus acquired a force both of law and of custom. Assessment at full value had become a legal fiction. The commission decided, therefore, that the sudden and complete enforcement of full valuation was not only quite impracticable but also very

[1] *Report of the Commission to frame a New Tax Code*, 1902, p. 26.

[2] Minnesota Tax Commission, *Report*, 1910, p. 125; *ibid.*, 1912, pp. 105, 106; *ibid.*, 1914, pp. 18–22.

undesirable without some limit upon the money that could be raised by the local authorities. In the absence of some check upon local levies, salaries, and debts, the funds available for local purposes would be increased far in excess of local needs; and this easy affluence would inevitably lead many communities into extravagance and wasteful living. Excessive increases in local taxes have occurred in some of the counties in which, for one reason or another, considerable advances have been made in the aggregate assessment.[1] The average increase for the state in the taxes levied from 1907 to 1913 was 70.21 per cent; but six counties increased their total tax burden in this time by percentages ranging from 112.27 per cent to 390.41 per cent.[2]

The road to higher valuations was blocked by other obstacles, most of which had been built up during the period of administrative decentralization. Since 1878 the assessors of each county had been required to meet with the county auditor for the purpose of receiving instructions and the necessary blank forms. Originally designed to secure uniformity of assessments, these conferences became in time a school of instruction in non-uniformity as the chief business of the meetings came to be the assessors' agreements concerning the percentages to be used in assessing different classes of property.[3] Not only did these percentages vary widely for the several kinds of property in the same county; there was also great diversity in the schedules of percentages adopted among the counties. Moreover, these meetings frequently became the scene of agreements to pare down the

[1] In 1908 the school officials of certain school districts of St. Louis county, having inadvertently made a higher levy for school purposes than was necessary after the increase of the iron mine assessments, applied to the commission for an abatement of the excess. This spirit of abstinence was short-lived; for in 1913 the total taxes in St. Louis county showed an increase over 1907 of 129.6 per cent. Minnesota Tax Commission, *Report*, 1908, p. 139; 1914, p. 223. Cf. R. H. Little's articles on the extravagant outlays for school purposes in St. Louis county, *Chicago Herald*, May, 1915.

[2] The six counties were Mahnomen, 390.4 per cent; Koochiching, 182.3 per cent; St. Louis, 129.6 per cent; Roseau, 122.2 per cent; Itasca, 114.1 per cent; Red Lake, 112.3 per cent.

[3] Cf. Minnesota Tax Commission, *Report*, 1908, pp. 64–70, for lists of assessors' percentages; *ibid.*, 1910, pp. 442–449; *ibid.*, 1912, pp. 746–752. Cf. also the experience of Kansas, below, p. 425.

assessments by reporting less than the true number of various forms of property. It thus became customary to list five horses as four, three cows as two, and so on through the list. In this manner it was possible for the assessor to favor his friends and also to hold down the tax duplicate for his district.[1]

In this dilemma between the law and the facts two possible policies were open to the commission. One was that of securing a limitation of the rates or the amounts levied locally in such a manner as to provide only the normal increase of funds notwithstanding the growth in assessed valuations. This horn of the dilemma had been seized by the legislatures of Kansas and West Virginia.[2] The other alternative was to secure the establishment of the standard *de facto* as the standard *de jure*, thereby absolving tax officials and the legislature from past sins. Precedents have not been wanting for this course, as Iowa and Illinois had actually authorized such a reduction of the standard of valuation, while the Washington tax commission had been recommending it for reasons similar to those encountered in Minnesota. The latter of these alternatives was chosen since the commission believed that a change in the legal basis of assessment was more practicable than the amendment of the multitude of laws resting upon the existing basis of assessment. However much one may be inclined to question the ultimate wisdom of this choice of alternatives, events have made it tolerably clear that the commissions's action was expedient under the circumstances. The difficulty met in securing legislative agreement upon the relatively simple matter of the system of percentage assessment is suggestive of the turmoil that would have followed the effort to secure a satisfactory readjustment of so many local interests as were involved in the full value and limited levy proposition.

The reduction of the legal basis of assessment to 50 per cent of full value was recommended by the tax commission and in at least two legislative sessions bills to accomplish this purpose were introduced. In 1909 the legislature approved the principle but was unable to agree upon the percentage to be adopted, and at the

[1] Minnesota Tax Commission, *Report*, 1910, pp. 19, 20; *ibid.*, 1912, p. 102.

[2] Cf. ch. 10, above, and ch. 13, below.

end of the session the commission's bill found itself " in the legislative ash heap." From this obscurity it was rescued two years later, dusted and furbished, and again offered for consideration. Two years had only intensified the differences of opinion concerning the proper percentage, however, and a marked disposition emerged to tax different classes of property at varying proportions of full value, according to their productive capacity and according to the degree of absentee or of urban ownership. The house of representatives proposed to assess homesteads at 33⅓ per cent; all other real estate at 50 per cent; household furniture, wearing apparel, musical instruments and sewing machines at 25 per cent; and all other property at 50 per cent, of full value.[1] The lower house was here striving, though somewhat blindly, against the great paradox of the general property tax, the inequality of uniform taxation; but the senate refused to concur in the proposals for classification, and the bill was again lost. On at least two occasions, however, the legislature passed the following resolution:[2]

> Resolved, That the state tax commission be, and is hereby requested to take into consideration in any regulation it may make as to the valuation of property for taxation, the values which have heretofore been given such property, and that the commission so act as not to create any radical changes in the present assessed valuations, such as would derange the relations which have been created, and now exist, between the incomes and salaries paid by different institutions, municipalities, and public offices throughout the state; and thereby allow the present relative values to continue until the next session of the legislature.

This left the commission squarely planted " between the devil and the deep sea." The law, which it was sworn to maintain, required the assessment of all taxable property at full value; but the above resolution and a multitude of legislative acts virtually prohibited compliance with the statutory requirement. In reply to the host of inquiries from local officials and taxpayers as to the proper percentage of true valuation to be used, the commission could only point to the law requiring full value and to the resolution requesting no change, an eminently unsatisfactory situation.

[1] Minnesota Tax Commission, *Report*, 1912, pp. 106–109.

[2] *Ibid.*, 1910, pp. 123, 124; *ibid.*, 1912, pp. 107, 108.

The struggle for a change in the basis of assessment ended in 1913 with the adoption of a law requiring the assessment of all property not otherwise provided for at varying percentages of full value.[1] All property subject to the general property tax is to be assessed in four classes, as follows:

Class I. This class includes iron ore, mined and unmined; it is to be assessed at 50 per cent of full value. If unmined, the ore is to be assessed with the land, but the latter is to be listed as provided below.

Class II. This group includes household goods and furniture, together with all articles actually used for personal or domestic purposes. It is to be assessed at 25 per cent of full value.

Class III. Herein are grouped live stock, poultry, all agricultural products, stocks of merchandise with the furniture and fixtures used therewith, manufacturers' materials and products, tools, implements, and machinery, and all unplatted real estate. These forms of property are to be assessed at 33⅓ per cent of full value.

Class IV. This class includes all other property, which is to be assessed at 40 per cent of full value.

The law does not apply to mortgages, which have been subject to a registry tax since 1907, nor to moneys and credits, which were placed under a three-mill tax in 1911. As enacted, it represented a compromise of rather wide differences of opinion, and in its entirety it probably satisfied no one completely.[2] It did, however, offer the supreme merit of relief from the earlier embarrassing dilemma and as such it is to be hailed as a distinct advance. For the first time in its history the tax commission was able in 1914 to insist unflinchingly upon an assessment made in full conformity with the law.

The changes in the basis of assessment opened the way to such a result. They did not, however, insure automatically perfect equality of assessment, nor did they render unnecessary a careful and painstaking equalization of assessments. The possibility of

[1] *Laws of Minnesota*, 1913, ch. 483.

[2] Minnesota Tax Commission, *Report*, 1914, p. 23. Also, Bullock, "The State Income Tax and the Classified Property Tax," *Proceedings of the National Tax Conference*, 1916, pp. 362–384.

variations in the actual basis of local assessments remained. Recognizing this, the commission has made unusual efforts since 1913 to hold the local assessors to their duty and to check up their results with independent data of values. The methods used and the results obtained in the state equalization will be discussed here, and the new measures for supervision of the local officials will be taken up later in connection with the general topic of supervision.[1]

EQUALIZATION

Full power was given to the tax commission, when acting as a board of equalization, to make any changes in the valuation of real or personal property which, in its judgment, were necessary to perfect and equalize the basis for the equitable distribution of the tax burden throughout the state. It happened, however, that in 1907 and again in 1908 the county auditors' abstracts of assessments were not returned in time for consideration before the stated meeting of the ex officio board of equalization, and in consequence the entire work of equalization in those years was performed by this board, except for the assessment and equalization of the iron mines. The first equalization undertaken by the commission, that of 1909, did not include real estate which is assessed and equalized only in the even numbered years.

The principal device employed in the equalization of real estate has been the sales method, the technique of which has been so fully developed in Wisconsin.[2] Because of insufficient funds the Minnesota commission has not created a special statistical department to prepare these ratios. The field work of collecting the sales material is now done by special agents of the commission, who observe in general the same conditions as to the eligibility of the transactions as are laid down in Wisconsin.[3] The records of real estate transfers are always submitted to men in each county who are familiar with such transactions, and with their help a preliminary elimination is effected. The ratios themselves, calculated for platted and for unplatted lands in each county, have

[1] Below, pp. 414 ff. [2] Cf. above, ch. 8, pp. 244 ff.
[3] Minnesota Tax Commission, *Report*, 1916, p. 44.

been referred to the respective county auditors for comment and criticism.

The lack of expert statistical assistance is more keenly felt in the later process of refining the data, a process which Professor Adams has held to be of equal importance with the field work.[1] Further, the collection and analysis of the data have not been made a continuous process, as in Wisconsin, but have been undertaken biennially in preparation for the real estate equalization. This plan is open to the disadvantage that through unfamiliarity with such work the results may be somewhat less accurate than if certain members of the staff were continuously in touch with it. The attempt to inspect a very large mass of transactions in a comparatively short time favors haste and error in the field work; and the clerical organization, possibly reinforced by new members recruited especially for this service, would lack the skill in scrutinizing and analyzing the reported data which would come only through long familiarity with the material. On the other hand, the later sales ratios have been made more reliable by the inclusion of data covering a longer period of time. In 1908 the figures used covered the sales for twelve months, scattered through the preceding six years. In 1910 the commission instructed the county auditors to collect the data for the preceding two years, but since 1912 the sales for a quadrennial period have been compiled by using, in each case, the data collected for the two years preceding the last equalization. This extension of the sales period naturally causes the average to lag behind the present level of values, a result which was not unwelcome in making the first equalizations of the classified assessment. The commission has felt that public confidence in the new law would be promoted by a conservative equalization of the returns.[2] While the ratios have undoubtedly been improving in quality in recent years, for the reasons mentioned they are probably not as accurate as those prepared by the statistical department of the Wisconsin commission.

In addition to the guide to land values which the sales ratios would furnish, the Minnesota commission has made use of various

[1] T. S. Adams, *loc. cit.* [2] Minnesota Tax Commission, *Report*, 1916, p. 45.

other sources of information in equalizing real estate. The rapid changes in land values and the abnormal character of many of the sales in the newer sections of the state would naturally vitiate to a large extent any comparison of stated consideration and assessment. The commission has made use of its general knowledge of the situation in these sections as an important check upon the sales ratios. An equitable gradation of assessments, though not necessarily at full value, has been promoted by the use of a map showing the township boundaries, by means of which average values in adjoining townships have been smoothed out.[1]

The methods used in equalizing personal property before 1911 were admitted to be ineffective. Per capita tests were applied to certain of the classes of personalty; while for other classes, especially the intangibles, the cities were arranged in groups and the figures "smoothed out" among the cities of each group and among the groups. The only object attempted was to place the counties on a basis of approximate equality.[2] In 1912 the census figures were used, but mainly for the purpose of discovering the counties in which the practice of omitting property appeared to be most prevalent.[3]

The classification of property in 1913 opened the way for a strong positive stand on the question of assessing personal property according to law. The commission's letters of instruction to local officials on this subject reveal the strong and earnest intention of the state tax officials to secure a thorough, complete, and accurate assessment of this property. The equalization of such property is always extremely difficult and the tax commission may be pardoned the resort to somewhat more vague and general methods than those that have been developed for real estate. The Minnesota commission has made use of "every available test that would throw light upon the value of such property," but the only test specifically mentioned in 1914 was that of requesting the local public utilities, lumber companies, pulp and paper companies, and banks to furnish complete and detailed reports of all

[1] Minnesota Tax Commission, *Report*, 1916, p. 48.
[2] *Interview with the commission*, July, 1911.
[3] Minnesota Tax Commission, *Report*, 1912, pp. 33, 599, 600.

personal property owned by them in the state on May 1, 1914. The request was disregarded by several lumber companies and a number of the smaller utilities, an attitude which the commission properly construed as evidence of local underassessment in those cases.[1] It seems highly desirable that the local assessment of many forms of personal property should be inspected, "sampled" or otherwise checked up, but this has not been possible in Minnesota on account of lack of funds. Office tests alone seldom afford a satisfactory means of checking up adequately the returns of personalty.

The commission is gradually perfecting its method of dealing with personal property in equalization and in the report for 1916 occurs a more detailed discussion of this problem than in any previous report. A special investigation of the logs and lumber taxable to milling companies was made in 1915 and again in 1916, resulting in net gains for the two years of $984,000. Household goods, grain and grass seed in the hands of producers, and stocks of foreign corporations were stated to be defectively assessed.[2] Had the commission extended the sort of inquiry that was applied in the case of the logs and lumber, it is entirely possible that the list of defectively assessed items would have been materially increased.

With this review of the commission's methods of equalization, attention will now be turned to the results. It is not ordinarily expected that the state equalization should secure large increases over the local assessment, and there is no intention to criticize the results, in Minnesota or elsewhere, simply because large increases have not been made. The equalizing board's attitude toward the local basis of assessment is often reflected, however, in its own treatment of the local figures, and it is of course evident that the standards of the local officials will in turn be affected by this attitude. Water does not rise higher than its source. The first data to be examined will be the gross results of the equalization of real estate.

[1] Minnesota Tax Commission, *Report*, 1914, p. 41.
[2] *Ibid.*, 1916, pp. 60–66.

EQUALIZATION OF REAL ESTATE, 1908–16[1] (MILLIONS OF DOLLARS)

Year	Local assessors	County boards	Tax commission	Increase, co. b'ds over assessors	Increase, tax com. over assessors	Increase, tax com. over co. boards
1908[2]	882.1	903.9	898.5	21.8	16.5	−5.4
1910	955.4	975.0	1,062.4	19.6	107.0	87.4
1912	1,043.6	1,072.3	1,150.4	28.7	106.8	78.1
1914	1,208.2	1,265.1	1,274.2	56.9	66.0	9.1
1916	1,298.7	1,346.6	1,369.6	47.9	70.9	23.0
Inc. 1910 over 1908	73.3	71.0	113.8			
Inc. 1912 over 1910	88.1	97.3	137.9			
Inc. 1914 over 1912	164.6	192.8	123.8			
Inc. 1916 over 1914	90.5	81.5	95.4			

It is evident from the figures for 1908 that the former state board of equalization had not only completely ceased to be a factor in improving the basis of assessment, but that it was actually depressing that basis, as was charged by the special tax commission of 1901. The aggregate figures after the state equalization in 1908 were some $5,400,000 below the total as returned by the county boards, a total which was itself only $21,800,000, or 2.47 per cent, above the original assessment. The first ratios of assessed to true value compiled by the commission were used only incidentally in this equalization; but taking them as a basis, the state as a whole was assessed at 43.48 per cent of full value.[3] Thirteen counties were above the state average and seventy-two below it; and of the latter, thirty-one were assessed between 30 per cent and 33 per cent. But the variations among the counties were quite extensive, ranging from 24.2 per cent to 60.08 per cent of true value. It was apparent to the commission, from the compilation of results by assessment districts and by counties, that serious inequalities existed between rural and urban

[1] From the biennial reports of the commission. Since 1914 the figures include the ore-bearing lands, assessed at 33⅓ per cent of full value. Iron ore, mined and unmined, is not included. The valuation of the iron mines is discussed below, pp. 404 ff.

[2] The equalization of 1908 was performed by the former state board of equalization.

[3] Minnesota Tax Commission, *Report*, 1908, pp. 49, 51.

property, between lands and improvements thereon, between improved and wild lands, and between individual parcels of land. For these intracounty inequalities the work of the state board of equalization afforded no relief whatever.

In 1910 the assessors did little more than register natural increases in property and probably left untouched the basis of valuation. The county boards lost ground as compared with the assessors, while for reasons which have already been noted, the tax commission made a very conservative equalization of the local figures, adding the comparatively small sum of $87,400,000 for the entire state, or 8.9 per cent.[1] This time it was assumed that the great bulk of property had been assessed at about one-third of full value. Counties that were too far from this average were brought to it, though in general as few reductions as possible were made and there was no change at all if the county ratios were within 10 per cent of the state average. The figures for 1912 show a slight gain all along the line, though the commission confessed to much disappointment in the outcome. The preparations for a vigorous assessment had been extensive, and it appeared not unreasonable to expect, in view of the natural growth of property values, that the figures established in 1910 should be maintained. But the local returns in forty-seven out of eighty-six counties showed a decline from the assessment of 1910, although increases by county boards overcame these reductions in all but nineteen counties. The commission ordered increases in each county, the amounts ranging from 5 per cent to 60 per cent. On the other hand, its increases over the county boards fell off from the advance made in 1910 by approximately the same amount that those of the latter rose above the local figures of 1910, because of the keen anxiety not to advance the aggregate assessment unduly.

The results since 1914 are not strictly comparable with the figures for former years, because of the change in the basis of valuation through the introduction of the system of classification. Further, the method of construction of the sales ratios since 1914

[1] Cf. below, ch. 13, for the phenomenal increase made by the Kansas Tax Commission in its first equalization.

tended to yield more conservative estimates of full value,[1] a result of considerable practical advantage in avoiding the development of opposition to the new tax measure. Increases were ordered in forty-four counties, ranging from 5 per cent to 20 per cent in towns, and 5 per cent to 25 per cent in cities and villages. Decreases of 5 per cent to 20 per cent for towns and 10 per cent to 12½ per cent for cities and villages were ordered in eleven counties.[2] The net result of these changes was an increase over the figures of the county boards of $9,100,000, an amount which was justified apparently by the much more vigorous action of the latter and by the change in the basis of valuation. It has been suggested above that the percentage basis of assessment would not diminish the necessity of a careful and thorough equalization of the local returns. The commission's experience in 1916 appears to confirm this conclusion. Action for either increase or decrease of the local assessment of real estate was taken in all but nineteen counties, with a net increase of $23,000,000 over the figures of the county boards. The results of the state equalizations of 1914 and 1916 are not published in greater detail; but on both occasions the commission concluded that, as equalized, the assessment of the several classes of real property conformed as closely to the statutory percentages of full value as human judgment could make it.[3]

Such tests of the results as it is possible to make from the data at hand tend to confirm this conclusion. They indicate also that much progress has been made since 1910 toward more equitable assessments. The first test is that of a comparison of the average equalized values since 1910 with the census valuation of farm lands in 1910. This is shown in the table on the next page.

This comparison affords only a rough test. One-third of the census average valuation is taken as the basis, since lands have been assessed approximately on that percentage. In 1910 the commission evidently equalized on a somewhat lower basis, with larger numbers of counties in groups 1 and 4, and a much smaller

[1] Minnesota Tax Commission, *Report*, 1914, p. 37. This was done by taking the average for a quadrennial, instead of an annual, period.

[2] *Ibid.*, p. 59.

[3] *Ibid.*, p. 64; *ibid.*, 1916, p. 48.

COMPARISON OF AVERAGE ASSESSED VALUE OF FARM LANDS, 1910–14, WITH CENSUS AVERAGE VALUE, 1910. NUMBER OF COUNTIES IN EACH GROUP

Group	Average per acre	⅓ of census valuation, 1910	As equalized, 1910	As equalized, 1912	As equalized, 1914 ⅓ of full value
1	$3– 5.99	12	21	16	15
2	6– 8.99	16	14	16	11
3	9–11.99	15	16	10	8
4	12–14.99	19	24	16	10
5	15–17.99	17	5	20	8
6	18–20.99	4	2	4	15
7	21–23.99	1	0	1	10
8	24 and over	2	3	3	9
	Total counties	86	85[1]	86	86

number in group 5, than were warranted by the census figures. There were no counties equalized in group 7. In 1912 there was considerable progress toward the census gradation of values, an advance which may be regarded as indicating a more equitable assessment of farm lands. The general though uneven rise in land values renders a comparison of the figures for 1914 with the census figures of little significance. It is of interest, however, to note the pronounced shift into the three highest groups.

The assessment of 1910 was clearly not satisfactory. The evidence to this effect in the above table is borne out by the commission's own sales ratios for that year. The ratios showed that the southern counties were assessed on a much lower basis than the middle and northern counties. Seventeen out of thirty-one counties in the southern third of the state (the counties south of the Minnesota River) were assessed below 30 per cent of full value; while only twenty-two out of fifty-four counties north of this line were assessed below that level. The low counties were not equalized up to the state average, which accounts for the small number in group 5 of the table above. According to the census figures, fifteen of the southern counties should have been equalized in this group, $15.00–$17.99, but were actually equalized in lower groups. Five other southern counties were placed in lower groups than their census valuation warranted. On the other hand, certain northern counties which were assessed far above

[1] Pennington county omitted from commission's figures in 1910.

the state average were not reduced, though reductions were made in the case of southern counties. For instance, Redwood county, in the southwestern part of the state, was assessed at 46.48 per cent, and was equalized at 34.86 per cent. But no changes were made in the following northern counties, with higher ratios of assessed to true value: Cook, 47.45 per cent; Crow Wing, 47.19 per cent, and Mahnomen, 67.92 per cent. Lake county at 45.03 per cent, Becker county at 43.07 per cent, Cass county at 41.79 per cent, and Itasca county at 40.33 per cent, were also untouched by the commission, though Faribault county (southern) was reduced from 33.16 per cent to 31.71 per cent of full value and Blue Earth county was left at 29.80 per cent. There is little doubt that in 1910 the southern third of the state was assessed and equalized on a more lenient basis than the remainder of the state.

The ratios of assessed to true value since 1910 are not available but the average assessed values per acre have been published.[1] From these figures it may be seen that in 1912 the assessors and county boards of many southern counties did not make adequate increases over 1910. The commission dealt more vigorously with the results, however, and allowed the local figures to stand in only four of the thirty-one counties south of the river, while this was true of twenty-two counties north of that line. In 1914 the average values of the southern counties showed, in many instances, a considerable increase over 1912; indeed, so great were these increases that the commission was compelled to reduce the local figures in seven southern counties. The Red River valley was the scene of the principal increases in the north. Surveying the results since 1910 as a whole, it is clear that encouraging progress has been made in the direction of a smoother gradation of county average assessed values over the state.

It is impossible to test the distribution of tax burdens between rural and urban real estate, but the use of the sales ratios has doubtless furthered equality of this sort. It is of some interest to note, however, that the changes in the basis of assessment in

[1] Cf. the maps showing average assessed values per acre, Minnesota Tax Commission, *Report*, 1912, p. 43; *ibid.*, 1914, p. 63; *ibid.*, 1916, p. 54.

1913 resulted in shifting a portion of the state tax from rural to urban real estate, and from the larger to the smaller cities. The aggregate assessment of rural and urban realty since 1912 are here given:

ASSESSMENT OF LANDS, LOTS AND IMPROVEMENTS, 1912–16[1] (MILLIONS)

Year	Acreage	Farm lands improvements	Total	Lots	Lots improvements	Total
1912.....	$683.8	$67.8	$751.6	$196.6	$202.2	$398.8
1914.....	530.7	73.0	603.7	186.3	214.1	400.4
1916.....	575.1	82.5	657.6	198.9	233.4	432.3

The assessed value of rural real estate is seen to have declined from about 70 per cent of the total in 1912 to 60.1 per cent in 1914. This percentage was sustained in 1916. The effect of this decline is to shift a greater proportion of the tax burden to urban property. In the actual assessment rural property is further favored by the universal practice of neglecting structures in the rural districts. The farm is valued as a whole and only a nominal allowance, if any, is made for buildings and other farm improvements.[2]

It was quite evidently the intention of the legislature to favor the rural taxpayers in the classification law of 1913. As Professor Bullock has pointed out, the assessment of unplatted real estate at 33⅓ per cent, platted real estate at 40 per cent, and iron ore at 50 per cent of full value means that urban realty is taxed about 20 per cent more than rural for state and county purposes, while iron ore is taxed 50 per cent more than rural realty and 25 per cent more than urban real estate.[3] The rural element, dominant in the legislature, placed their own interests first, those of their city neighbors second, and those of the mine owners last and a long way behind.

The problem of correcting real estate assessments involves only one variable, the basis of assessment. The quantity of land is fixed, and there is small opportunity of scaling down the area to be listed, or for evasion. But in the assessment and equalization of

[1] From the biennial reports of the commission.

[2] Minnesota Tax Commission, *Report*, 1916, pp. 52, 53.

[3] Bullock, *loc. cit.*, pp. 370, 371.

personal property there are two variables — quantity and value. For this reason it is exceedingly difficult to correct a defective assessment by equalization. There is a much better prospect of securing equitable results through supervision of the original assessment, with the authority to order reassessments when necessary. The detailed changes in the personal property assessment will be considered, therefore, in connection with the discussion of the commission's supervisory powers. At this point it will suffice, perhaps, to recall that the methods used in equalizing personal property previous to 1914 had been quite superficial.[1] The equalization data which are published, by their very detail, prove this inadequacy. The commission ordered a definite per cent of increase or decrease, by items of property, for counties and even for tax districts,[2] but the very number of detailed percentage changes proves too much. The published reports contain no specific information as to the character of the data upon which a large proportion of these corrections of the local tax rolls have been made, and it seems highly probable that the equalization of most classes of personal property has always involved a liberal proportion of guesswork.

The proportion of the tax burden falling upon personal property has depended upon the severity of the equalization. This proportion of personal to total property as assessed and equalized is shown below:[3]

PERCENTAGE OF PERSONAL TO TOTAL PROPERTY

Year	As assessed by local assessors	As equalized	
		By county boards	By state tax commission
1908	17.3	20.9	21.6
1910	16.6	20.8	19.7
1912	16.5	19.6	18.8
1914	15.2	14.9	15.2
1916	15.0	14.7	14.9

The declining efficiency of the local assessment in reaching personal property is shown by the steady though gradual decrease in

[1] Cf. above, pp. 395, 396.

[2] The detailed percentage changes for each tax district and class of property are published in the biennial reports.

[3] From the biennial reports of the commission.

the proportion of personal to total property returns. In 1908 the tax commission took a somewhat more vigorous stand than the county boards, but in 1910 and again in 1912 the state equalization resulted in actually reducing the proportions established for personal property in the county equalization. This result was really due to the commission's superior methods of equalizing real estate and not to an actual reduction of the county totals. The equalized percentages for 1914 and 1916 indicate that the county and state officials were impressed with the necessity of recognizing, in the equalization, the concession which the law of 1913 made to personal property. The local assessors, on the other hand, displayed the inertia so characteristic of such officials. With many classes of personal property admittedly underassessed, it would hardly arouse the assessors to greater efforts to learn that the equalized totals in 1916 shaded below the proportion which they gave to personal property in the original assessment.

Assessment and Equalization of the Iron Mining Properties

While the Minnesota tax commission was, until 1914, the victim of circumstance in equalizing property assessed under general laws and was consequently forced to temporize, and finally to secure a fractional basis of assessment, it was able to rise above circumstances in the assessment and equalization of the ore properties; and its treatment of this difficult problem has been marked by vigorous methods and encouraging results. In the case of other property, virtually nothing was done to raise the basis of assessment; and, indeed, many serious obstacles were encountered in the way of any advance. But the assessments of mining property have been enormously increased, notwithstanding the fact that every argument urged against higher valuations for the remainder of the state applied as well in the ore-producing counties. The mine assessments were increased, notwithstanding debt limits, tax levies, and local salaries based on the old level of assessments. The real reason for this difference in treatment is to be found in the state of public opinion. This all-powerful force

would not tolerate higher valuation of general property, and the commission stood still; it demanded higher assessment of the ore property, largely foreign-held, and the commission acted with vigor and effectiveness despite the perils of extravagance to which its action exposed the ore counties. The consistency with which this tax policy toward the iron mines has been maintained is shown by the treatment of this property in the classification law of 1913. The iron ore properties are now legally subject to higher taxation than anything else in the state. This is another illustration of the unfortunate principle upon which the Minnesota law of 1913 is based — classification according to ownership rather than according to the taxable capacity of the property.[1] It is hard to see how a law written in such a spirit can do other than foster the spirit of discrimination in taxation.

It is not to be inferred that the problem of equitable assessment of the ore properties was not approached by the commission in all earnestness and sincerity. There is little doubt that the situation demanded serious attention, for the mining properties were unquestionably assessed on a lower basis than the remainder of the state. The advance of these assessments to the state average subjected the ore counties, therefore, to all of the perils against which the remainder of the state was carefully shielded; and yet, such was the state of public opinion that the incongruity of the general attitude on the question of full valuation was not perceived, indeed not suspected.

The results of local valuation of the ore properties very well illustrate the chaos into which local assessors so often fall when attempting to deal with a problem far beyind their grasp or capacity. The commission described the situation as follows:[2]

> The attempts of assessors to value iron ore properties were accompanied by complaints of inequalities among iron mine owners that finally created a sort of *de facto* board of equalization, which determined the value of the different operating mines according to output. . . . Every two years the mining representatives met at Duluth and distributed the real property assessment over the operating mines, according to their output. The small mines were the losers and the larger and more valuable mines the gainers by this method of valuation. . . . Prior to 1907 the tonnage tax, and after

[1] Cf. Bullock, *loc. cit.*, pp. 370, 371.

[2] Minnesota Tax Commission, *Report*, 1908, p. 114.

that date the valuations, continually shifted with the growth of the properties, and the distribution to mines according to output prevented the establishment of any principle of local assessment.

Self-assessment has not been an uncommon thing in the history of corporate taxation, but it is rather unusual — though hardly surprising under the circumstances — to see the property owners so completely superseding the assessors.

The commission's attention was directed to the problem of mine taxation in 1907 by various resolutions passed by the legislature, demanding an investigation.[1] The attorney-general ruled that the commission had the power, under the sections relating to equalization, to revalue real estate in the odd-numbered years and it proceeded at once to deal with the mine assessments. By means of numerous conferences with mine owners and mining experts and a questionnaire, the form of which had been prepared after a preliminary study of the situation, the commission arrived at a classification of ore properties and formulated the rates to be applied to each class. The state inspector of mines and other mining experts gave assistance in the earlier investigations, and the first tonnage estimates were compiled from the blue prints of explorations made by owners and prospectors.[2] Since 1909 the State School of Mines has provided expert assistance in estimating tonnage. Thorough exploration has been conducted by drilling and test-pitting and the very complete records which have been made of these surveys show grades, tonnage, and classification of the ore.[3] The development of the industry requires a continual readjustment of the tonnage estimates as new ore bodies are discovered and as known reserves are brought to the stage of producing mines.[4]

The properties have been grouped as active mines and reserves and each group is subdivided into classes according to the geolog-

[1] Minnesota Tax Commission, *Report*, 1908, pp. 110, 111.

[2] The *Report* for 1908, ch 8, contains a detailed description of the procedure. In 4 months the commission had data on 262 properties, with known tonnage of 1,192,509,757.

[3] Minnesota Tax Commission, *Report*, 1910, p. 89; *ibid.*, 1912, pp. 58–100.

[4] *Ibid.*, 1914, p. 106. Much time was spent in 1914 in estimating the quantity and quality of ore in a new range.

ical conditions, the difficulty of mining, and the character of the ore. The data compiled by the experts from the State School of Mines form the basis for arranging the tonnage by groups and classes, and the principal problem before the tax commission is that of establishing the proper rates, or values per ton, for each class. These values have been determined by several factors:[1]

1. The difference between the cost of mining and the average price of ore during the last three years.
2. By the present worth of the difference for a period of twenty years on a basis of four per cent rate of interest.
3. By the percentage of the assessed valuation of real property in the state to the full value of such property.

In further explanation of the rates the commission said:[2]

The fact that the differences in mining cost vary greatly with the different properties, due to management, condition of the mine, presence of water, depth of ore, character of equipment, grades and location of ores, required the creating of more than one class of mining properties. . . . The rates established for them (*i. e.*, the several classes) were determined as far as possible by the differences between mines in cost of operation, difficulty of mining, and grade of ore.

The results for the period 1906–16 are presented in the table below:

COMPARATIVE SUMMARY OF TONNAGE AND VALUATION, 1906–16[3]
(000,000 OMITTED)

Year	Total tonnage (tons)	Valuation of tonnage assessed	Valuation of other lands in iron zone	Total assessed valuation
1906.....	....	....	..	$64.5
1907.....	1,191.9	$186.1	$5.6	191.7
1908.....	1,193.2	174.3	5.9	180.2
1909.....	1,310.2	199.0	5.5	204.5
1910.....	1,347.6	220.4	4.2	224.7
1911.....	1,367.5	231.6	4.2	235.8
1912.....	1,401.3	254.0	5.4	239.4
1913.....	1,406.5	255.1	..	255.1
1914.....	1,468.6	269.6	..	269.6
1916.....	1,475.6	277.3	2.5	279.8

[1] Minnesota Tax Commission, *Report*, 1908, p. 121.

[2] *Ibid.*

[3] Compiled from the biennial reports. The valuation in 1913 and 1914 did not include the other ore lands in the iron producing region. Figures for 1915 were not published.

The valuation of the tonnage is the assessed valuation. Previous to 1913 this valuation was made on the basis of the average assessment throughout the state. Since 1913 the figures above have represented 50 per cent of the true value as determined by the commission. The self-imposed assessment of 1906 was quite evidently a purely nominal amount upon which the mine owners agreed to pay taxes. The steady increase in the valuation has been due to the growth of the tonnage estimates and to advances in the market rates applied. The latter were raised 5 per cent in 1910, 1912, and 1914, respectively, the last increase being considered necessary in order to bring the ore assessments to the legal basis of 50 per cent of full value.[1]

The Administration of Corporation Taxes

Gross Earnings Taxes. — The introduction of the gross earnings method of corporate taxation dates to 1873, when this system was first applied to the railroads.[2] By 1907 it had been extended to telephone, freight line, express and insurance companies; and sleeping car companies had been given an option between the gross earnings tax and an ad valorem assessment by the tax commission. The latter has strongly favored further extension of this form of taxation, and would gladly see it applied to all of the public service corporations. Indeed, so great has been the commission's preference for the gross earnings principle that it has suggested the use of this method for mercantile, and even for some classes of manufacturing corporations.[3] The only changes that have been made since 1907, however, have been the removal of the option allowed to sleeping car companies, and the taxation of trust companies not doing a banking business on their gross earnings. On the other hand, telegraph, street railway, electric light and power, and gas companies are still assessed locally under the ad valorem method.

The commission's duties in connection with the gross earnings taxes were of little importance previous to 1913. Railroad com-

[1] Cf. Minnesota Tax Commission, *Report*, 1914, p. 82.
[2] *Special Laws of Minnesota*, 1873, ch. 111.
[3] Minnesota Tax Commission, *Report*, 1908, p. 96.

panies made their return of gross earnings to the railroad and warehouse commission; freight line companies to the auditor; and telephone companies to the treasurer. This diversified practice was ended in 1913 by a law which placed the tax commission in general charge of all gross earnings taxes.[1] Subject to the commission's approval the public examiner is now required to prescribe all forms for the return of gross earnings and a uniform system of accounting for the determination of such gross earnings. The tax commission receives and files all reports, verifies them, calculates the taxes due, and certifies the amount to the state auditor. This official writes his drafts for the amounts due and places them with the treasurer for collection.

The most interesting question in connection with corporate taxation in Minnesota is the operation of the gross earnings tax, the extension of which the commission has steadily recommended. In its report for 1911–12 it took up the cudgels in vigorous defense of this method of taxing railroads, with especial emphasis upon the defects of the ad valorem system as applied by the Wisconsin commission.[2] Particular stress was laid upon the weak point of ad valorem taxation, the private office valuation; and the telling point was made that after all, the Wisconsin commission, by its own admissions, had been compelled to rely almost entirely upon railroad figures, a practice which had been cited as a leading objection to the gross earnings tax.[3] Further, the Wisconsin commission had been capitalizing net earnings, a practice which was declared to afford "the least certain basis for state taxation, being practically impossible of ascertainment for individual roads within state boundaries and therefore offering the greatest opportunity for manipulation, fraud and injustice."[4]

The reply of the Wisconsin commission to these criticisms has already been noted.[5] There is no denial of the essential issue,

[1] *Laws of Minnesota*, 1913, ch. 487.

[2] Minnesota Tax Commission, *Report*, 1912, ch. 14. This chapter was written by Professor E. V. Robinson of the University of Minnesota.

[3] Cf. Snider, *op. cit.*, p. 28.

[4] Minnesota Tax Commission, *Report*, 1912, p. 209.

[5] Cf. above, pp. 255, 256, 284, 285.

though the Minnesota commission quite evidently overemphasized certain statements of the former without due regard to all of the qualifying statements and circumstances. The valuation is no longer "private" in the arbitrary or star-chamber sense, for the railroads are quite fully informed now as to its details; and the capitalized net earnings form only one of many factors in the ultimate valuation.[1]

Furthermore, notwithstanding this severe castigation of the ad valorem system, the Minnesota commission has more than once made use of this method in order to test the justice of the rates levied upon gross earnings. In 1908 the taxes that would have been paid on an ad valorem basis were compared with the taxes actually paid at 4 per cent on gross earnings. The basis for the ad valorem valuation was first, figures supplied by the railroads themselves, and second, an elaborate independent investigation into reproduction and present values conducted by the railroad and warehouse commission.[2] The gross earnings tax yielded, in 1907, approximately $1,181,000 less than might have been expected from the ad valorem valuation at the average rate of taxation. A similar calculation was made in 1912, and again it was found that the 4 per cent rate on gross earnings was yielding considerably less than the estimated return on the minimum valuation established by the commission. The conclusion of the whole matter was that inasmuch as these tests indicated that the railroads were being unduly favored by the 4 per cent rate, that rate should be advanced to 5 per cent.[3] This recommendation was accepted by the legislature and ratified by the people in 1912, the constitution having required since 1871 that any change in the rate of taxation on gross earnings should be approved by a majority of those voting at a regular election.[4] In view of this use

[1] Cf. T. S. Adams, "The Valuation of Railway Property for Purposes of Taxation," *Jour. of Pol. Econ.*, xxiii, p. 1. January, 1915. On pp. 10–12 of this article Professor Adams states the reasons which led to his conversion to the ad valorem system of corporate taxation.

[2] Cf. Minnesota Tax Commission, *Report*, 1908, p. 91; also, Railroad and Warehouse Commission, *Report*, 1908, pp. 19–47; also, *Report of D. C. Morgan, Engineer, on the Minnesota Railroad Appraisal of 1907.*

[3] Minnesota Tax Commission, *Report*, 1912, pp. 4, 235, 244.

[4] *Constitution of Minnesota*, Art. IV, § 31.

of the "private office valuation," based in considerable degree upon railroad figures, for the purpose of testing the equity of the railroad tax burden under the gross earnings system, the commission's criticisms of the ad valorem method in another state were hardly consistent.[1]

The constitutional requirement of popular approval for changes in the rate on gross earnings is doubtless a protection against hasty and unwarranted action; but it renders very difficult any modification of the rate for the purpose of keeping railroad taxes equalized to approximately the same burden as that imposed upon other property. For example, in 1901, the legislature submitted an amendment to change the rate from 3 per cent to 4 per cent. The amendment was defeated in 1901, but was finally accepted in 1904.[2] The commission began in 1907 the agitation for a further increase of the rate. Two bills for this purpose failed of consideration by the legislature in 1909; and the legislature of 1911 refused to grant the proposed increase to 5 per cent though this rate was finally accepted in the special session of 1912.[3] Thus, after five years of effort, and three campaigns before the state legislature, the commission succeeded in obtaining a change in the rate levied on gross earnings.

It seems clear that such difficulty as has been twice experienced in changing the Minnesota tax rate opens the system, as applied in that state, to the serious charge of inflexibility and inelasticity, a defect which can only be corrected by a constitutional amendment. A comparison of the railroad tax with the state direct tax on general property throws light upon the question of the fiscal adequacy of the gross earnings tax, and sustains, in a measure, the suggestion of rigidity.

In the first place, the railroad taxes have been much more variable than the direct tax on property. The dependence of the former upon the gross earnings of railroads naturally introduces

[1] In its recommendation of 1914 for the extension of the gross earnings principle the commission advised that the tax rates adopted be such as would yield as much, or more, revenue than at present obtained under ad valorem taxes. Minnesota Tax Commission, *Report*, 1914, p. 5.

[2] Minnesota Tax Commission, *Report*, 1908, p. 85.

[3] *Ibid.*, 1908, p. 221; *ibid.*, 1910, p. 9; *ibid.*, 1912, p. 4.

GROSS EARNINGS TAX ON RAILROADS AND DIRECT STATE TAX ON PROPERTY,[1] 1907–16 (000 OMITTED)

Year	Railroads	General property	Year	Railroads	General property
1907.....	$3,270	$2,508	1912.....	$3,728	$4,194
1908.....	3,425	3,335	1913.....	4,325	4,640
1909.....	2,972	3,523	1914.....	5,775	6,143
1910.....	4,458	3,252	1915.....	5,004	6,965
1911.....	4,458	3,253	1916.....	5,436	6,311

the possibility of considerable fluctuation on account of local or nation-wide business conditions. Since these fluctuations in the tax yield are to a large extent unpredictable and altogether uncontrollable without a change in the rate, they impair greatly the usefulness of the gross earnings tax as a dependable source of state revenue. Further, these figures show that the railroads are favored in taxation in a way that property taxed under general laws is not favored. The fluctuations in the taxes paid by the railroads register the variations in the volume of gross earnings, and thus the wind is tempered to the shorn lamb; but no beneficent providence watches over those who contribute to state expenses under the general property tax. Rather, the deficiencies of the gross earnings tax must be covered by increased receipts from general property. The commission's remedy for this situation is to reduce public expenditures in times of business depression. But this is certainly giving stones for bread, for its own investigations into the cost of government in Minnesota have revealed a tendency for public expenditures to increase much faster than the increase of population.[2] So rapid has been this increase of public expenses that the 5 per cent rate on gross earnings did not prevent a very heavy increase of the direct state tax in 1914 and 1915.

Finally, the gross earnings tax is open to the serious objection of regression when applied to corporations with widely varying operating ratios. Railroad operating ratios are notably divergent, as the data published by the Interstate Commerce Com-

[1] Compiled from the biennial reports of the Tax Commission.

[2] Minnesota Tax Commission, *Report*, 1914, ch. 8, "The Cost of Government in Minnesota."

mission clearly show.[1] In Wisconsin, according to Professor Adams, normal operating expenses range from 30 per cent to more than 75 per cent of gross earnings. A flat gross earnings tax means therefore a heavier real rate of taxation as the proportion of expenses to earnings increases, that is, as the real ability to pay decreases. The ad valorem system does appear to offer a better opportunity than does the gross earnings system for the distribution of the tax burden among the corporations in accordance with their tax-paying ability.

Other Corporation and Business Taxes. — Little headway has been made in developing central control over the taxation of corporations by other means than the gross earnings system. To the present the only corporations assessed directly by the tax commission are the telegraph companies. The property of each company is valued as a unit and is taxed at the average state rate for state purposes.[2]

The owners of steam and other vessels hailing from ports in the state, whether corporations or not, are required to report to the state auditor the registered tonnage of their vessels. The tax of three cents per net ton capacity is divided equally between the state treasury and the port of hail of such craft.[3]

The Minnesota tax law has long contained a provision for the taxation of the franchises of ordinary business corporations.[4] The taxable valuation is to be determined by deducting the aggregate value of the real and personal property from the actual value of the capital stock. Administration of this provision is left entirely to the local assessors and the returns are, of course, purely nominal. The attempt was made in 1913 to vitalize this section by including indebtedness with the capital stock in determining aggregate capitalization. The bill failed to pass, although it had the support of the tax commission.[5] It is doubtful whether in this form it would have accomplished any material improvement.

[1] Cf. the data in the Interstate Commerce Commission's annual *Statistics of the Railways of the United States.*

[2] Minnesota Tax Commission, *Report*, 1914, p. 13.

[3] *Tax Laws of Minnesota*, ed. of 1908, § 299.

[4] *Ibid.*, § 46.

[5] Minnesota Tax Commission, *Report*, 1914, pp. 5, 6.

Whether the commission has endeavored to secure better local administration of the assessment of "corporate excess" is not known; but there is no reason to believe that any material improvement in the situation would come from the inclusion of the bonded debt. This inclusion should, of course, be made; but without central administration the whole law would undoubtedly remain largely ineffective.

Supervision of the Local Officials

The Minnesota law of 1907 went farther than many of those which had been passed prior to that time in other states in the scope of supervisory powers which it bestowed upon the tax commission. From the point of view of performance these powers and duties may be arranged in two groups: first, those the performance of which was obligatory upon the commission, and second, those the exercise of which was discretionary with it. The former included principally the routine duties, such as visits to the counties, the issue of instructions and blank forms, control over local officials in such matters as reporting desired information, and investigation of complaints. The latter included the more important powers of ordering reassessments and instituting removal proceedings against the delinquent assessors.

Until the basis of valuation was changed in 1913 the commission performed its routine obligations, but made comparatively little use of its more valuable discretionary powers. That is to say, the proper blanks and forms were prepared, the biennial tour of the counties was made, and circular letters of instructions were issued to local officials.[1] These letters took the place of the pamphlets of instructions which have usually been issued by tax commissions. As would be natural in a briefer communication, the emphasis in these letters was upon the appeal to duty rather than upon the instructions for the performance of that duty, although under the circumstances but little could have been expected of either. The necessity of obeying the popular demand for valuation at the customary level was not to be overcome by any mere

[1] Cf. Copies of these letters in *Report*, 1910, pp. 28–30; *ibid.*, 1912, pp. 22–24; *ibid.*, 1914, pp. 26–35.

exordium and the commission naturally laid little emphasis, in these circular epistles, upon its authority to institute reassessment and removal proceedings. Without such punitive measures it would have been practically impossible to galvanize the assessors into activity. In view of the unfriendly attitude of the whole state toward any change in the basis of valuation, the use of authority to accomplish this end would have been bad judgment on the part of the commission. No such embarrassment need have accompanied the use of these powers in securing a more complete listing of property, an improvement which would have afforded much relief against discriminatory assessments. Greater emphasis was laid upon this point in the letters of 1912 than ever before, but even these circulars failed to convey a sufficient reminder of the ultimate recourse of reassessment or removal proceedings open to the commission in the event of local neglect or disobedience.

The commission has seldom ordered a reassessment on its own motion except in the matter of the assessment of moneys and credits under the law of 1911. In all appeals for a reassessment of property other than moneys and credits it has acted conservatively, and has issued an order only upon proof of substantial injustice to a part of the taxpayers, which could not be corrected by equalization. In 1909 two reassessments of personal property were ordered, and in each case the commission presented the facts to the governor with a request for the removal of the guilty assessors, both of whom resigned before the dates set for the hearings.[1] No other instances of removal proceedings have occurred. Four reassessment orders were issued in 1910. One of these was for the correction of an assessor's error; another was for the assessment of an unorganized township; and in the third and fourth cases the original assessments were explicable on the ground of an honest difference in judgment.[2] During the years 1911 and 1912 reassessments were ordered, in every case upon request, of personal property in three districts and of real property in five districts. No conditions worthy of comment were disclosed and, as all of these cases involved towns or smaller cities,

[1] Minnesota Tax Commission, *Report*, 1910, pp. 22, 23.
[2] *Ibid.*, pp. 21, 22.

the volume of property affected was insignificant.[1] Somewhat greater activity has been displayed in recent years but it is doubtful if sufficient initiative has been shown to realize the full potential deterrent effects of the authority to order reassessments.

The reasons for this comparative inaction in the earlier years of its work have already been noted. Previous to the change in the basis of assessment the commission feared the disastrous consequences of a general increase in valuations. But it is just possible that these consequences were taken too seriously; they were apparently not considered at all in the case of the iron producing counties. The depreciated basis of assessment was probably the wiser choice in view of all the circumstances; it was certainly the most expedient. But to the outsider it seems that the time and energy spent in securing the law of 1913 might have sufficed to educate the people and the legislature to almost any other reasonable program of tax reform. On general grounds assessment at full value is preferable to any scheme involving a depreciated basis.[2]

The situation which the commission faced may be seen from the details of the personal property assessment given in the table below.

During the first three years, in which the figures are strictly comparable, practically the whole of such increase as was made occurred in the classes of tangible property, while the amount of money assessed stood stationary and the volume of credits assessed actually declined. The proportion of intangibles to total personal property fell from 26.6 per cent in 1908 to 25 per cent in 1910. The experience of other states shows that, while the uniform rule endured, satisfactory assessments of moneys and credits could not have been obtained by the most rigorous supervision. The withdrawal of these classes from general assessment in 1911 and the application of a three-mill rate was a significant advance.[3]

[1] Minnesota Tax Commission, *Report*, 1912, p. 9.

[2] Cf. the discussion in Wisconsin Tax Commission, *Report*, 1914, pp. 26–30. Also Bullock, *loc. cit.*

[3] *Laws of Minnesota*, 1911, ch. 285.

PERSONAL PROPERTY TAXED AT UNIFORM RATES, 1908–14[1]
(MILLIONS OF DOLLARS)

Class	1908	1909	1910	1911	1912	1913	1914
I. Tangibles							
1. Farm animals	37.8	38.4	40.5	40.2	42.0	48.9	58.0
2. Vehicles (wagons, carriages, autos, and street railway cars)	8.3	8.9	10.1	11.8	13.7	15.4	14.4
3. Household and personal	26.8	28.6	28.8	31.6	32.7	33.8	23.5
4. Agricultural and manufactur'g tools	12.3	14.5	15.0	15.7	16.6	18.3	20.7
5. Merchants' stocks	32.6	36.0	36.8	38.2	39.2	39.3	36.2
6. Manufacturers' stocks	13.8	15.5	14.5	15.7	15.9	17.7	7.3
Total tangibles	132.2	142.4	146.1	153.2	160.2	163.4	160.2
II. Intangibles							
1. Moneys	5.6	6.1	5.6				
2. Credits	9.9	8.6	8.7				
3. Bank stock	20.3	20.3	22.8	24.7	26.2	28.5	24.5
4. Bonds and stocks other than bank stock	15.3	15.2	15.5	15.4	16.6	18.3	10.4
Total intangibles	51.1	50.2	52.6	40.4	42.9	46.8	34.9
III. All Other Personalty	9.4	10.6	11.1	12.4	11.9	14.0	33.8
Grand total	193.0	203.2	209.8	206.0	215.1	234.2	228.9

Bank stock, the returns of which rose slowly but steadily to 1913, has probably been assessed more evenly than any other class of personal property. This result has been achieved by legislation which rendered evasion well-nigh impossible. Bank officials were required to furnish a list of shareholders, setting forth the residence of each and the number of shares owned. The tax was made a lien for the satisfaction of which the bank might be required to make deduction from dividends paid. The stock has been valued at the difference between the aggregate of capital, surplus and undivided profits and the real estate locally taxed.[2] Under the new law 40 per cent of the value as thus determined is taken as the assessed value. No such inquisitorial methods were used in listing other classes of intangible property under the general property tax and the attempt to introduce them would probably have been exceedingly repugnant to public sentiment.

[1] Compiled from data in the biennial reports.

[2] *Laws of Minnesota*, 1905, ch. 60.

The item "Bonds and Stocks other than Bank Stocks" includes three classes of securities, none of which has been adequately assessed in the past. These are: 1. The stocks of foreign corporations. In 1914 the total return of this class of property was $1,518,893, a sum which the commission admitted to be only a small part of the total of foreign stocks held in the state. The element of double taxation was assigned as the motive for the low return, and the commission recommended that these stocks be listed with moneys and credits.[1] A bill for this purpose failed of passage in 1915.[2] 2. Corporate excess. The return of corporate excess is conceded to be very inadequate, but the responsibility therefor was thrown back upon the law, which requires calculation of the taxable excess by deduction of the real and personal property taxed locally, from the market value of the stock. It is undoubtedly proper, as the commission recommends, to include bonds with stocks in reckoning the total capital investment in a corporate enterprise.[3] But the failure to include the bonds is not the only reason for the inadequate taxation of corporate excess in Minnesota. The bonds of manufacturing and mercantile companies are usually far less important than the capital stock, and are not generally included in computing corporate excess in other states. The real reason for the present condition is the method of administration. The local assessors list both the tangible property and the corporate excess, and the tax commission has apparently made no serious effort to test or correct their results. The assessment of corporate excess is properly a central function; and if locally performed, it is doomed to failure without strong central supervision. The disclosure was made in 1914 that in former years assessors had been listing as "stocks and bonds" much of the tangible property of the local public utilities, such as wire, poles, rails, and other equipment.[4] 3. Stocks and bonds held by individuals. The principal part of the $10,400,000 returned in 1914 was given in by individuals, although, as in the case of corporate excess, no serious attempt has been made to correct the local returns, or to improve them *de novo*.

[1] Minnesota Tax Commission, 1914, *Report*, p. 55.
[2] *Ibid.*, 1916, pp. 2, 3. [3] *Ibid.*, 1914, p. 5. [4] *Ibid.*, p. 55.

The table above supplies ample explanation and justification for the taxation of intangibles at special rates. The principle of classification had been made possible by a constitutional amendment adopted in 1906 [1] and its first application was the mortgage registry tax of 1907.[2] This law was modelled after the New York law of 1906, with the essential difference that in New York the board of tax commissioners is charged with certain supervisory duties while in Minnesota the administration of the law is entirely outside the jurisdiction of the tax commission. The total registry taxes paid on mortgages from April 30,1907, to July 31, 1916, was $3,763,563.

In 1911 the principle of classification was further applied by the segregation of moneys and credits other than those reached by the registry tax, for taxation at a three mill rate.[3] The demoralizing influence of the general property tax can hardly be better illustrated than by a comparison of the results before and after the imposition of the three mill tax:

ASSESSMENT OF MONEYS AND CREDITS, 1910–16[4]

Year	Persons assessed	Total assessment	Total taxes
1910	6,200	$13,919,806	$379,754
1911	41,439	115,481,807	347,028
1912	50,564	135,369,314	406,107
1913	57,068	156,969,892	470,909
1914	73,266	196,548,307	589,644
1915	73,491	212,696,831	636,404
1916	74,219	234,186,268	702,588

These figures hardly need comment. They furnish deadly ammunition for whoever would assault taxation of all property by a uniform rule. And yet, Minnesota's experience raises the question whether any system of taxing intangibles, locally administered, will prove ultimately satisfactory. The commission pronounced the returns of both 1912 and 1913 very disappointing, and even

[1] *Constitution of Minnesota*, Art IX, § 1.

[2] *Laws of Minnesota*, 1907, ch. 328. The rate was 50 cents per $100 until 1913, when it was changed to 15 cents per $100 on mortgages due in five years or less, and 25 cents per $100 on those with a maturity longer than five years. *Ibid.*, 1913, ch. 163.

[3] *Ibid.*, 1911, ch. 285.

[4] Minnesota Tax Commission, *Report*, 1916, p. 68.

after a considerable increase in 1914 it declared that not above one-third of the total moneys and credits owned in the state was listed.[1]

In marked contrast to the treatment of general property returns, the commission has made drastic use of its power to order reassessments of moneys and credits, although of necessity the principal emphasis has fallen upon those years in which the staff was not engaged with the equalization of real estate. The results of the several reassessments are shown in the following table:

REASSESSMENTS OF MONEYS AND CREDITS, 1911–16[2]

Year	Number of tax districts reassessed	Original number of returns	Number of returns in the reassessment	Increase of moneys and credits by reassessment
1911.....	297	1,831	8,630	$9,619,653
1912.....	7	72	134	217,006
1913.....	239	2,362	6,718	5,183,310
1914.....	8	325	483	251,598
1915.....	..	...	...	...
1916.....	..	1,294	3,281	1,851,417

It is evident that the commission has been compelled to neglect the problem of intangible assessments in the years when real estate must be equalized. This has meant a real loss of time and effort, for the comparative inaction in the even-numbered years has without doubt contributed to the weaker local assessment in the alternate years. For this loss the lack of a properly equipped and officered statistical bureau is responsible, and the legislature should make provision for such a bureau without further delay.

The three mill tax on moneys and credits has now (1916) been in operation through six assessments, and while notable progress has been made the results are still far from satisfactory. The greater efficiency of the central over the local assessment suggests that the situation would be generally improved by a greater degree of central control over the original assessment, such as would be obtained by central selection, or at least power of removing the assessors. The special commission of 1901 favored the first arrangement for all assessors, but there has been no

[1] Minnesota Tax Commission, *Report*, 1916, p. 74.

[2] From the reports of the Commission. Figures for 1915 not published.

sentiment in favor of this plan in the state in recent years. Three successive legislatures — in 1909, 1911, and 1913 — have refused to provide a county assessor locally chosen. This change would bring a vast improvement in the original local assessments of all property and would greatly facilitate a proper equalization. The commission renewed its recommendation for a county assessor in 1914 and 1916.[1]

Returning to the discussion of moneys and credits, the commission admitted in 1916 that there was still much room for improvement. The blame for the present unsatisfactory operation of the law is laid upon the local assessors, who are said to be accepting the taxpayers' statements without question instead of requiring a list of the taxable property as provided by law and the instructions of the tax commission.[2] This appears to be a virtual admission that the machinery of central supervision as at present established in Minnesota is inadequate to the task of securing proper returns from this class of property. The dragnet of reassessment always yields a sufficient catch to justify the effort, but it is significant that this phase of supervisory activity appears to be on the decline. Two years went by with almost no use of it and the operations in 1916 were on a much smaller scale than in former years, notwithstanding the commission's feeling that the assessment had been very inadequate.

Criticism of the commission's failure to use more vigorously its drastic powers of supervision must, of course, take account of the state of public opinion, that mighty formative force behind all law. Wholesale reassessments of moneys and credits are tolerated, because the tax is not unjust. Wholesale reassessments of other forms of property, still subjected to much higher rates, would possibly arouse popular opposition to central supervision. It is possible, too, that extended use of removal proceedings would have a similar effect. The commission has applied itself, with tact, industry, and patience, to the pioneer task of enlightenment, and its success, on the whole, has been distinctly encouraging. A singularly interesting and effective means of disseminating knowl-

[1] Minnesota Tax Commission, *Report*, 1914, pp. 2, 232; *ibid.*, 1916, p. 2.
[2] *Ibid.*, p. 69.

edge of the practical operation of the tax system was employed during 1911 and 1912. With the coöperation of some one hundred and fifty newspapers in the state there was published a series of articles, prepared by the commission, outlining the tax law and describing its administration and results.[1] These articles form a valuable supplement to the admirable discussion of the state's tax problems which has been published in each of the five biennial reports thus far issued (1916). The most elaborate of these reports, for 1911–12, may be briefly reviewed as illustrative of the careful and thorough accounting of their stewardship which the commission renders to the people.

This report contains sixteen chapters and an appendix, the latter consisting of the detailed equalization tables, the assessment of personal property by classes, and other pertinent statistical data. After a brief summary, in the first chapter, of the recommendations which are more fully treated in succeeding chapters, the work for the biennial period is reviewed. Separate chapters are devoted to abatements and reassessments, equalization, the taxation of moneys and credits, and of minerals. The sales method is carefully described; valuable comparative data on the assessment of moneys and credits are given; and the highly technical methods employed in the estimates of tonnage and the valuation of the ore properties are made intelligible to the lay reader in a most interesting manner. A series of chapters is then devoted to various proposals for further reform, including the suggested change in the basis of valuation, the bill for a county assessor, and the use of tax maps. No definite recommendations are made for an income tax, though the first results of the Wisconsin income tax are regarded as strongly indicative of the permanent success of this form of state taxation. A separate chapter is given to the question of taxing land values, with complete exemption of personal property and structures; and though no definite recommendations are made, the problem is commended to the serious consideration of every student of taxation. The commission concluded that the use of the single tax on land values

[1] Minnesota Tax Commission, *Report*, 1912, ch. 16. Much the same outline is followed in the briefer subsequent reports.

since 1880 would not have lessened the burden of taxation, governed as the latter is by the expenditures of government.[1] In the chapter on railroad taxation the commission enters the controversial field of gross earnings versus ad valorem taxation, and argues warmly in defense of the former.[2] As has been pointed out above, the author of this chapter hardly makes out a convincing case for the gross earnings tax, though he does attack the fundamental weaknesses of the ad valorem system. Inasmuch as there appears to be general satisfaction with the gross earnings tax in Minnesota, the commission's defense of the system, for that state, can be endorsed; but universal approval or support will hardly be found yet for the sweeping generalization that the gross earnings tax is "at once the most scientific, the most simple, the most certain and the most just system yet devised."[3]

In 1910 the commission initiated the valuable practice, since continued, of making a detailed analysis of the cost of state and local government in Minnesota. A large mass of financial statistics has been collected from the local units, to which have been added the figures for the state expenditure. These studies are extremely significant as an attempt at fiscal orientation and their usefulness is greatly enhanced by the comparative data presented in subsequent reports. The statistics of local expenditures are interesting,[4] but unless the systems of accounting in use in the various local units are far superior to those found elsewhere, the accuracy of such statistics is questionable. But in any case, these impressive figures will serve to call public attention to the rapid growth of governmental expenditures, and to the pressing need of securing some reforms which will check the increase of tax burdens.

[1] Minnesota Tax Commission, *Report*, 1912, pp. 175, 180.

[2] *Ibid.*, ch. 15.

[3] *Ibid.*, p. 219. Cf. Seligman, *Essays in Taxation*, p. 242, for a different view of the gross earnings tax.

[4] Minnesota Tax Commission, *Report*, 1910, pp. 229–304; *ibid.*, 1910, pp. 245–569; *ibid.*, 1914, pp. 154–228.

CHAPTER XIII

THE KANSAS TAX COMMISSION

THE general property tax developed in Kansas in the "storm and stress" of the ante-bellum territorial period and by 1858 it was fully elaborated and firmly established.[1] The characteristic administrative machinery had been introduced, including a county assessor, a county board of review, and a territorial board of equalization. A state board of equalization was established in 1861.[2] The territory had alternated between the county and the township as the assessment unit according as the balance of power had shifted between the sympathizers of northern and southern institutions, but in 1869 the township type was definitely adopted.[3] Both county and state boards of equalization were ex officio bodies, possessing but limited powers in their special field of equalization, and none of a more effective supervisory sort. No further changes of importance were made in the administrative organization until 1876,[4] when the tax law was rewritten and some features then regarded as improvements were introduced, though of course the fundamental nature of the tax system was not changed. The more important modifications at this time were: the assessment of railroads by a state board of railroad assessors; the biennial assessment of real estate and improvements, from an actual view of the property; and an annual conference of the assessors in each county for the purpose of agreeing upon a uniform basis of valuation.

The creation of the board of railroad assessors marked the first step toward central administration of corporation taxes. The

[1] *Laws of Kansas*, 1858, ch. 67. Benton, *Taxation in Kansas*, gives additional historical material.

[2] *Laws of Kansas*, 1861, ch. 35.

[3] *Ibid.*, 1869, ch. 30.

[4] *Ibid.*, 1876, ch. 34. A special tax commission had reported in 1873. Cf. Boyle, *Financial History of Kansas*, p. 50.

Ohio plan of railroad assessment had been introduced in 1869.[1] If the road lay entirely within one county, the county commissioners, and if it extended into two or more counties, the county clerks along the line, were to act as a board of assessors. In 1871 a board of state assessors was provided, consisting of one member elected from each judicial district;[2] but shifting public opinion decided three years later that the township assessors should again be entrusted with the task.[3] The creation of the board of 1876 was, therefore, the real beginning of effective central assessment of corporations.

The device of an annual county conference of the township assessors was doubtless designed in good faith to promote equality of assessments within each county and among the counties. But it is hardly surprising to learn from different sources that exactly the contrary result was produced, and that the annual conferences became the means of furthering the inequality of assessments which they were designed to prevent. The special tax commission of 1901 declared that the meetings of the township and city assessors each spring to agree upon a basis of assessment had become a "school in which were taught the methods of releasing property from assessment, of lowering valuations and generally evading the tax laws."[4] Evidence of the practical results of the "school" is found in the figures reported to have been adopted by the various counties in 1897.[5] Personal property was to be assessed, according to these agreements, at 25 per cent of full value in Atchison county, at 33⅓ per cent in Chase, at 40 per cent in Elk, at 50 per cent in Franklin, at 60 per cent in Phillips, at 75 per cent in Stanton, and at 100 per cent in Decatur county. Only three counties in the entire state had adopted the 100 per cent basis for personal property. The schedules for real property displayed even wider variations. Thus, Brown county adopted 20 per cent of full value, Dickinson 25 per cent, Sedgwick 30 per cent, Shawnee 33⅓ per cent, Osborne 40 per cent, Franklin 50 per cent, Graham 80 per cent, Hodgeman 100 per cent, and

[1] *Laws of Kansas*, 1869, ch. 124. Cf. below, pp. 439 ff.
[2] *Ibid.*, 1871, ch. 150. [3] *Ibid.*, 1874, ch. 96.
[4] *Report of the Special Tax Commission of Kansas*, 1901, p. 6.
[5] Quoted by Benton, *op. cit.*, p. 150.

Gove 200 per cent. Eight counties had agreed upon 100 per cent as the basis of assessment for real property. These figures are indicative of the conditions which must have existed for years previous to 1897, according to the statements of various state officials. As early as 1883 Governor Martin declared:[1]

> Our laws on the subject of assessment and equalization of property values for taxation need thorough revision. Assessors not only pay no attention to the laws, but, by formal agreement, assess property at from 20 to 50 per cent of its true value, and, as a consequence, the state board of railroad assessors adopts the same rule in appraising the value of railroad property. If it were possible under such a system to obtain a uniform assessment of property values throughout the state, there could not, perhaps, be serious ground for complaint, but the valuation of property in the several counties, and often in different sections of the same county, are grossly unequal, ranging from 25 to 60 per cent of actual value.

In 1886 the state treasurer denounced the "vicious" system of taxation then in vogue,[2] and the state supreme court spoke with strong disapproval of the "habitual disregard of the statute relating to the valuation of property for taxation by the local assessors."[3]

A second special commission of investigation presented, in 1901, a brief but valuable critical analysis of the Kansas tax system, with some very progressive recommendations. Among the latter was a proposal for a tax commission with broad powers, including the appointment and removal of the local assessors, who were to be county officials.[4] A bill embodying these recommendations was submitted to the legislature, but the preliminary education of public sentiment had not been sufficiently thorough and no action was then taken upon the measure. The subject was not allowed to drop into the background, however, and in 1907 a bill was passed containing many similar provisions.[5] In at least one

[1] Quoted by Benton, *op. cit.*, p. 152.

[2] Treasurer of Kansas, *Report*, 1886, p. 92. Mr. S. T. Howe, then state treasurer, has since become chairman of the tax commission.

[3] Quoted by Benton, *op. cit.*, pp. 152, 153.

[4] *Report of the Special Tax Commission of Kansas*, 1901, pp. 14, 15. Brindley, in his *Financial History of Iowa*, ii, p. 293, underestimates the significance of the earlier measure and of the report which contained it.

[5] *Laws of Kansas*, 1907, ch. 408.

respect the bill passed in 1907 was superior to the one proposed by the commission of 1901. Influenced by the Indiana law the special commission had proposed a permanent state tax commission similar to the Indiana Board of State Tax Commissioners, with two appointive members and three state officials acting as ex officio members.[1] Such an arrangement would undoubtedly have been very detrimental to the efficiency of the tax commission in Kansas, as it has been in every other state in which this form of organization has been attempted.[2]

The most significant features of the tax legislation of 1907 were the creation of a permanent state tax commission into whose hands the entire administrative control of the tax system was placed; the abolition of the various assessing and equalizing boards, and the transfer of their functions to the tax commission; and the creation of the office of county assessor. The tax commission was to consist of three members appointed by the governor for a term of four years. The appointees were to be men skilled in matters pertaining to taxation and they were to receive the salary of $2500. The principal duties imposed upon the commission were the state equalization, the assessment of certain classes of corporations, the general supervision of the tax system, and the recommendation of needed and helpful changes in the tax laws.

EQUALIZATION

The Kansas law provides for an annual state equalization of the local assessment of all property. The section which defines the powers and duties of the tax commission while acting as a state board of equalization is one of the most drastic of its kind in the United States. When acting in this capacity the commission has power to[3]

> . . . equalize the assessment of all property in this state between persons, firms or corporations in the same assessment district, between cities and townships of the same county, and between the different counties of the state, and the property assessed by the commission in the first instance.

[1] *Report of the Kansas Special Tax Commission of Kansas*, 1901, pp. 12, 13.

[2] Cf. the chapters on Indiana, Michigan, New York and Oregon.

[3] *Laws of Kansas*, 1908, ch. 408, § 17.

This section, taken with those which confer authority to order reviews either on appeal or on its own motion, gives the Kansas tax commission very broad powers of equalization, the results of which extend down through to the individual assessments and affect the distribution of all local tax levies. Such comprehensive jurisdiction gives to the function of equalization a significance and vitality that it cannot possibly possess when it is limited to adjusting the county totals. In fact, with such powers, the equalizing process becomes one of the most significant of all the administrative duties performed by a state tax commission, although in practice the Kansas commission has not been able to exert this authority in such a way as to eliminate all inequalities.[1]

The commission was not organized until the assessment of 1907 was well under way and it was decided, therefore, to perform the equalization for this year in accordance with the laws in force at the time that the assessment had been made. In accordance with this policy the commission's action was confined to "smoothing out" the worst irregularities in the 1907 figures, with the minimum of changes in valuation. The net increase in real property was $8,356,359, and in personal property, $2,817,375.[2]

In preparation for the assessment and equalization of 1908, which were to be made under the direction and with the assistance of the newly selected county assessors, the commission decided to compile sales ratios. Appropriate blanks were sent to the assessors with instructions for returning certain data regarding land transfers.[3] The instructions called for the date of sale, the description of the real estate sold, the consideration given in the deed, and the assessed value of the property for the year in which sold, with the ratio of assessed to true value. The assessors were to reject, as far as possible, all sales that were not *bona fide*, with a cash or an equivalent consideration. Lack of funds prevented the commission from making that careful investigation into the accuracy of the returns which is desirable and even necessary, and in consequence the results were probably not altogether trustworthy. The data collected covered a full quinquennial

[1] Cf. below, pp. 434, 435.

[2] Kansas Tax Commission, *Report*, 1908, p. 115.

[3] *Ibid.*, p. 10.

period, 1903–07 inclusive, and included over 40,000 transactions. While the methods used in the collection and inspection of the materials were not as conducive to accuracy in the ratios as if the work had been done by experts,[1] they had, nevertheless, the advantage of affording the newly chosen county assessors an opportunity to realize the irregularities of the former assessment methods and results. They also gave these officials greater familiarity with land values in their respective counties and a broader conception of their duty in land assessment.

The chairman of the Kansas commission defended the ratios compiled in this manner by asserting that they had been the basis of all of the progress in Kansas. While this may have been in a sense true, in that the commission actually made use of the ratios in the state equalization, a more fundamental explanation of the remarkable results obtained in the 1908 assessment seems to be the extensive administrative reform which went into operation in that year. The old and inefficient decentralized system had been completely swept away, and for the first time in the history of the state an assessment and equalization were made which were free from the hindrances and deterrent forces of the old regime. The revolution in valuations was a tribute to the determined and vigorous enforcement of the law all along the line.

The sales data have been supplemented by various other careful and extensive efforts to verify and check the local returns of both real estate and personal property, although the possibility of an adequate equalization of personal property is much less than in the case of real estate. The limited appropriations have permitted little equipment for statistical work and the commission has been seriously hampered by inadequate funds for the employment of a sufficient clerical staff. It has been compelled,

[1] The chairman of the commission has replied to the above criticism of the Kansas method of collecting sales data by saying that the assessors were fully as capable of rejecting fictitious considerations as specially trained experts would have been. That the assessor may possibly be a perfectly competent agent for the collection of sales data is not denied; but the chairman's reply apparently overlooks the fundamental fact that the most important purpose of the sales ratios is the check which they afford upon the assessor's work. If the assessor is allowed to select the data, how can this purpose be served? *Letter from S. T. Howe*, Dec. 6, 1913.

therefore, to rely upon methods some of which were realized to be unsatisfactory. Considerable energy has been expended, however, in acquiring first-hand knowledge of actual conditions, as the following description of the preparations for the equalization of 1912 shows:[1]

> By the use of the ratios and a knowledge of the qualities of lands in the several counties obtained by the Commission at first hand by repeated visits to every county in the state and by investigating trips made by automobiles and over the railway and by livery, the journey sometimes in automobiles being for three hundred miles, and the information acquired from the records, and the information given by the taxing authorities of the several counties who are in one way and another frequently in contact with the Commission, there is enabled a pretty fair equalization to be made among counties, and this affords a very equitable distribution of the state tax.

It is possible to make only certain rough tests of the commission's work as a state board of equalization. The first of these relates to the volume and number of changes in the local returns. This test is an indication of the commission's activity in equalizing and affords no further assurance of equitable results than is contained in such evidence of industrious overhauling and checking up of the local figures. The total volume of corrections of the real estate assessments is presented in the following table:[2]

AMOUNT OF INCREASE OR DECREASE MADE BY THE KANSAS TAX COMMISSION IN THE AGGREGATES RETURNED BY THE COUNTY BOARDS
(MILLIONS OF DOLLARS)

Year	Lands	Improvements on lands	Lots and improvements
1908	+28.9	...	+ 8.3
1909	+ 1.3	...	+ 0.3
1910	− 9.0	...	− 2.7
1911	− 0.6	...	− 0.2
1912	+27.1	...	+ 1.2
1913	...	...	...
1914	+45.0	...	+ 3.1
1915	+00.05	−00.07	− 0.03
1916	+29.3	...	+31.0

The significant equalization of real estate occurs in the even-numbered years, in which the new assessments are made. In the odd-numbered years account is taken simply of the addition or

[1] *Letter of S. T. Howe*, Dec. 6, 1913.

[2] Compiled from the biennial reports of the Tax Commission.

destruction of improvements and incidental changes in value. It is but natural, therefore, to find an alternation in the volume of changes made, and the corrections made in the odd-numbered years may be disregarded. The assessment of 1908 was the first to be made under the direction of the new tax commission and it is not surprising that this body should find a considerable volume of corrections necessary "in order to secure approximate equality of assessments on the new basis of valuation." Two years later the aggregate volume of changes was much less and the net result was a slight decrease in the total valuation of real estate. These changes occurred mainly, though not entirely, in the southwestern quarter of the state. Beginning with 1912 the tax commission has had to deal more severely with the local returns in order to secure approximate equality in the assessment. The unusual amount added to the valuation of farm lands in 1914 was on account of excessive allowances by some local assessors for the effect of the drouth and crop failure of the preceding summer.

The method of equalization used in 1916 was outlined in a brief preliminary bulletin issued by the commission. The fifty counties in which the largest increases had been made were taken as a standard and enough was added to the other counties to bring them to the same basis of valuation. In twenty-three of these counties the local assessment had been increased but by insufficient amounts to comply with the commission's requirements; and in thirty-two counties the assessors had reduced their valuations as compared with 1915. The marked increase in the assessment of lots and improvements in 1916 was due to a further classification of urban real estate, whereby unplatted lands in cities were separately listed. This class was equalized at $29,116,652.[1]

Because of the compensatory effect of positive and negative changes the commission's activity in equalization is better revealed by the number of changes than by the variations in total equalized valuation. The number of counties in which changes in the local returns were made is given in the table on the next page. These changes are either in the form of a regular per-

[1] Kansas Tax Commission, *Report*, 1916, p. 339.

centage applied to the whole county or a special change made in some district.[1]

These figures parallel, roughly, those in the preceding table. They also indicate that lessened activity has been more responsible than compensatory offsets in determining the net change through equalization. This diminishing activity has characterized especially the treatment of city lots, in the local returns of which no regular percentage changes have been made since 1912. The

NUMBER OF CHANGES IN COUNTY VALUATIONS IN THE STATE EQUALIZATION

Year	Regular changes				Special changes		Total special changes
	Lands		Lots		Lands and lots		
	Increase	Decrease	Increase	Decrease	Increase	Decrease	
1908.....	18	7	26	7	7	10	17
1910.....	9	11	8	11	7	24	31
1912.....	35	9	3	1	5	12	17
1914.....	47	..	..	..	11	13	24
1916.....	38	..	..	..	12	2	14

total number of special changes was higher in 1910 than in any other year. On the other hand, farm lands have been handled with marked severity since 1910. In this year there were more decreases than increases; there were more increases than decreases in 1912 while no decreases were allowed in 1914 or 1916 and an unusual number of increases was ordered in each of these years.

The justification offered for this course is that under the old regime city real estate had been assessed on a higher basis than farm property and that such action had been necessary in recent years to secure equality on the higher basis of assessment. This situation is unique and peculiar to states like Kansas. Throughout, however, the local assessor runs true to type; for he tends to favor the wealthy class. In rural Kansas this class is composed largely of farmers and farm property is relatively underassessed.

[1] Compiled from the biennial reports. The commission classifies the changes in county equalized values as regular and special.

In the states farther east the wealthy classes are city dwellers and the greater favoritism has naturally been shown to urban property.[1]

The separate return of farm lands and improvements in 1912 and thereafter is a very desirable improvement over the former practice. This change was the fruit of suggestions made at the annual conferences of the National Tax Association;[2] and in connection with it the commission has recommended provision for land maps large enough to enter thereon each parcel of land with a memorandum of the quantity of each class of land as determined by the assessing officials after a survey or reasonably close approximation. About 73 per cent of the total acreage of the state was reported as cultivable and of this cultivable area, more than 60 per cent was under cultivation.

A second test of the state equalization relates to the basis of valuation. Do these figures represent actual cash value? It is not possible to answer this question precisely, especially for the valuations of city real estate; but the figures obtained by the thirteenth United States Census afford a check upon the valuation of farm property. The census valuation of farm lands, as of April 15, 1910, was $1,537,976,573, and of farm buildings, $199,579,599, a total of $1,736,556,172. The equalized value of lands and improvements in 1910 was $1,353,199,725. It appears somewhat doubtful if the disparity of $383,356,447, or more than 31 per cent, between the assessed and the census valuations of substantially the same property can be entirely accounted for by differences in acreage appraised or by overvaluation in the returns to the census enumerators. In 1914 the commission declared that its investigations showed that lands in Kansas were not yet assessed at their actual value in money according to the intention of the law, and upon the basis of this finding it proceeded to order the extensive increases of that year.[3] The inactivity in dealing

[1] Cf. above, chs. 1, 6, 8.

[2] Kansas Tax Commission, *Third Report to the Legislature*, 1913, pp. 65–67. *Laws of Kansas*, 1911, ch. 316.

[3] Kansas Tax Commission, *Report*, 1914, p. 182. Cf. also, *ibid.*, 1916, pp. 277, 278. The commission asserts again that competitive undervaluation is being extensively practiced in order to shift taxes.

with lots and improvements thereon suggests that the commission has not yet attempted to raise all classes of real property to full value, but has sought merely to bring lands up to the level of lots, without regard to whether either class was really assessed at full value. Indeed, the commission disclaims any intention of raising the valuation of property through equalization, unless the evidence reveals studied attempt to evade taxes by excessive undervaluation. In such cases it will equalize, apparently, by increasing the undervalued properties to the general level of other assessments.[1] The uncertainty of the basis of assessment for personal property affords additional warrant for the hesitation at advancing lands too abruptly to full value. Equality of tax burden is always more important than that any class be assessed at full value. Such data as are at hand indicate that all sorts of personal property, especially of the more intangible sorts, are not yet assessed at full value.[2]

A third test of the state equalization is that of the relative value of the lands of different districts. It is obvious that land of the same grade and desirability of location should be assessed on the same basis, regardless of the fact that surveyor's lines had created separate assessment jurisdictions and had placed some of this land in one, some in another of these jurisdictions. If the local assessment fails to produce equality of this sort, it is the function of the local and state equalizations to afford the necessary correction. Comparison of the average values of land in the several counties from 1910 to 1914 reveals a general progression toward a smoother gradation from the more populous and fertile sections of the eastern part of the state to the less thickly settled and more barren districts of the western part.[3] In this respect the

[1] Kansas Tax Commission, *Report*, 1914, p. 181. Mr. Howe stated at the National Tax Conference of 1914 that most of the increases of 1914 were made in counties in which the local aggregate was lower than in 1913. *Proceedings of the National Tax Conference*, 1914, p. 90. In the memorandum explanatory of the equalization of 1916 above referred to it was stated that the increases in certain counties were necessary in order to bring certain counties to the level of assessments which had been voluntarily established in certain other counties.

[2] Cf. below, p. 457.

[3] Kansas Tax Commission, *Third Report to the Legislature*, 1913, pp. 35–45. This comparison may be made by referring to a series of outline maps published in

commission is eliminating discrepancies between counties and the exceptions are explicable on account of local conditions. There is less certainty that the inequalities between townships have been dealt with so effectively. The commission recognizes the existence of inequalities of this sort, but it ascribes the responsibility for such conditions to the policy of requiring the township trustee to act as the assessor ex officio.[1] The person elected to this office is often unfitted to be the assessor; and he is usually allowed neither time nor funds sufficient to perform an efficient assessment. Many of the township trustees resigned rather than undertake the classification of farm lands as required by the commission in 1912. The most extreme of several serious cases disclosed by reassessment proceedings was the following:[2]

AVERAGE ASSESSED VALUES PER ACRE OF LANDS SEPARATED BY TOWNSHIP LINES

	137,	149,	129,	116,	96,	70,	91,	82,	70,	76,	73, 71
Township											Line
	78,	75,	76,	62,	52,	44,	45,	47,	44,	44,	40, 53

This discrepancy was apparently not an isolated case, for the commission declared that it was impossible for the local boards of review to make adequate corrections of unequally assessed properties.[3] These inequalities are not eliminated by the tax commission either, unless brought to its attention through appeal. Because of the statutory limitations on the time allowed for the state equalization and the lack of funds for an adequate investigation of the local assessment, the commission has been compelled to assume that the local valuation and equalization are equitable unless shown by complainants to be otherwise.[4] The present facilities for checking up and testing the local returns have not been equal to the task of a thorough inspection on an independent basis. A reliable sales ratio prepared for each township might

the biennial reports, showing the average assessed valuation of lands in each county for the successive reassessment years.

[1] Kansas Tax Commission, *Third Report to the Legislature*, 1913, pp. 35–45.

[2] *Ibid.*, p. 36. [3] *Ibid.*, p. 38.

[4] Remarks of Commissioner Glass, in *Proceedings of the National Tax Conference*, 1910, pp. 365–371. Also, Kansas Tax Commission, *Report*, 1916, pp. 377, 378.

accomplish this and the fact that such inequalities have escaped attention is another indication of the insufficiency of the Kansas method of constructing the ratios.[1]

The commission recommends the remedy of a quadrennial assessment of real estate, made from an actual view of the property and performed under the immediate direction of the county assessor. It is suggested that one year be taken for this work and that improvements be added annually. This recommendation appears to be eminently wise. The commission feels strongly that greater administrative centralization will prove necessary to relieve the inequalities of the original assessment, without which no equalization will prove successful. It seems clear, however, from the evidence and from the commission's own statements that there yet remain in the real estate assessments numerous inequalities which are not eliminated by local and state equalization as of necessity performed under existing laws.

Turning now to the equalization of personal property assessments, it is of course natural that greater indefiniteness must characterize the methods employed and the results attained. The defects of the general property tax stand out most strikingly at this point. Field work and inspection tours afford little information of value because of the mobility of many forms of personalty and the elusiveness of other forms. The number or quality of the live stock found at the date of reassessment bears little necessary relation to the number or quality of such property in the district on the date of original assessment. The series of uneven crop years which Kansas has recently experienced has increased the difficulty of listing and valuing live stock, as farmers have been tempted to scale down values with the increased scarcity and

[1] A recent instance of local inefficiency which was not detected by the commission's method of equalization was discovered in 1915, through an appeal for a reassessment. The township assessor had reduced the average assessment of land per acre from $79.87 in 1911 to $60.23 in 1912. This reduction was unnoticed and the slight increases ordered by the tax commission for the county as a whole in the equalizations of 1912 and 1914 left the lands of this township in 1915 far below the assessed valuation of 1911. The commission stated in reviewing this case that no attempt had been made to equalize among the townships of any county for lack of time and information. *In the Matter of the Reassessment of Wamego Township, Pottawatamie County*, 1915. Kansas Tax Commission, *Report*, 1916, pp. 41–46.

higher prices of feed. The wholesale disposition of stock in lean years has intensified the alternating rise and fall of stock prices and has rendered evenness of assessment much more difficult. In general, the commission has made little change in the local totals of personal property, as the figures below reveal:[1]

NET CHANGE IN PERSONALTY AGGREGATE BY THE TAX COMMISSION

Year	Amount reduced	Year	Amount reduced
1908.....	$129,595*	1913.....	$2,436,143*
1909.....	3,260,559	1914.....	180,034*
1910.....	1,011,922	1915.....	5,304,661*
1911.....	500	1916.....	172,532
1912.....	170,597		

* = Increase

The principal attention has been given, in recent years, to the equalization of farm animals. Since 1914 the commission has followed the plan of dividing the state into three districts, eastern, middle, and western, and averaging the assessed values of farm animals for each section. Average values in the several counties have then been adjusted in accordance with the district averages. Increases were made in only three counties in 1914 as the result of this rough approximation to equality.[2] The relatively large increase of 1915 was practically all placed upon the assessed valuation of certain classes of farm animals in twenty-two counties.[3]

There is little attempt to equalize the returns of other classes of personal property. The obvious impossibility of bettering the situation thereby justifies this neglect, though it increases the commission's responsibility for adequate local assessment. The process of equalization becomes, therefore, of comparatively little significance for the distribution of the tax burden among classes of personalty. It is rather a problem of original assessment and any contribution to greater equality among classes of personal property which the commission may make must be through its supervisory influence over the original assessment process, whereby the local officials are held more steadily to their tasks.

There remains the question of the proportion of the total tax burden borne by real and personal property, as compared with

[1] From data in the biennial reports of the Tax Commission.

[2] Kansas Tax Commission, *Report*, 1914, p. 186. [3] *Ibid.*, 1916, pp. 97–104.

each other and with the corporate property centrally assessed. An inspection of the percentage distribution of the total assessment reveals a fairly constant ratio of real property to total since 1880. In the fifteen years, 1900–14 inclusive, this ratio ranged from 64–66 per cent during twelve years, touching 63.22, 63.29, and 66.01 per cent, respectively, in the other three years. The most striking fact is the rise of the percentage of personalty to total from 10.61 per cent in 1895 to 20.20 per cent in 1910. From this relatively high point it had declined by 1914 to 18.75 per cent. Although the higher ratio of personalty to total assessment means a shift of a portion of the tax burden to that class, the advantage still remains with it, in all probability, even in so distinctly rural a state as Kansas.

The Special Tax Commission of 1901 reiterated the assertion,[1] originated in the sixties by the New York State Board of Assessors,[2] that the value of personal property was at least equal to that of real property. This statement has been quite generally accepted, though it has never been fully established and at least one writer has contended that the relative amount of personal property has been exaggerated.[3] Nevertheless, it may be questioned whether, even in rural Kansas, the proportion of taxable personalty is not greater than one-fifth of the total taxable wealth of the state. The commission has stated that not all of the personal property is taxed under the present method of supervision and control. In 1909 it was estimated that about as much personalty still escaped assessment as was then listed on the duplicates.[4] In the decision recently rendered by the state supreme court on the mortgage registration law the court accepted the estimate that the $70,000,000 of mortgages assessed represented only about one-fourth of the total holdings of this character by residents of Kansas.[5]

[1] *Report of the Special Tax Commission of Kansas*, 1901, p. 10.

[2] New York State Board of Assessors, *Report*, 1863, p. 28.

[3] T. S. Adams, *Taxation in Maryland*, pp. 40–45. The validity of this statement will depend upon the section of the country to which reference is made.

[4] Kansas Tax Commission, *First Report to the Legislature*, 1909, pp. 27, 28.

[5] *Wheeler* v. *Weightman*, 96 *Kansas*, 50.

State Assessment of Public Service Corporations

Special methods of assessment for public service corporations were first applied to the railroads, which had been valued since 1876 by a state board of assessors composed of the lieutenant governor, secretary, treasurer, auditor, and attorney-general.[1] In 1897 intercounty and interstate telegraph and telephone companies were brought under the jurisdiction of the state board;[2] and in 1907, when the tax commission superseded this board, the central assessment was extended to all express, sleeping car, equipment car, gas, oil, and pipe-line companies. The valuations centrally determined have always been certified back to the county auditors on a mileage basis and taxed at the local rates.

As long as the practice continues of taxing at the local rates the valuations which are centrally determined, the basis of local assessment cannot be considered unimportant. The Kansas law has never authorized an equalization of corporate assessments to the same basis as that used for other property, but in practice this has often been done although not always accurately. There was unpardonable laxity on the part of the earlier local and state assessing authorities, and it is impossible now to say whether the railroads or general property were favored the more. In 1892 the state board defended its action in reducing railroad assessments on the ground of undervaluation of the property locally assessed.[3] The tax commission has attempted to secure approximate equality of assessment between corporations and other property by enforcing vigorous assessment of both classes. It has not undertaken to reduce the specific amounts certified to particular tax districts by applying the ratios at which the other property of those districts has been assessed.

Little is known of the details of railroad valuation by the old state board of assessors. The brief reports published by this board contain but little reference to methods or principles of procedure. In 1891 some discussion was undertaken of the principles which were said to have been used in the valuation of rolling

[1] *Laws of Kansas*, 1876, ch. 34. [2] *Ibid.*, 1897, ch. 245.
[3] Auditor of Kansas, *Report*, 1892, pp. v–viii.

stock and roadbed. Chief of these were original cost, volume of business, earning capacity, terminal facilities, competitive conditions, and the actual value of the property.[1] The last-mentioned factor begs the whole question of proper valuation by independent factors, of course. It is impossible that some of the other factors were ever adequately considered from an independent standpoint, especially the question of the cost of the road. Such data as were available on original cost and running expenses must have come from the railroad companies themselves. The law of 1876 had provided that certain data were to be returned to the state board of assessors, and that this board should have access to the statements made by the railroads to the state board of railroad commissioners. Until the Interstate Commerce Commission acquired effective control of railroad reports and accounts, however, there was little reliance to be placed upon the accuracy of these returns and none upon their use for comparative purposes, because of the complicated, and to the board, meaningless bookkeeping of the railroads.

The assessment, after 1897, of the telegraph and telephone companies by the state board of assessors was performed on much the same basis as that of the railroads. It included a large measure of guesswork which aimed to approximate the cost of the physical equipment and the volume of business done. No attempt was made in the case of any corporation to include intangible elements of value. In fact the brief sessions devoted to the subject were inadequate for any but the most superficial estimates. In 1898 the board held only three daily sessions, at which it could hardly have done more than determine, in the most general way, an appraisal of the properties.[2]

The natural result of this policy of assessment was a valuation at a percentage of full value which was probably not greatly below, but certainly not above the average for the general property of the state. The agents for the companies were uniformly successful in preventing any substantial additions to the valuation, notwithstanding the steady and rapid growth of railroads in

[1] State Board of Assessors, *Report*, 1891, pp. 6–11, 16–22.

[2] Benton, *Taxation in Kansas*, p. 148.

the state. Rolling stock was regularly listed at about one-third of full values. In 1890 railroads were assessed at $57,973,000, and in 1893 at $63,581,000. Heavy reductions were made in the years following on account of the panic of 1893 and the depression of railroad values due to widespread reorganizations; but the recovery in assessed valuations was much slower than the actual market conditions warranted. In 1900 the total assessment was only $57,621,000.

The tax commission made its first assessment of corporate property for the year 1908. This portion of the tax law has stood practically unaltered since the seventies. The statements required of the railroads include the following data:[1]

1. Statistics of track and right-of-way, with proportion of same in each city, town and county.
2. Length of second track, sidings and switches, with location.
3. A complete list of buildings of every kind, with location and value.
4. Detailed statement of track equipment, with time of service of the iron work.
5. A full list of rolling stock, by classes.
6. A statement of the capital stock and bonds.
7. A correct, detailed inventory of all tools and all materials for repairs, and of all other personal property.

Strangely enough, no statutory provision has been made for data relative to the income accounts. The commission may request any other desired information and in practice does have before it the leading items from these accounts, which are checked by the data available from the railroad returns to the Interstate Commerce Commission.

The methods of valuation followed by the commission have not been described in any detail in the published reports, and in interviews the members displayed the characteristic reticence in discussing the more intimate features of their plan. On one occasion, however, the procedure was summarized as follows:[2]

> The returns of the companies were carefully examined; tours of inspection over the various railroad systems were made, with a view to noting the condition of the property, including the main track, second track, side-

[1] *Statutes of Kansas*, § 9302, amended by *Laws of Kansas*, 1909, ch. 243.

[2] Kansas Tax Commission, *Report*, 1908, pp. 12, 93. Cf. the similar statement in the *Report* for 1916, pp. 61, 62.

track, buildings, water and fuel stations, etc. Consideration was also given to materials and supplies on hand, rolling stock, moneys, credits, and all other property of the companies; the financial features of the properties for each of the five preceding years were considered, such as capitalization, reported cost of construction, gross and net earnings, operating and maintenance expenses; the relation of the property in Kansas to the interstate system of which it was a part, and, in fact, everything which could be conceived of as bearing upon value received careful study.

Limited appropriations have rendered impossible a physical valuation of the railroads, and in lieu thereof the commission has introduced the rather novel plan of actually viewing the physical railroad plant of the state. To this end the members have traversed annually all of the main lines and as many as possible of the branches and secondary lines. By taking the latter in turn, they are all viewed in time, probably once in two or three years. These journeys have been made entirely at public expense and while the roads have offered every courtesy, there has been no suggestion of obligation to them for the services rendered. On these expeditions the commission has carried with it the railroad inventories of buildings and track equipment and has endeavored to check up the various items en route. Stops have been made at all important cities and the whole railroad plant, including yard facilities, shops, stations and other equipment, has been carefully inspected. This survey of the properties must necessarily be rather hastily done, but the commission believes that it serves fairly well its chief purpose, which is to detect and prevent omissions or improper allowance for depreciation of the structures and other localized property required to be listed for taxation where located. These tours are primarily in the interests of the various localities, though the knowledge thus attained of the physical character of the roads is useful in determining the aggregate valuation.

The published reports contain no intimation that the final figures include any element of intangible or franchise value. The law does not require a specific assessment of such elements, though it does provide that the average value per mile which is certified to the localities shall include franchise with the other factors capable of apportionment, such as roadbed, rolling stock, materials, and other equipment. There is no separate assessment

of franchises, in any case, and the extent to which such factors will be allowed to influence the commission's judgment in determining the total valuation will depend largely upon the personnel of that body. The present chairman writes that " as a matter of fact there is no state that values intangible assets of the railroads to a greater extent than does the Kansas state board." [1] The same vigor has been displayed in dealing with the corporate excess of other classes of corporations, including those assessed by local officials. The courts have recently interpreted the rather general and obscure statutory language on the subject of franchise taxation so as to sustain the taxation of corporate excess when found to exist, whether in a public service or a private corporation.[2]

As amended in 1909 the law prescribed identical returns to be made to the commission by intercounty and interstate telegraph, telephone, and pipe-line companies.[3] These returns were to include, in each case:

1. General data of organization, with location of principal office and addresses of principal officers.
2. Par value of outstanding stock.
3. Real estate owned in Kansas with location and assessed valuation.
4. Total length of lines in the state, including lines controlled, with the mileage in each county; also an inventory of personal property with location.
5. Total gross receipts from all sources, and from Kansas business.
6. Operating expenses, classified as the commission may require, and the amounts paid in dividends with the rates of same.
7. Pipe-line companies were also required to state the length, size and value of their lines, their tanks and the capacity of the same, and all other property owned and controlled by them, with location by counties.

The first board of state assessors had made " construction and business " the basis of valuation for the telephone and telegraph companies.[4] Under the earlier regime the latter had acquired the habit of asking regularly for a reduction of their assessment and

[1] *Letter from S. T. Howe*, Dec. 6, 1913.

[2] Cf. S. T. Howe, " The Taxation of Corporate Excess," *National Tax Bulletin*, Nov. 1916, and cases cited.

[3] *Revised Statutes of Kansas*, §§ 9248–9258, as amended by *Laws of Kansas*, 1909, ch. 255.

[4] Boyle, *Financial History of Kansas*, pp. 133, 134.

they have since found difficulty in breaking it. The practice probably netted the companies some advantage in reductions, and it certainly tended to prevent advances which might otherwise have been made. Previous to 1907 the pipe-line companies had not been taxed by special methods. The commission described its procedure in dealing with these properties as follows: [1]

> The values of property as returned by the companies were studied in detail and compared with the returns of other properties of like character. The value of materials used in construction; gross earnings; capitalization; indebtedness the proceeds of which were used in construction; supplies, merchandise or products on hand; relation of the part of the property in Kansas to its whole as an interstate system, were all given due consideration, as well as other facts, conditions or circumstances affecting the several properties.

There had been no special provision before 1907 for the taxation of express companies, which had been assessed simply for the small amounts of tangible personal property happening to be observed and listed by the local assessors. Notwithstanding the exceedingly light taxes that were levied under such inadequate methods, payment was usually contested. The law of 1907 introduced an excise tax on gross receipts from interstate business. The original rate of 1½ per cent was advanced in 1909 to 4 per cent. In addition to the excise tax express companies were to be taxed, as before, at the local rates on their personal property, which was to be assessed and apportioned by the tax commission.

Various methods have been used in taxing car and special equipment companies since these were first made taxable under separate tax laws. The present plan, adopted in 1913, is that of a valuation of the property by the unit rule with an apportionment to Kansas on the basis of mileage of rolling stock. The valuation assigned to the state is taxed at the average state rate, for state purposes.[2]

The commission's motive in recommending the retention of the taxes on these companies has been administrative efficiency rather than the desire to open the way for further separation of the sources of state and local revenue. In earlier reports a somewhat

[1] Kansas Tax Commission, *Report*, 1908, p. 100.

[2] *Laws of Kansas*, 1913, ch. 320.

noncommittal position was taken on this question, but more recently a definite stand has been taken against the proposal, chiefly on the ground that "to touch the people locally with a demand for state revenue will have a tendency to cause legislators to be economical in appropriations."[1] The direct state tax has been more profitable to the localities as a whole than separation would have been, according to a comparison of total corporation taxes with the direct tax on general property.[2]

COMPARISON OF TOTAL TAXES PAID BY PUBLIC SERVICE CORPORATIONS AND THE STATE DIRECT TAX

Year	Taxes paid by centrally assessed public service corporations for all purposes	State direct tax on general property	Excess of taxes paid by corporations over state tax
1906.....	$2,742,556	$1,931,533	$811,023
1907.....	3,150,341	2,745,797	404,544
1908.....	3,014,355	2,215,899	798,456
1909.....	3,577,155	3,160,150	417,005
1910.....	3,402,904	2,895,507	507,397
1911.....	3,947,982	3,339,686	608,296
1912.....	4,049,439	3,304,012	745,427
1913.....	4,282,861	3,371,988	910,873
1914.....	4,546,038	3,381,751	1,164,287
1915.....	4,747,537	3,620,202	1,127,335

These figures indicate that for the state as a whole the direct state tax has been more profitable than separation of sources would have been; but it is quite possible that the chief advantage has gone to the counties and tax districts containing large mileages of public utilities and that other districts may have been paying out much more in direct state tax than they were receiving from the corporations.[3]

Before final certification of the valuations to the local districts the corporations are allowed full rights of appeal to the commission sitting as a board of review. This double function of admin-

[1] Kansas Tax Commission, *Third Report to the Legislature*, 1913, p. 12. Cf. the discussion in the *Second Report to the Legislature*, 1911, pp. 10–14. The Commissioner of Corporations inferred from this discussion that the Kansas commission favored further separation, as recommended by the Kansas Educational Commission of 1908. *Taxation of Corporations*, Pt. IV, p. 118.

[2] The data in the table are from the biennial reports of the tax commission.

[3] Cf. the first effects of separation of sources in California, *Report of the California Board of Equalisation on the First Effects of Separation*, 1911, pp. 16, 17.

istrator and appeal court requires a rare combination of patience and open mindedness, together with the impartial firmness which must rest upon expert knowledge of the issues backed by unquestioned personal integrity. There has been little tendency to impugn the state tax commissions in general on the ground of unfairness or discrimination in their judgments in appeal cases. The work of the Kansas commission in handling the corporate appeals presents no especially marked features, unless such be found in the unusual amount of personal investigation which is made before reaching a decision.[1]

The Supervision of the Local Officials

The powers of supervision which the Kansas commission exercises over the local officials are both advisory and mandatory. In most states the former have been of greater significance, if not by plain language of the statute, then by the construction and interpretation which this language has received from the commission and the courts. Advisory supervision is of great importance in Kansas, but it constitutes a less significant portion of the commission's field of authority than do those powers in the exercise of which definite mandatory supervision is conferred.

The commission's advisory duties include, in the main, such measures for rendering advice and assistance to the local officials as correspondence, visits, and conferences; and the general duty of acting as expert adviser to officials and the community at large on matters of taxation. The volume of correspondence with local officers and taxpayers has been large and has dealt with almost every possible phase of the taxing system.[2] The extensive inquiries into the assessed and true value of real estate, conducted by the commission at the beginning of its career, were of great value in setting before the local officials a definite conception of effective state supervision and in educating the latter for the better performance of their duties. Considerable reliance has

[1] Abstracts of the appeal cases were published in the *Reports* for 1908, pp. 115–162; and *ibid.*, 1910, pp. 52–72, 229–260. Discontinued in 1912 for lack of funds to print the data.

[2] Kansas Tax Commission, *Second Report to the Legislature*, 1911, p. 20.

been placed upon personal contact with local officials, through visits as well as correspondence; and the regular prescribed visits of the commission to the counties have been supplemented by tours of inspection by individual members. The tours of railroad inspection are utilized also for establishing contacts with taxpayers and local officials.

Frequent visits to the various taxing districts for the purpose of observing the work of the local officials were rendered less necessary by the provision of a county assessor. Since 1869 the township has been the actual assessment unit, an arrangement which has favored the spread of disorder and inefficiency in the local assessments. The law of 1907 provided that each board of county commissioners should appoint a county assessor for a two-year term. Two years later the office of county assessor was made elective except in counties of 12,000 population or less, in which the county clerk was to act as the assessor ex officio.[1] The ex officio principle was further extended in 1913 by raising the population limit to 55,000, though any county might revert to the elective system by a petition from the voters ordering an election.[2] As originally drawn in 1907, the bill provided for the appointment, by the county assessor with the consent of the county commissioners, of sufficient deputy assessors to perform the assessment. This feature was omitted at the last moment and the county assessor was required to appoint the township trustee as the deputy. Though the first legislation was silent on the point there was apparently no expectation that these deputies were to be transferred to other than their own districts, and an amendment of 1909 made such transfer impossible.[3] Since 1911 provision has existed for the subdivision of unduly large districts,[4] but in 1910 five county boards were reconvened on account of delays in making the assessment.

The county assessor is thus seen to be in general charge of the assessment, which is really performed by deputies locally elected. The assessor may require the deputies to make a daily report of the personal property statements of persons assessed; and he

[1] *Laws of Kansas*, 1909, ch. 251.
[2] *Ibid.*, 1913, ch. 321.
[3] *General Statutes of Kansas*, 1909, § 9356.
[4] *Laws of Kansas*, 1911, ch. 320.

shall instruct the deputies in their duties either in personal visits or in a conference held before the beginning of the assessment season. At any time the assessor may list and assess property found to have been omitted by a deputy. The latter may be suspended by the former upon satisfactory evidence of neglect or malfeasance in office. The final power of removal is vested in the tax commission. The county assessor is removable by the county board or by the tax commission on its own motion. In either case a hearing is had before the commission, which issues the final removal order. Much credit for the improved tone of affairs must be given to this authority, the potentiality of which has rendered its actual exercise practically unnecessary.

The retention of the township trustee as the actual assessing officer could not have been expected to be a permanently satisfactory arrangement. The legislature's attempt to economize on local officials at this point was particularly unfortunate, since in so far as the candidates will be judged on their merits the qualifications looked for will be primarily those expected of the township trustee. These are not necessarily the qualifications appropriate to the successful assessor. Even with this feature, however, the Kansas county assessor has had a position superior to that of the county tax official in Indiana, because of his power to suspend the deputies. But after five years of experience the Kansas commission has emphatically condemned the plan, and in 1912 it advanced some valuable recommendations intended to bring the county assessor into his own again.[1] These included the abolition of the ex officio principle, placing the county assessor in complete charge of the county assessment with full authority to appoint the necessary deputies, and provision for more adequate salaries. These suggestions are fundamentally sound and should be adopted.

The Kansas commission's struggle to secure an appointive assessor in actual charge of the local assessment is of particular interest in the light of the collapse of the Ohio experiment.[2]

[1] Kansas Tax Commission, *Third Report to the Legislature*, 1913, pp. 35–45; *ibid.*, *Fourth Report*, 1915, p. 16.

[2] Cf. below, p. 503.

Thus far the people of Kansas have refused to surrender their prerogative of local election of the assessor, although their willingness to accept other features of the commission's program has now led to a rather serious administrative retrogression. In 1915 the commission presented two bills, one providing for an appointive county assessor who should assess all property in the county, taking a year for the initial assessment of real estate. The other bill provided for a quadrennial appraisal of real estate, with the proviso that local authorities might cause an intervening assessment to be made if the public interest required such action. The first bill failed, the second passed, and Kansas now faces the prospect of a quadrennial assessment of real estate by the present assessing machinery.[1]

Conferences of the county assessors have been held biennially, as provided in the law of 1907. The necessary expenses of the assessors at these meetings are paid by the counties. The conferences have proved exceedingly useful for the development of interest and the dissemination of proper ideals and methods of procedure. Special efforts were made at the first conference to elucidate the law and standardize the construction of difficult points. No set programs have been prepared for subsequent meetings, which have been occupied primarily by the tax commissioners in answering questions and emphasizing the doubtful and difficult points in the tax law.

In 1916 the commission published one of the most helpful and useful manuals of instructions to assessors that has ever appeared in the United States. The tax law, so far as it deals with the work of the local assessors, is analyzed point by point and very complete instructions are given as to the exact procedure necessary in order to make an assessment in conformity with the law. The various blank forms are also explained in detail.

Through the mandatory powers conferred upon the commission the Kansas law provides for more effective administrative control over the tax system than any other tax law in the United States at the present time. The commission may remove the county assessor after an investigation and upon causes estab-

[1] Kansas Tax Commission, *Fifth Report to the Legislature*, 1917, pp. 69–72.

lished; it may order a reassessment of any taxing district, either upon complaint or upon its own motion; and it may reconvene a county board at any time after the same has adjourned. In such cases the county board may be compelled to make any changes which the commission may regard as necessary to a just equalization. In addition to these more drastic powers the commission may exercise other powers of a mandatory nature, similar to those enjoyed by tax commissions in general. These include the power of compelling the appearance and testimony of witnesses; the production of books and papers; the power to compel persons and corporations to furnish needed details regarding the value or the nature of their property or business, and to compel public officers to report information relative to the fiscal system of the state; and finally, power to prescribe the forms, blanks, and the system of keeping the records of the assessment, levy, and collection of taxes.

The control over witnesses, evidence, and blank forms is a necessary adjunct to efficient administration and as such is exceedingly valuable. But the more important authority is undoubtedly that of removing officials, ordering reassessments, and reconvening county boards. The remarkable results which have been accomplished in Kansas since 1908 have been largely due to the existence and exercise of this authority. Every assessing officer in the state has been desirous of avoiding the heavy hand of the tax commission.

Yet the power of removal has been exercised conservatively, and a removal order has never been issued without the most complete investigation of the case. Similar caution has been exercised in the issue of orders for reassessment and the reconvention of the county boards.[1] In 1910 seven boards were reassembled, six of which were recalled because of insufficient time under the statute to complete their work.[2] In this respect the commission's power has been beneficial, since the law requires that the work of a county board be completed within ten days. If there be no possi-

[1] In 1915 the commission stated that it had never issued a reassessment order on its own motion. *Report*, 1916, p. 45.

[2] Kansas Tax Commission, *Report*, 1910, abstract of appeal docket, pp. 174–181.

bility of an extension the work is crammed into the legal period, but at the expense of justice in the equalization. The fact that an extension may be granted thus promotes better work on the part of the local board, although a better remedy would be to amend the law by extending the time allowed to the original session.

The commission's methods in dealing with local tax districts and its efforts to create a sense of local responsibility for better assessments may be illustrated from the following appeal for a reassessment.[1] In a certain case the first returns from the county were unsatisfactory and a tentative correction, with radical advances, was issued by the commission "as a challenge to the people of Labette county." The challenge proved effective and the order was appealed from; a rehearing was granted and a new order issued. In the final decision the commission described its procedure in reassessment cases as follows:[2]

> The testimony introduced at the hearings; the general knowledge of the Board in relation to values acquired from county assessors and county boards of equalization, who for a period of two weeks were daily before the Board; the statistics showing the relative value of agricultural and other products as compared with other counties of like acreage and population with Labette; the assessment of property in cities over the state, similar in size to the cities of Labette county. . . .

This method of reviewing assessments differs from that used by the Wisconsin and Michigan commissions. In addition to the local hearings and general investigation of conditions, the latter employ efficient assessors from other counties to reassess all or a part of the property in question, and the ratio thus obtained is applied to the original assessments of the district or county. Such a method is superior to the more general sources of information resorted to by the Kansas commission, for which a more elaborate investigation is impossible for financial reasons.[3]

We come now to examine the results of supervision of the original assessment. Has the Kansas commission, with its extensive powers and vigorous administration, been able to secure the assessment of all property at its full value in money? In other

[1] Kansas Tax Commission, *Report*, 1908, p. 190. [2] *Ibid.*

[3] In 1915 the commission employed special assessors to make the reassessment which had been ordered in one township. *Report*, 1916, p. 45.

words, has the general property tax been reformed in Kansas by the sweeping administrative improvements?

Some light has been thrown on this inquiry in the discussion of the commission's work as a board of equalization.[1] It was there found that inequalities still remained in the assessment of lands, chiefly due to the restrictions under which the tax commission has been compelled to work. The commission has recognized this condition and has consistently urged the legislature to change the machinery of assessment in order to insure a more uniform and efficient assessment of all property, and especially real estate. A more significant test of the operation of the general property tax under centralized administration is found in the results of the assessment of personal property. For this purpose the general range of valuations will first be noted, and then attention will be turned to the detailed results of the personal property assessment. The equalized assessments of all property since 1907 follow:[2]

EQUALIZED ASSESSMENTS OF PROPERTY IN KANSAS, 1907–16
(MILLIONS OF DOLLARS)

	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
Lands	190.5	1175.5	1210.2	1353.2	1353.9	1358.1	1365.5	1394.1	1393.9	1447.9
Lots	78.7	360.3	377.6	424.6	439.3	440.3	445.7	441.2	450.3	457.9
Total real estate	269.2	1535.9	1587.8	1777.8	1793.2	1798.4	1811.2	1835.3	1844.2	1905.8
Personalty	78.9	474.1	505.1	554.2	556.7	517.4	562.5	525.5	607.8	635.3
Public service corporations	77.3	404.4	416.4	420.1	427.1	431.2	436.1	440.9	432.6	439.8
Grand total	425.3	2414.3	2512.9	2752.1	2777.1	2746.9	2809.8	2804.8	2884.6	2980.9

These are phenomenal results to be achieved with so little friction and difficulty. The commission secured the passage of a law limiting the tax levies, except for sinking fund and interest charges, special assessments, and the necessary charges involved by any plan for the construction of county roads under a former act.[3] Some limitation on the levying power was the necessary and logical step in connection with any material advance in valua-

[1] Cf. above, pp. 428–433.

[2] Compiled from the biennial reports of the tax commission.

[3] *Laws of Kansas*, 1908, ch. 78; also, *Laws of Kansas*, 1909, ch. 245.

tions, since many of the localities had adjusted their levies to the old status of assessments. The commission has not believed that this compulsory reduction in tax rates had any influence upon the valuations in 1908, an increase which the chairman interpreted as having been secured by the assessors acting under instructions to assess at full value rather than under the spur of local necessity.[1] This view is more flattering to the assessors, but it is, in reality, an open question as to how far the increase in valuation has come simply by raising the valuation of the property formerly on the duplicate and how far by a more complete inventory of all taxable property. In the case of real estate there has been a fairly complete assessment, without question; but in the case of some forms of personal property, there is considerable doubt if much improvement has been effected, either in the amount listed or in the valuation. This will appear more fully from a consideration of the details of the personal property figures, which are given in an appendix to this chapter.[2]

It is evident from the gaps in the record for 1907 that some revision of the system was sadly needed. From 1908 to 1911 the total assessment of tangibles and intangibles preserved roughly the relation of two to one, even with considerable increases in each class. In 1912 this proportion was disturbed by the decline in the assessed valuation of farm animals and farm products, due to crop failures in 1911. The census valuation of farm animals for April 15, 1910, was $245,926,421, so that after allowing for differences in the number of animals valued in the two appraisals and for the cost of marketing, this class of property was fairly well assessed. Data are not available by which to check the assessment of the other classes of tangible personalty. It is significant, however, of the unequal pressure of the uniform rule that about one-tenth of the entire group of tangibles has been com-

[1] *Letter from Mr. S. T. Howe*, Dec. 6, 1913. In subsequent correspondence and in the published reports the commission has been inclined to emphasize the influence of the local desire to shift state taxes in depressing valuations rather than the influence of the tax limit law in keeping them up. *Letter from S. T. Howe*, June 1, 1916, and Kansas Tax Commission, *Fifth Report to the Legislature*, 1917, p. 71.

[2] Compiled from data in the biennial reports of the Kansas Tax Commission. Cf. below, p. 457.

posed of virtually unproductive property such as household effects, watches, books, and musical instruments. This percentage is lowered in 1915 and 1916 by the marked increase in the assessment of live stock, vehicles and farm products.

The most important items of the intangible group are moneys, credits and mortgages; but in the case of mortgages only can the showing be considered at all satisfactory. A slight gain was made in the amount of moneys assessed to 1910, but in 1914 the total was somewhat below that for 1908. Meantime the total individual deposits in banks (including savings and time deposits) had risen from $126,800,000 in 1908 to $232,386,000 in 1916.[1] The changes in the amount of credits assessed have been unimportant except for the small gain made in 1916. It is impossible to test the assessment of this class by comparative data, but the right of deducting debts from credits is an argument against any higher basis of assessment than appears to have been used in the assessment of money.

The listing of mortgages has been more satisfactory and the steady increase of these figures is in marked contrast to the experience of the Michigan board of tax commissioners.[2] The increase of mortgages assessed in Kansas has been largely due to a thorough system of tracing ownership and a fearless policy of assessment when found. The commission's activity in this work contributed to a premature reaction against the injustice of the uniform rule. Without modifying the constitutional provisions relating to taxation the legislature adopted a mortgage registry tax, to be levied in lieu of all other taxes. The special treatment of mortgages is sound in principle but the Kansas court of necessity rejected the mortgage registry tax as a violation of the uniform rule of the constitution. This conclusion was inevitable, though the court accepted at its face value the evidence introduced to prove the escape of the major portion of the taxable mortgage indebtedness owned by citizens of the state.[3] Whenever the state constitution contains the uniform rule, tax reform must begin with the amendment of the organic law.

[1] Comptroller of the Currency, *Report*, 1916.
[2] Cf. above, ch. 9.
[3] 90 *Kansas*, 50.

The amounts of corporation and bank stock are matters of public record and the increases that have been made in these figures are evidence neither of the reform of the general property tax nor of efficiency in listing sequestered property. The item "stocks and bonds," which includes the returns of individuals, reveals the same tendencies as have been observed in the case of moneys and credits. While these figures reflect in many respects the energy and diligence of the tax commission in its efforts to improve the listing and valuation of personal property, yet it must be concluded that the general property tax in Kansas remains as defective as ever and that all of the administrative improvements have not sufficed to correct the weaknesses which have been apparent during the past generation. The elaborate extension of the list of both tangible and intangible items has found no justification in the increases that have been made, for the assessor and the taxpayer between them have found ample opportunity for evasion and undervaluation. It is not denied that the results of centralized administration in Kansas have been creditable, under the circumstances. Kansas, a primarily rural state, taxes more personal property than New York. But the showing is not such as to warrant any hopeful inferences to be drawn concerning the future of the general property tax under centralized administration. It is, and apparently will continue to be, a failure.

Uniform Auditing and Accounting Systems

The act of 1907 required the commission to inquire into the systems of accounting and auditing of public funds then in use in cities, towns, and counties, and to prescribe a uniform system. The commission adopted a system which had been developed by a public accountant, and which had already been adopted by forty-four counties.[1] By 1914 the system was reported in use in all or parts of ninety-nine counties. The commission now recommends the establishment of a separate state accounting department with more adequate equipment for the installation and super-

[1] Kansas Tax Commission, *Second Report to the Legislature*, 1911, pp. 28–31. Also Kansas Tax Commission, *Report*, 1910, pp. 172, 173.

vision of proper accounting and auditing systems.[1] This suggestion is an indication that the present duties of the tax commission are absorbing practically its whole attention and energy, and that further extensions of the policy of administrative supervision upon which the state has entered should be met by an adequate expansion of the state's administrative organization.

Recommendations

The Kansas commission follows the Wisconsin commission's plan of discussing many subjects in its various reports, in order to keep these questions before the people, while it proposes only a small number of bills upon which legislative attention is concentrated. It acts, in addition, as a reference bureau upon questions relating to the state finances, and frequently supplies committees with opinions or materials upon propositions before the latter. In 1912 the commission prepared bills upon but four measures. In addition it discussed the following points but made no recommendations thereon to the legislature:[2]

1. Increasing tax burden.
2. The division of total assessment among classes of property.
3. Compilations of tax data.
4. Uniform accounting.
5. Tax systems of other states.
6. Classification of real estate.
7. Tax commissions.
8. The National Tax Association and its annual conferences.
9. The Pullman Company Tax.
10. Taxation of mortgages.

In the latest report to the legislature, dated January 8, 1917, the commission reviews its former discussion of these topics and suggests that it has prepared, or will prepare, such bills on any of them as will embody its specific recommendations for reform in the Kansas tax system.[3]

[1] Kansas Tax Commission, *Fourth Report to the Legislature*, 1915, p. 18.

[2] *Ibid.*, *Third Report to the Legislature*, 1913, p. 85. The Commission recommended bills on *a*, a constitutional amendment; *b*, an amendment to the inheritance tax (the whole measure was repealed in 1913); *c*, a county assessor; and *d*, the collection of mortgages statistics.

[3] *Ibid.*, *Fifth Report to the Legislature*, 1917, p. 72.

APPENDIX A

ASSESSMENT OF PERSONAL PROPERTY IN KANSAS, 1907–16 (MILLIONS OF DOLLARS)

	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916
I. Tangibles										
(*a*) Farm animals	38.2	160.4	178.2	195.1	196.2	166.0	197.3	174.9	203.7	214.4
(*b*) Implements, vehicles	....	21.3	23.4	26.5	28.1	27.2	28.9	29.3	34.5	39.8
(*c*) Watches, jewelry, musical instruments	.9	9.2	9.9	10.6	10.8	10.5	10.7	11.0	11.3	11.5
(*d*) Merchants' and manufacturers' stocks	....	80.0	81.8	86.0	86.7	84.1	82.3	80.4	79.2	79.1
(*e*) Farm products	....	31.2	28.9	35.2	29.5	20.1	28.2	12.3	46.5	43.1
(*f*) Household effects, books, etc.	....	22.0	22.9	24.0	24.1	23.8	23.4	23.5	23.7	24.3
(*g*) Tools, machinery, etc.	....	8.0	7.9	8.2	10.5	9.7	10.2	11.5	13.4	14.1
Total tangibles	....	332.1	353.0	385.6	385.9	341.4	381.0	342.9	412.3	426.3
II. Intangibles										
(*a*) Moneys	....	37.7	44.9	45.4	39.0	38.1	41.1	37.4	43.6	46.1
(*b*) Credits	....	26.0	25.4	26.0	27.2	27.2	27.0	27.8	28.2	33.6
(*c*) Average moneys and credits of merchants and manufacturers	....	7.3	7.6	8.1	7.6	7.3	7.9	7.6	9.0	13.4
(*d*) Mortgages	....	47.6	51.5	57.9	66.1	65.8	67.3	68.1	68.9	64.6
(*e*) Stocks and bonds	....	6.7	6.5	6.3	6.4	5.7	5.4	6.7	6.6	9.2
(*f*) Corporation stock	....	10.2	10.4	13.1	13.0	12.7	15.2	13.9	16.2	12.6
(*g*) Bank stock	....	28.8	33.1	35.4	36.3	37.4	39.2	41.2	41.5	40.5
(*h*) Other intangibles	....	....	....	....	....	....	....	....	3.8	4.3
Total intangibles	....	164.3	179.4	192.2	195.6	194.2	203.2	202.7	217.4	224.3
III. All Other Personal Property	....	23.2	19.8	25.6	24.0	29.0	27.5	29.2	29.0	37.1
Grand total	....	519.6	552.2	603.4	605.5	565.5	611.7	574.8	658.9	687.7
Less const. exemption	....	45.7	47.7	49.1	49.8	49.0	40.6	49.5	51.3	52.3
Taxable valuation	78.8	473.9	504.5	555.3	555.5	516.5	562.1	525.3	607.6	635.4

(No data are available for the majority of items in 1907.)

CHAPTER XIV

THE OREGON STATE TAX COMMISSION[1]

OREGON'S experience with the general property tax during the long period of administrative decentralization was very similar to that of the states farther east. The comparatively simple economic conditions which prevailed in the first generation of statehood were not a sufficiently favorable environment to permit the development of the general property tax free from the fatal defects which have been universally encountered. By 1885 a special tax commission had been created to study conditions which have been summed up thus by one writer:[2]

> Undervaluation of realty, escape of personalty, fraud resulting from deduction of debts from total valuation, light taxes upon corporations, and poor administration of the laws. . . .

This indictment of the Oregon tax system is monotonously familiar; it could have been brought against the tax system of any state east of the Rocky Mountains at that time. Such evidence of decay in the general property tax in a state so remote from the great centers of wealth and population indicates that the disease with which this system of taxation was afflicted was congenital. The special commission of 1885 recommended several significant reforms,[3] including on the administrative side proposals for a state board of equalization, the appointment of deputy assessors by the county court, and the substitution of the county commissioners for the assessors as the county board of review. The same problems were dealt with by a second special

[1] Formerly the State Board of Tax Commissioners. Title changed by laws of Oregon, 1913, ch. 359.

[2] Cf. Chapman, *op. cit.*, p. 70.

[3] The report is reviewed by Chapman, *op. cit.*, pp. 70, 71. A state board of equalization had been established in 1871 but it proved incapable of accomplishing anything further than the acceleration of undervaluation, and it was dropped in 1874. Cf. Gilbert, "Tax Apportionment in Oregon," *Pol. Sci. Quart.*, xxvi, pp. 271 ff.

tax commission, reporting in 1891, but the recommendations of this body were less concerned with administrative reform than with changes in specific features of the tax system.[1]

The continuance of undervaluation led finally to the reëstablishment of a state board of equalization in 1891.[2] This board was invested with no effective powers of equalization and competitive undervaluation waxed even more severe during its brief administration. It was abolished in 1898,[3] and the general verdict upon its work was thus expressed by the third special tax commission, reporting in 1906:[4]

> The workings of the state board of equalization were found to result in greater inequality than resulted from taking the assessments made by the various assessors without equalization, as chance would have them be.

The intolerable features of the old system still persisted, even after the abandonment of the state board of equalization, and in 1901 the legislature provided for a fixed apportionment of the state tax among the counties upon the basis of the average assessed valuations of the five years preceding. This schedule was to continue in force until 1905 when a method of apportionment based on county expenditures was to be instituted.[5] The plan contemplated the use of the average expenditures for the preceding five-year period, and excluded, at first, expenditures for roads; later, expenditures for county courthouses, outlays caused by pestilence or epidemics, and payments of interest and principal on county debts. In general the tendency was to exclude investments and extraordinary expenditures and to base the apportionment upon current expenditures.[6] No apportionment was ever actually made on the basis of expenditures. The plan was postponed first until 1910 and later until 1912, and in the meantime it was held invalid on account of constitutional limitations.[7] With

[1] Cf. Chapman, *op. cit.*, pp. 71, 72.

[2] *Laws of Oregon*, 1891, p. 182. Previous to 1907 the Oregon session laws were not arranged according to chapters and the citations are to the page on which the law referred to begins. The customary method of arrangement was introduced in this year. *Ibid.*, 1907, p. 5.

[3] *Ibid.*, 1898, p. 15.

[4] *Report of the Board of Commissioners*, 1906, p. 67.

[5] Described in *ibid.*, pp. 68ff.

[6] Gilbert, *loc. cit.*, p. 277.

[7] *Yamhill County* v. *Foster*, 53 *Oregon*, 124.

the last postponement, in 1907, the legislature adopted again the old system of apportionment on the basis of the county ratios which had been prepared in 1901. This method was adjudged unconstitutional in 1909 as a violation of the uniformity clause, but the special tax commission of 1906 expressed the belief that under it "substantial equality" had been attained in 1905.[1] The legislature, then in session, hastily constituted the governor, treasurer, and secretary of state a special board of equalization and requested it to assume the disagreeable duty of affording relief from the discomforts of the former makeshifts at equalization.[2]

In the same session provision was made for a permanent tax commission to be composed of the three elective state officers appointed to the temporary board of equalization and two members chosen by the governor on a partizan basis.[3] This form of organization had been recommended by the special commission of 1906, to whom the advantages of economy, by utilizing the state officers, appealed strongly.[4] It was expected that the two appointive members would be experts who would solve all of the difficult problems and do most of the active work; and in practice these anticipations have been fulfilled. It was not foreseen that the ex officio members, who constituted a majority of the board, might possibly be led to obstruct the attempts of the expert members at efficient and unbiassed administration. It is an open secret, however, that such has been the outcome; and the fond theory of the creators of this scheme, that the elective officers were more closely accountable to the people and hence should be in the majority, has resulted in the occasional sacrifice of efficiency to political expediency.

The law of 1909 required the board of tax commissioners to perform the state equalization, to assess certain classes of corporations, to exercise general supervision over the tax system, and to make such recommendations as seemed desirable after a study of the tax systems of other states.

[1] *Report of the Board of Commissioners*, 1906, p. 70.
[2] *Laws of Oregon*, 1909, ch. 14.
[3] *Ibid.*, ch. 218.
[4] *Report of the Board of Commissioners*, 1906, p. 45.

EQUALIZATION

The first equalization undertaken by the new board was for the year 1910, on the basis of the local returns for 1909. In preparing for this task a new variant of the sales method was developed. Data were collected from the county records concerning some 30,000 sales of real property by warranty deed, all of the sales having occurred in the year ending March 1, 1909. No sale was used in which the stated consideration was less than $100. The number of sales from each county ranged from 200 in the smaller counties to some 9000 in Multnomah county, containing the city of Portland. The board described the computation of the ratio as follows:[1]

> The assessed valuation of each parcel of property for the year was then secured. Thereafter the lists were carefully checked and all sales wherein the consideration appeared to be nominal or fictitious were eliminated. In preparing the record, sales and assessments of rural or urban and of town or city property were separately considered. The total number of sales finally used was about 19,200. The ratio for each county was secured by dividing the total of assessments by the total of considerations of the same property therein.

In subsequent equalizations practically the same method has been followed except that a three-year period has been used and all sales have been rejected in which the stated consideration was less than $500. It is clear that this test has eliminated only those transactions known as "dollar sales," and that it has afforded no guarantee that the higher sum recorded was the amount actually paid. Since the commission was compelled, for lack of funds, to depend altogether upon the inspection performed in the central office for the elimination of improper data, the earlier Oregon sales ratios were of doubtful accuracy. In recent years the appropriations for the department have been materially increased and a considerable amount of field inspection and elimination has been done in the course of collecting the later sales data. The Oregon commission has not relied upon its sales ratios as the exclusive guide to a proper equalization, but has supplemented them by data collected in other ways.

[1] State Board of Tax Commissioners, *Report*, 1911, p. 8.

One of the supplementary sources of information, though not a wholly reliable one, has been the statements made by applicants for loans from a state fund from which such assistance has often been given. These applications contain a statement of the assessed value, the prospective borrower's estimate of the value, and the appraisal by the state loan agent who has investigated the quality of the security offered and the character of the applicant. While in general there would be a tendency for borrowers to overstate the value of their property when the motive was a loan based upon that value, yet the correction made by the state agent provides a fairly satisfactory check to such overstatements. No direct use has been made of these data in constructing the ratios, but they have been of value as a guide in the use which has been made of the percentages compiled from the sales data.

The methods followed in the equalization of personal property have been much more indefinite. With regard to live stock the board has proceeded upon the assumption that substantial equality could be obtained by equalizing on a per capita basis, "taking into consideration natural differences in values for different sections of the state."[1] The means of ascertaining these natural differences in values are not described. Regarding other classes of personal property, both tangible and intangible, it has been stated that the equalization "depends on such information and data regarding assessment methods as the Board is able to secure and as may be exhibited by the summaries of assessment rolls."[2] The latter source of information is apt to be rather barren. In 1909 the assessors of the state were summoned before the commission and questioned with regard to their methods of assessment and standards of value. But information from this source, unsupported by other reliable evidence, would hardly be a safe guide to follow; for it has been the general experience that a part, at least, of the variations in the standard of valuation has been traceable to the assessor's ignorance of the true values of the properties assessed.

[1] State Board of Tax Commissioners, *Report*, 1909, p. 9.
[2] *Ibid.*

The state equalization in Oregon extends only to the totals for the counties and does not affect at all the results within the county for local taxation purposes. The original assessments of individuals are first equalized within the county by a county board of equalization consisting of the county clerk, assessor and judge. Appeals from the action of this board go, not to the tax commission, but to the circuit court of the county. It is impossible to afford relief to individuals or even to taxing districts through the state equalization and the fundamental problem of central supervision is therefore still untouched by the reform measures thus far enacted. All that the board attempts to do, under the circumstances, is to attain equality among the several counties for the distribution of the state tax, and this, it believes, has been accomplished. As evidence of this achievement the board cites the increase in total valuation which has been effected and also the asserted fact that competition to reduce valuations has practically ceased.[1] The use of a ratio, even though it is not scientifically accurate, has had the effect often of discouraging deliberate undervaluation, since the certainty that some corrective would be applied to the figures diminished by so much the local official's temptation to disregard the law. The heavy burden of county taxes remains, however, a sufficient incentive to undervaluation on the part of those persons who may desire to evade a part of their just burden. In 1913 the aggregate state tax collected from general property was $2,541,196, while the total taxes on the same property for county purposes were $7,377,705.[2]

The mere fact of an increase in the assessed valuations is not positive evidence, *per se*, of greater equality of assessments, though it may indicate, as the board has suggested, that competitive undervaluation has been checked. The board's argument proves little, for valuations might have risen even more rapidly had there actually been no attempt in any tax district to hold them down. The general results of the state equalization will now be examined for such evidence as may be found of the tendency toward greater equality, and for that purpose the

[1] State Board of Tax Commissioners, *Report*, 1911, pp. 9, 10; *ibid.*, 1915, p. 7.
[2] Bureau of the Census, *Wealth, Debt and Taxation*, 1913, ii, pp. 36, 182.

aggregate assessment of different classes of property for certain years is given below.[1]

There was no state equalization in 1900 or 1905, the state tax being apportioned on the local figures in the former year and in the latter year on the basis of the county percentages established in 1901. The three years following 1905 show a total increase in real property of almost 100 per cent, the bulk of which was borne by nontillable lands and town and city lots. The increase of 62.7 per cent in population from 1900 to 1910, together with the consequent rapid development of the agricultural resources of the

ASSESSED VALUATION OF ALL PROPERTY IN OREGON, 1900–14
(MILLIONS OF DOLLARS)

Class of property	1900	1905	1908	1909	1912	1913	1914
Tillable lands	24.3	53.1	67.9	135.5	231.9	236.9	221.5
Nontillable lands	20.8	52.5	162.9	139.8	108.0	126.6	115.2
Timber lands	....	....	....	....	....	....	26.9
Improvements on lands	7.4	13.0	20.3	21.9	23.9	25.0	25.7
Town and city lots	21.9	79.2	145.6	158.5	225.8	233.9	232.1
Improvements on town and city lots	13.6	40.2	60.9	68.1	83.8	91.0	93.4
Total personalty	28.9	56.4	97.0	109.1	118.2	118.5	110.7
Public utilities	8.7	23.5	43.4	60.6	111.9	119.0	126.2
Grand total	125.7	309.3	598.1	694.7	905.0	954.3	953.6

state, have produced a phenomenal advance in land values, both rural and urban.[2] It is significant, however, that the greatest increase in assessments from 1900 to 1908 fell upon nontillable lands. It is impossible now to say whether this was due to the rapid appreciation in the value of the timber lands, which are included in this class, or to discriminatory assessments of these lands. The temporary board of equalization reduced this class in 1909, and the tillable lands were heavily increased. The assessments since 1909 have resulted, generally speaking, in

[1] From *Report of the Board of Commissioners*, 1906, p. 202, and the biennial reports of the tax commission.

[2] The census valuation of the land in farms rose from $113,000,000 in 1900 to $411,000,000 in 1910, or 263.9 per cent. *13th Census*, vii, p. 396.

further reduction of the nontillable lands and in further increases in the class of tillable lands. In 1913 the former class was increased by some $18,000,000, principally in the heavily timbered counties of the mountain section. The decline in the assessment of both classes in 1914 appears to have been the result of classifying timber lands separately, and of transfers from the tillable to the nontillable group.[1]

Less successful have been the board's efforts to advance the aggregate of personal property. The absolute increase has been small, and in comparison with real estate the personalty assessment of 1914 is a smaller percentage of the total than that of 1908. Neither state equalization nor state supervision of the original assessment, as practiced in Oregon, has been adequate to check the progressive evasion of certain forms of personal property. The details of the personal property assessment will be taken up below; it is of importance here to note that a greater share of the total tax burden, state and local, has been shifted to real property. This result will not be displeasing to a certain tax reform party in Oregon, which has been working to secure complete exemption of personalty. There is no need here to pass upon the justice of that tax program; but judged from the standard of the general property tax — the legal tax system in Oregon — this result can hardly be viewed with satisfaction.

Inasmuch as the process of equalization, in Oregon, concerns only the readjustment of county totals for the purpose of apportioning the state tax, a more valuable test of the board's work is to be found in the adjustment of the state tax burden among the counties. In this respect some improvement has apparently been made over the basis of apportionment established by the legislature in 1901. Evidence of this is found in the transfer of a greater proportion of the state tax to the wealthier and more highly developed counties. The table at the end of this chapter shows the average census value of farm lands per acre in 1900 and in 1910, together with the percentage of the state tax borne by each county under the legislative apportionment of 1901 and under the state equalization of 1912.[2] From this table it will be noticed

[1] Cf. Oregon Tax Commission, *Report*, 1915, p. 59. [2] Cf. below, p. 478.

that the more recent equalization has shifted a greater proportion of the state tax to the more valuable lands than was borne by them under the old apportionment. These changes were necessitated in part by the development of certain sections, as in the eastern part of the state; and in part, also, by the fact that under the former plan of distribution the poorer sections were penalized. The board reported in 1915 that intercounty wrangling over the distribution of state taxes had ceased, and that no county had objected to its quota since 1909. During this period the aggregate state taxes were $14,377,046. The counties are satisfied — which indicates that the present arrangement is more equitable.

On the other hand, very little has been accomplished in equalizing among classes of property and nothing at all in equalizing among local districts or individual taxpayers. The absence of any right of appeal to the state board from individuals or taxing districts, and of any right of interference on its own motion, prevent the commission from attacking the worst phases of the problem of unequal assessments. Granted that it has attained practical equality of assessment among counties for the state apportionment, there remains untouched the whole problem of the burden of local taxes within the county, the distribution of which is reviewable only by a court unfamiliar with the methods or principles of assessment and at best but poorly equipped for an adequate review of the assessor's work. In this respect Oregon is yet far behind most states in the development of centralized administration, though her backwardness in this particular is in keeping with the scanty supervisory authority conferred upon the board.[1]

The Assessment of Corporations

The law of 1909, by which the state board of tax commissioners was created,[2] imposed upon that body the duty of making

> . . . an annual assessment . . . of the property having a situs within the state . . . of all railroad companies, sleeping car companies, union station and depot companies, electric and street railway companies, express companies, telegraph and telephone companies, refrigerator, oil and tank line companies, as may be doing business as one system, partly within this state and partly without, or doing business in more than one county of the state.

[1] Cf. below, p. 472.

[2] *Laws of Oregon*, 1909, ch. 218, § 15.

And of such heat, light, power, water, gas, and electric companies as may be doing business as one system, partly within and partly without this state, or so doing business in more than one county of the state.

An amendment of 1913 extended the commission's jurisdiction to all private car companies and to all water, gas and electric companies, whether doing an interstate or intercounty business or not.[1] The same amendment transferred to the central authority the assessment of car and machine shops, grain elevators, grain warehouses, bridges across the Willamette River and interstate bridges. These classes of property had been left in the local jurisdiction in 1909 because of the feeling of the special tax commission of 1906 that it would be unjust to the counties in which such definitely localized property was situated to distribute their values to the remote counties of the state on the mileage basis.[2] Corporate owned real estate not used in the conduct of the business and all docks and water craft of navigation companies remain locally assessable.

Centralized assessment of corporate property began in 1910. Previous to that date the tangible effects of corporations had been assessed locally, with the usual variations and "glaring inconsistencies" in the results between counties and as compared with other classes of property.[3] In 1906 the people had initiated and adopted a series of license taxes upon certain classes of public service corporations. Express, refrigerator car, sleeping car, and oil companies were to pay 3 per cent, and telegraph and telephone companies were to pay 2 per cent on gross earnings, in addition to the taxes on tangible property.[4] These measures were given a scanty approval by the special commission of 1906 as being a step in advance over the primitive methods formerly in vogue, though considerably behind modern legislation in the taxation of such companies. The case was properly held to be as strong for central assessment of the other classes of transportation and transmission companies as for the railroads. But the special commission was unwilling to recommend that the initiative proposal be abandoned

[1] *Laws of Oregon*, 1913, ch. 193.
[2] *Report of the Board of Commissioners*, 1906, p. 51.
[3] State Board of Tax Commissioners, *Report*, 1911, pp. 10, 11.
[4] Cf. *Laws of Oregon*, 1907, chs. 1 and 2, for the rates.

without a fair trial, and for this reason it omitted these classes of corporations from its proposed scheme of centralized administration. Nevertheless, the act of 1909, creating the tax commission and defining its duties, swept away the gross earnings tax laws before they had been really given a fair test, though considering the experience of other states the rates would doubtless have proved too low.

The system of taxing corporations instituted in 1909 was virtually that recommended by the commission of 1906.[1] The ad valorem method was definitely selected on the ground that it was better calculated to reach the taxable capacity than any other system that had been suggested. For all companies the same form of report was prescribed, the main features of which were to be the following:

1. Organization data, including names and addresses of the principal officers, and of the Oregon representatives.
2. Capitalization data, covering number and value of shares of stock and of bonds outstanding.
3. Statement of real and personal property owned within and without the state, including moneys and credits owned within the state, and a complete list of all buildings owned within the state.
4. Mileage statistics, within and without the state.
5. Statement of gross receipts and net earnings, from all sources.

The law further provided that in arriving at the cash value of the properties the board might conduct inspections, consider the reports made to any other public officer, the value of the franchise, and any other evidences of value which should happen to be discovered. Each plant was to be valued as a unit, from which valuation the property outside the state and that assessed by the county assessor were to be deducted. The total assessment was to be apportioned among the counties of the state on the basis of the mileage in each county, and the apportioned values were to be equalized to the same proportion of true value that was used for the assessment of all other property by the county assessors. This provision, absolutely necessary for justice in the taxation of corporate and other property, emphasizes the importance of accurate ratios of assessed to true value. Such a use of the ratios

[1] *Report of the Board of Commissioners*, 1906, pp. 121 ff.

is much more definite and authoritative in its effects than to regard them merely as a guide to values — a guide which may be followed or not in the judgment of the board. The latter is virtually bound to defend the ratios used as correct, since these are actually employed as the basis of apportioning large amounts of property to the counties. There is a serious possibility of injustice either to the corporations or to the other property of the county if the ratio be not thoroughly representative of the condition of the assessments over the county.

Wherever possible and expedient the board has used net earnings as the basis of valuation for the corporations which it has been required to assess.[1] This method was approved by the special tax commission of 1906,[2] and has also been endorsed by the Oregon supreme court as a proper method of valuing railroad property.[3] The special tax commission recognized, however, the possibility and at times the desirability of using other methods of valuation; and it concluded its discussion of this point by saying that the question which must arise in each individual case as to the element which should be given greatest weight in the calculation of the value of any specific road "must necessarily be largely committed to the discretion of the assessing board."[4] Apparently the private office valuation had no terrors for this body after its observation and investigation of the work of the local assessors. The state board has not, however, exercised its prerogative of a secret assessment to any large extent, because of the position taken by the court in the Jackson county case. In the few instances in which there has been no net income, for one reason or another, the board has resorted to other means of determining the taxable value and in such cases it has followed the ordinary methods based on cost of reproduction of the plant in existing condition. No physical survey has been undertaken to ascertain original or present cost. When the net earnings basis has been used, the average earnings for a three-year period have been

[1] State Board of Tax Commissioners, *Report*, 1911, pp. 12, 13.
[2] *Report of the Board of Commissioners*, 1906, p. 52.
[3] *Oregon and California Railroad Company* v. *Jackson County*, 38 *Oregon*, 589.
[4] *Report of the Board of Commissioners*, 1906, p. 52.

capitalized at 7 per cent.[1] The difficulties in the way of a correct determination of net earnings have evidently given the Oregon board no serious concern, as the calculations have apparently been based on the returns of net earnings as made by the companies themselves. No evidence exists of a systematic checking up of these figures, an obviously impossible task in view of the complexities of corporate accounting and the board's inadequate clerical staff.

The net earnings basis of corporate taxation is generally recognized to be the most difficult to administer successfully[2] and the commission has been disposed in recent years to supplement net earnings by other criteria of value. In comparison with the former regime, however, the total corporate assessment has been significantly increased. Owing to differences in classification and the addition of other property, a comparison of the figures for 1910 and those for previous years is impossible; but the board has estimated that the property assessed by it in 1910 was valued at about $50,000,000 by the local assessors in 1908. In 1913 the total corporate assessment was $119,017,202, an advance over 1908 of 138 per cent. In the same period the assessment of other property increased about 53 per cent.[3] The law was amended in 1913 to give the tax commission jurisdiction over all gas, water, and electric light and power utilities, even when operated as intracounty units. This makes practically all of the public utilities subject to central assessment.[4]

The question may be raised, in Oregon as in other states making use of the central assessment for local purposes, whether the local distribution of the taxes on certain classes of corporations is justifiable. Reference is made in this connection particularly to the refrigerator, oil and tank line, express, telegraph, and sleeping car companies, the equalized assessments of which in 1914 ranged from $19,207 for the oil and tank line companies to $487,758 for the telegraph companies. In 1913 the board urged the diversion of the whole receipts from the taxation of these companies into the

[1] *Personal Letter from Commissioner C. V. Galloway*, May 6, 1916.
[2] Cf. Seligman, *Essays in Taxation*, pp. 245–249.
[3] State Board of Tax Commissioners, *Report*, 1915, p. 9. [4] *Ibid.*, p. 8.

state treasury, as a matter of economy in administration chiefly, though it was not then averse to a greater extension of the principle of separation of the sources of state and local revenue.[1] On the other hand, several experiments have been tried in the attempt to find a satisfactory basis of apportioning the railroad assessments. The law of 1909 required a distribution on the basis of main track mileage. This resulted in allotting an excessive amount of the large terminal values to country districts. In 1913 the commission was required to include all spur, yard, and side tracks in making the distribution, a change which favored the terminal cities unduly.[2] Two years later a compromise measure provided that the commission should value each mile of spur, yard, and side track at not to exceed 50 per cent of the amount at which the connecting branch or main lines were valued.[3] The commission has always used the maximum percentage and reports that this plan appears to be working more satisfactorily than either of the others.[4] In 1915 the tax commission suggested state collection and local distribution of the taxes on the public service corporations other than railroads,[5] having abandoned for some reason its proposal of 1913 to divert these taxes into the state treasury. The later suggestion misses the real point, which is that wire or line mileage is not a satisfactory basis of distribution; and further, that the state-wide diffusion of such small sums profits tax districts very little whereas the retention of the whole in the state treasury might effect a slight reduction in the state tax rate and thus work a positive benefit to every part of the state.

Supervision of the Local Officials

According to the terms of the act creating the board of tax commissioners, that body was to exercise general supervision over the assessment and collection of taxes throughout the state. In this case, however, the phrase "general supervision" was more form

[1] State Board of Tax Commissioners, *Report*, 1911, pp. 30, 31.
[2] *Laws of Oregon*, 1913, ch. 193.
[3] *Ibid.*, 1915, ch. 289.
[4] *Personal Letter from Commissioner C. V. Galloway*, May 6, 1916.
[5] Oregon Tax Commission, *Report*, 1915, pp. 12, 13.

than substance, for the board was left with no effective means of securing the ends sought through state control of local assessments. The board was required to visit the various counties regularly, to prescribe all blanks and forms used in the assessment and collection of taxes, to instruct all officials in the methods best calculated to secure uniformity in assessments and general compliance with the laws, and to enforce the penalties provided for the violation of any law.

The omissions in this list of means of securing improved local assessments were serious. Instructions may be given and advice offered, but no authority exists for enforcing the suggestions made. The commission may not order the revaluation of a taxing district, either on appeal or on its own motion; it may not remove a tax official except by the slow and uncertain procedure of the courts; it may not even exert any material pressure upon him in his work of assessment or equalization within the county. The presence of a central advisory body has done much and will continue to do much to coördinate the administration of the tax laws, and to attain greater relative justice in assessment matters. But without the definite power to control the direction of the reforms the improvement of the system of taxation will be, as it has been, very seriously hampered.

The situation in Oregon has been further complicated recently by the introduction of numerous and conflicting economic and political proposals, all supposedly looking in the direction of social reform. Sentiment in the state has never been strong for an effective, centralized administration of the tax laws, and even the special commission of 1906 feared the possible danger of an autocratic central tax board with mandatory powers over the local officials.[1] It was to insure perfect accountability of the members to the people that the balance of power was retained in the elective officials of the state. When this commission reported, the distrust in officials and legislature had already been manifested by the adoption and use of the initiative and referendum for general legislative purposes. It was even more strongly evidenced by the constitutional amendment of 1910 which forbade

[1] *Report of the Board of Commissioners*, 1906, pp. 44 ff.

any bill on taxation to become a law until voted upon by the people.[1]

This clumsy check upon the people's representatives was proposed as one of the bulwarks of the program of local option, also provided for in this constitutional amendment. Both of these provisions were stricken out in 1912, though the antagonism to undue haste in tax legislation forced the retention of a prohibition against declaring an emergency to exist in the passage of any tax law. The board strenuously opposed the amendment of 1910, but it became a part of the constitution with the help of about 37 per cent of the total number of votes cast at the election.[2] In explanation of this vote the board stated that the measure appeared on the ballot under an attractive title, and the later discussion disclosed the fact that its real purpose was not fully understood.[3] Both of these measures — the restriction upon the legislative enactment of tax laws and the county option in taxation — were repealed in 1912, but an amendment to the statute was adopted exempting household goods from taxation.[4] Another campaign was waged in 1914 in advocacy of two amendments providing for the abolition of the general property tax and for classification of property. Both proposals were defeated and the only net achievement of all these years of struggle has been the exemption of household goods and the prohibition of a poll tax.[5] This experience should serve as an example of the folly of regulating administrative details by constitutional provision.

Whatever else may follow from this violent partizan agitation, there can be little doubt that its effect up to 1912 had been to weaken the position of the tax commission. The latter's supervisory authority had never been regarded as more than advisory. There had never been strong sentiment for effective central administration and the spirit of local independence which had been fostered by the county unit amendment had developed a species of insubordination among local tax officials. One county

[1] State Board of Tax Commissioners, *Report*, 1911, p. 22.
[2] *Ibid.* [3] *Ibid.*
[4] *Lord's Oregon Laws*, § 3554.
[5] Oregon Tax Commission, *Report*, 1913, p. 7.

assessor, in an interview in 1911, went so far as to say in a rather truculent manner, that he took neither advice nor orders from the state board.[1]

The contest which occurred at the polls in 1912 was a decisive trial of strength between the tax commission and the ultraradical element in the state; and while in some respects it was a drawn battle yet the board appears to have come out of the engagement in better condition than its adversaries. Its own progressive proposals were defeated, but the two innovations adopted in 1910, so obnoxious to the board, were stricken from the constitution. This decisive reversal of the vote of 1910, together with the fact that three counties defeated local option in elections held under the amendment while it was in force, supports the board's explanation of a confused, and possibly a misrepresented issue.

The board has performed well those duties of a supervisory character which have been required of it by the law. The annual visits to each county have been made, though in Oregon as in other states these visits have tended to become a perfunctory visitation of the sick. A considerable correspondence has been maintained with officials and others, and instructions have been issued regularly to the assessors. In the pamphlet containing the laws there was printed also a helpful digest of the leading court decisions upon contested points in the law. At least one meeting of all of the assessors has been held, though there was no special program carried out, and no proceedings of the meeting have been published.[2] The board recommends that an annual meeting be provided for, the expenses of which shall be defrayed from state funds. Some improvements have also been made in the forms of the records kept by the local officials.

While these changes are beneficial and important accessories to the best operation of the tax system, they are not sufficient in themselves to prevent inequitable assessments and general laxness in administration. The machinery of interference within the county is so cumbersome that its use has never been invoked by the commission to remedy inequalities or to remove officials. In

[1] *Interview with the Assessor of Douglas county*, July, 1911.

[2] State Board of Tax Commissioners, *Report*, 1911, p. 9.

the matter of appeals the law specifies that each county shall be visited at least once in each year in order that, among other things, "complaints concerning the law may be heard." But the absence of any power to move in the redress of grievances renders this provision of little avail, for as has been stated above, the individual must make his appeal for a correction of the tax roll to the county court.

With this survey of the limitations under which the Oregon commission has had to work, attention is turned to the results, so far as these may be found in the detailed statistics of the assessment roll. The situation as regards real estate and corporate property has already been discussed. There remains for consideration the personal property figures. These are presented in the table below:[1]

ASSESSMENT OF PERSONAL PROPERTY, 1908–14 (MILLIONS)

	1908	1909	1910	1911	1912	1913	1914
I. Tangible Property							
1. Farm animals	$19.1	$23.4	$26.6	$24.4	$23.3	$29.0	$30.3
2. Mdse, stock in trade	23.8	24.9	27.3	28.5	28.8	30.5	28.3
3. Steamboats, vessels, machinery	11.3	14.4	13.6	14.5	13.9	15.0	9.7
4. Household, personal, office furniture	8.8	10.5	12.8	15.2	13.0	2.0	2.1
5. Implements, tools, vehicles	3.3	4.0	5.3	6.0	6.1	6.8	7.1
Total tangible property	66.3	77.2	85.6	86.6	85.4	83.3	77.5
II. Intangible Property							
1. Moneys	16.3	12.8	14.1	14.1	12.8	3.2	3.0
2. Shares of stock	8.8	12.7	15.0	16.6	16.3	15.3	14.9
3. Notes and accounts	5.3	7.4	6.4	5.9	3.7	16.7	15.3
Total intangibles	30.4	32.9	35.5	36.6	32.8	35.2	33.2
Grand total	96.7	109.1	121.1	123.2	118.2	118.5	110.7

These figures reveal the similarity of Oregon's experience with the personal property tax to that of every other state studied.

[1] Compiled from the Reports of the Tax Commission.

While some increase in the total amount of property assessed has been effected under centralized administration, by far the greater proportion of the increase has occurred in the classes of tangible property. An actual retrogression in personal property assessments occurred in 1912 and again in 1914; and as the intangibles had increased more slowly when the total was rising, so they decreased more rapidly when the total declined. The sudden shift between moneys and credits in 1913 and 1914 must have been due either to a clerical error in the published reports or to a reclassification of the returns. To what extent the agitation which has raged in Oregon for some years for the complete exemption of personal property, and the shifting of the whole burden of taxation to the land, has been responsible for the failure to secure better results in assessing personalty, it is impossible to say. The majority of the people have not, thus far, been willing to undertake such a radical transformation of the tax system. Neither are they willing to abide by the consequences of their decisions at the polls and submit to the taxation of personal property under the general property tax. Advantage has undoubtedly been taken, by those desirous of evading their taxes, of the confusion incident to the injection of debatable theories of social reform, to accomplish their end.

This confusion of the issue cannot wholly suffice as an explanation of the situation. The experience of other states seems conclusive on the point that centralized administration of the general property tax has been unable to effect any material change in the conditions of personal property assessment, even when considerable attention has been given by the tax commission to this end. The Oregon commission has been keenly aware of the defects of the tax system and has labored earnestly since the beginning for reform. The net result of its efforts thus far (1916) has been the exemption of household goods provided in 1912.[1]

On the whole, it must be concluded that because of the disturbed state of public opinion and the weaknesses of the administrative system, the tax commission has been unable to exercise

[1] The unexpected adoption in June, 1917, of a constitutional amendment authorizing classification opened the way for a thorough reform of the tax system.

effective supervision over the local officials. The state equalization has been more carefully made, and the public service corporations are now being taxed on approximately the same basis as other property. But in the exercise of supervisory powers very little of a positive character has been accomplished.

The Recommendation of Improvements

In the first biennial report the Oregon board expresses the belief that improvements should be worked out slowly through an evolutionary process rather than by sweeping reforms of a revolutionary nature. It has not been permitted to apply this theory unmolested, for the struggle of various factions interested in tax reform has forced the board into more than one heated conflict, and constitutional amendments have been passed and repealed with amazing celerity. Improvements have been introduced into the tax laws, of course, and the commission now has a respectful hearing in its recommendations. The marked differences of opinion as to the proper course which further improvements should take lessens the influence and authority of the commission as the expert advisers of the legislature.

APPENDIX TO CHAPTER XIV

PER CENT OF STATE TAXES PAID BY THE SEVERAL COUNTIES OF OREGON, WITH THE AVERAGE VALUE OF FARM LANDS PER ACRE ACCORDING TO THE 13TH CENSUS, 1910[1]

County	Per cent of state taxes by legislative apportionment	Per cent of state taxes according to equalization by the tax commission, 1912	Average value farm lands, per acre, 13th census, 1910
Baker	.0234	.025197	$36.68
Benton	.0202	.013233	39.48
Clackamas	.0335	.034468	78.29
Clatsop	.0212	.023589	35.09
Columbia	.0106	.016814	35.90
Coos	.0203	.022411	33.41
Crook	.0130	.012925	17.54
Curry	.0040	.003948	16.23
Douglas	.0345	.035776	26.17
Gilliam	.0087	.010064	18.86
Grant	.0092	.008322	10.00
Harney	.0160	.008477	12.35
Hood River[2]	....	.011564	340.03
Jackson	.0314	.034379	90.60
Josephine	.0090	.012466	41.58
Klamath	.0115	.015492	20.18
Lake	.0107	.008162	14.67
Lane	.0462	.040694	39.34
Lincoln	.0055	.007997	20.35
Linn	.0526	.033330	45.34
Malheur	.0094	.011029	35.22
Marion	.0613	.046580	73.40
Morrow	.0095	.011165	12.36
Multnomah	.3123	.356990	228.61
Polk	.0307	.019290	54.08
Sherman	.0087	.009450	25.14
Tillamook	.0087	.016071	65.87
Umatilla	.0490	.045031	31.26
Union	.0223	.023361	33.49
Wallowa	.0073	.011929	20.20
Wasco	.0234	.017358	22.19
Washington	.0301	.024874	97.16
Wheeler	.0067	.004595	9.12
Yamhill	.0391	.022969	69.39

[1] In general the percentage of state taxes borne by the counties in 1912 has been increased where land values are high, and decreased where these values are low. This comparison does not prove the point conclusively, but it is evidence that the tax commission is equalizing more equitably than did the legislature in 1901.

[2] Hood River county was organized from Wasco county in 1908.

CHAPTER XV

THE TAX COMMISSION OF OHIO

THE history of the state board of equalization and of the various boards for the administration of certain taxes on corporations in Ohio has been outlined above.[1] It was there suggested that the state tax commission, which was created in 1910, was the outcome of another series of administrative experiments. Before taking up the work of the commission itself, these experiments will be described briefly since they explain not only the appearance of the tax commission but also in part the long delay in reaching this stage of administrative control.

The special tax commission of 1893 had recommended a thorough reorganization of the tax administrative structure.[2] The plan formulated by this body displayed insight into the fundamental evils of the old system and vision of the future course of reform in American taxation. The commission's bill was more radical, and at the same time more in line with recent developments, than any proposals for administrative changes which had been advanced anywhere in the United States to that time. It provided for a tax commission of three members to be chosen by the governor for a term of six years. The proposed commission was to assume the duties of the state board of equalization and of the various boards for the assessment of corporate property. Centralized control over the local assessment process was to be secured by giving the tax commission power to appoint in each county a board of assessment and equalization, consisting of three members selected for a six-year term. These county boards were to appoint ward and township assessors and were to relieve the county auditors of their duties in connection with the assessment. So comprehensive a scheme for reconstructing the

[1] Cf. above, pp. 48–56.

[2] *Report of the Tax Commission of Ohio*, 1893, pp. 70 ff.

administrative organization of the tax system was far in advance of its time; and, instead of adopting it, the people of Ohio chose to spend almost a generation in experimenting with another feeble state board and a batch of incongruous and unrelated laws imposing additional taxes upon corporate property.

The board referred to was the state board of assessors and appraisers, established in 1893 [1] for the valuation of the property of express, telegraph, and telephone companies and the apportionment of these valuations among the tax districts. It was composed of the auditor, treasurer, and attorney-general of state. In the following legislative session an excise tax of 2 per cent was laid upon the gross receipts of express companies and a similar tax of 1 per cent upon that proportion of the capital stock of sleeping car companies which represented property used in the state.[2] The new board was placed in charge of these taxes. Two years later the excise principle was extended to a number of other classes of public service corporations by levying a tax of one-half per cent upon their gross receipts; [3] and in 1902 its field of application was still further enlarged, while the rate was advanced to 1 per cent.[4] In this year also private business corporations were required to pay a franchise tax of one-tenth per cent on the proportion of capital stock which represented property used in the state.[5] The administration of all of these taxes, except the last named, was vested in the board of assessors and appraisers which thus became a nucleus of central administration, though of a very limited sort. Its duties were largely clerical. They consisted chiefly in receiving the reports of the corporations taxed under the various laws and certifying to the state treasurer the amounts upon which the excise taxes were to be paid. Certain powers of compelling the appearance of witnesses and the production of evidence were given but no supervisory authority was exercised over the accounts or returns of the companies which remained virtually their own assessors.[6]

[1] 90 *Ohio Laws*, 330.
[2] 91 *Ohio Laws*, 237.
[3] 92 *Ohio Laws*, 79.
[4] 95 *Ohio Laws*, 136.
[5] 95 *Ohio Laws*, 124.
[6] Cf. the criticisms of the mass of corporation taxes that had been developed, in *Report of the Tax Commission of Ohio*, 1908, pp. 30–33.

The motive for the development of this mass of confused, unrelated and feebly administered taxes lay in the people's desire to be rid of the injustice of the old tax system, coupled with their unwillingness to consent either to a more effective administration or the complete elimination of the general property tax.[1] Separation of the sources of revenue for state and local purposes became the popular idea of tax reform, and in applying it the direct tax for state purposes was abolished.[2] These changes, however expedient from the standpoint of the state finances, encountered the objection that has been raised against complete separation of the sources of revenue, namely the absence of central supervision over the distribution of the local tax burden.[3] The decennial equalization of 1900–01 had accomplished practically nothing toward the relief of the local inequalities, and by 1906 public sentiment had become strongly aroused in favor of further changes.[4] A special commission of investigation was created, and the second of a group of five recommendations offered by this commission in its report, published in 1908, was the following:[5]

> The establishment of a state tax board of three members to be appointed by the governor, to administer all laws for the collection of state revenues and to make such recommendations upon the general subject of taxation as investigation and experience may from time to time suggest.

The law creating the tax commission was enacted in 1910.[6] In addition to the usual provisions for such a body, it contained an

[1] In all six votes have been taken on the question of amending the constitution to eliminate the uniform rule.

[2] Cf. Bogart, *op. cit.*, pp. 246–248. No direct levy was made for state purposes in 1902 and the total state levy for school and sinking fund purposes was 1.13 mills. Governors Nash and Pattison advocated the complete elimination of even these levies. The movement for separation had produced several other state taxes including a liquor tax, an insurance tax, and direct and collateral inheritance taxes. The direct inheritance tax was passed in 1904 (97 *Ohio Laws*, 398) and repealed in 1906 (98 *Ohio Laws*, 229). The receipts from all of these sources for state purposes increased from $1,720,000 in 1896 to $7,081,000 in 1907. Cf. *Report of the Tax Commission of Ohio*, 1908, p. 63.

[3] Cf. Bullock, "The Separation of the Sources of State and Local Revenues," *Quart. Jour. Econ.*, xxiv, p. 437.

[4] Cf. *Report of the Tax Commission of Ohio*, 1908, pp. 16–34, for an account of conditions; *ibid.*, p. 6, for a list of the organizations appearing before it.

[5] *Ibid.*, p. 39.

[6] 101 *Ohio Laws*, 399.

attempt to codify and simplify the mass of complex and diverse legislation which had accumulated for the taxation of corporations. The codification of the corporation tax law and the centralization of its administration into the hands of the tax commission resulted in temporarily overemphasizing that feature of the commission's duties, but the balance has been subsequently restored by the provision of additional authority over the process of local assessment. The principal duties of the Ohio tax commission at the present time are the state equalization, the administration of various taxes on corporations, and a certain supervision of the local officials. To these duties and the results which have been obtained through their exercise attention will now be turned.

EQUALIZATION

The commission's duties in connection with the state equalization have varied somewhat at different times, owing to the rapid succession of changes that have been made in the administration of the Ohio tax system. The reappraisal of land was under way in 1910 and almost the first task of the commission was to equalize that appraisal, the results of which were to stand for four years. Before this period had expired the Warnes law of 1913 introduced the experiment of centrally appointed county assessors, to be known as deputy tax commissioners.[1] For reasons not generally known to outsiders the tax commission did not order the deputy tax commissioners to make a general revaluation of real estate in either of the two years during which this law was in force. There was, therefore, no opportunity for a general equalization of real property. In 1915 the principle of central appointment of the assessor was abandoned and locally chosen tax officials were once more provided.[2] This tax act was far from clear but the attorney-general ruled that it did not require an annual reassessment of real estate, though the tax commission had discretionary authority to order the revaluation of all or any part of the real estate. Again there was failure to act and no general reassessment of real estate had been undertaken under the Parrett-Whittemore law

[1] 103 *Ohio Laws*, 786. [2] 106 *Ohio Laws*, 246.

when it was declared unconstitutional in January, 1917.[1] The emergency measure of 1917 apparently requires the commission to make such annual equalization of any and all classes of real and personal property in any county or subdivision thereof as may be necessary to secure assessment of all property at its true value in money.[2] This law was passed too late to permit of a general revaluation, though such has been undertaken in some counties at the direction of the county auditors.

In consequence, the only experience of the Ohio tax commission with a general state equalization of real property has been that of 1910, and this had to be undertaken almost as soon as the commission was organized. Moreover, there had been no general reappraisal and equalization of real estate since 1900 and there was abundant evidence to show that the existing assessments were very unequal.

The last three appraisals, 1881–1901, had added only $21,190,533 to the land valuation of the state, while the total valuation added to the assessment of buildings and improvements in the same time had been $610,135,000.[3] Even the brief researches made by the special tax commission of 1908 had resulted in the most conclusive evidence of the deplorable state of affairs. For example, in Adams county one hundred and ninety-one parcels of real estate had been transferred for a total of $92,409, while they had been assessed for $10,460, or an average ratio of assessed to true value of 11.3 per cent; but one hundred and twenty-one parcels in the same county had sold at a total of $42,263, and had been assessed at $51,020, or 120.7 per cent of true value. Brown county revealed percentages of assessed to true value ranging from 12.3 per cent to 111.6 per cent, Monroe county, 10.8 per cent to 107.2 per cent, and Montgomery county, 12.2 per cent to 106.9 per cent. The data compiled showed that Brown county had been assessed at an average of 50.3 per cent of full value, while Adams county had been assessed at 43.4 per cent, Monroe county at 36.7 per cent, and Montgomery county at 37.1 per cent.[4]

[1] *Godfrey* v. *O'Brien*, 95 *Ohio*, 1. [2] 107 *Ohio Laws*, 29.
[3] Ohio Tax Commission, *Report*, 1911, p. 25.
[4] *Report of the Tax Commission of Ohio*, 1908, Table G.

In view of these well known conditions of local assessment and especially the evidence which had been so recently collected by the special tax commission of 1908 touching the unequal basis of valuation, it seems that in 1910 the new tax commission would have sought the most efficient means available for checking up the work of the local officials and boards of review. One of the most satisfactory guides to the relation of assessed to true value that has been worked out in the United States is the "sales method" as it has been developed and applied in Wisconsin.[1] An expert from the Wisconsin commission demonstrated the system in Ohio and would have assisted in installing it. The first chairman of the commission — the minority member — favored the plan, but after a conference with the governor the sales method was rejected by a majority vote on party lines, on the ground of being "impracticable and altogether too expensive."[2] With regard to the expense the statistician of the Wisconsin commission estimated that a sales bureau could be established in Ohio that would present reliable real estate values for every county and district in the state at an expense not to exceed $6000 per year, "if kept entirely free from political conditions and political patronage."[3] Such an estimate, based on an expert knowledge of conditions in Wisconsin, appears to meet effectively the objection of prohibitive expense; the requirement of freedom from political interference would have been more difficult to secure.

The Ohio commission's discussion of the sales method in its report for 1910 was evidently intended as a searching criticism of the underlying theory, written in defense of the rejection of the system. Instead of demolishing the theory these comments reveal quite clearly the writer's unfamiliarity with the basic assumptions involved. For example the commission said:[4]

[1] Cf. above, ch. 8.

[2] Ohio Tax Commission, *Report*, 1910, p. 67. Cf. also W. B. Poland, "Progress made in Administering the Ohio Tax Commission Law," *Proceedings of the Seventeenth Annual Meeting of the Ohio Chamber of Commerce*, 1910, p. 277.

[3] *Personal Letter from A. E. James*, June 5, 1912. In September, 1916, Mr. James confirmed this estimate notwithstanding the general rise in prices since 1912.

[4] Ohio Tax Commission, *Report*, 1910, p. 68.

The theory assumes that the local assessor uniformly assessed all property in his district at the same percentage of selling value as shown in the transfers made within the period in the district. An examination of the transfers furnished by the county auditors discloses this not to be true.

Of course no intelligent advocate of the sales method has ever held such assumptions. The real assumptions are, first, that all grades of the assessor's work are fairly evenly represented in the transfers; and second, that if all grades are not represented, that the work included will not be widely different from his work as a whole. It is admitted that the ratios would be vitiated if the assessor had used varying ratios for different grades of property and if one of these were excessively represented in the sales. Tests which have been made in Wisconsin demonstrate the soundness of the above assumptions. The members of the Ohio tax commission in 1910 either failed to grasp the theory of the sales method, or chose deliberately to reject the use of scientific methods of procedure.

Notwithstanding the rejection of the offer of the Wisconsin commission to assist in the installation of a scientific sales system and the denunciation of the whole assumption upon which it supposed that the sales ratio rested, the Ohio commission proceeded to perform the equalization of 1910 largely upon the basis of sales data collected by the county auditors [1] and subjected to none of the searching tests used in Wisconsin. The only safeguard was the omission of "dollar sales" and forced sales, but the results were completely vitiated and the whole question begged by the commission's suggestion to the county auditors to report a select list of "representative sales." Naturally, as the Wisconsin statistician pointed out in his letter above quoted, the county auditors would "tend to eliminate from their selection as unrepresentative all sales which tended to raise the assessed values as returned by the assessors, and to include whether representative or not all sales which tended to confirm the assessors in their work." [2] When it is considered that the county auditors had at that time certain supervisory responsibility over the work of the local asses-

[1] Ohio Tax Commission, *Report*, 1911, p. 68.

[2] *Personal Letter from A. E. James*, June 5, 1912.

sors, weight is given to this interpretation of their probable action under the circumstances. At any rate, the conclusions of the Ohio tax commission, after such an unsatisfactory trial of the merits of the sales method, can only be regarded as the conclusions of ignorance or prejudice for in no case was the system given a thorough test.

The first result of the real estate appraisal of 1910 was a tremendous advance in valuations all over the state. It was an undisputed fact that property had been assessed at the most widely varying ratios of true value, though on the average far below that level. The total local assessment of real property for 1910, the last year under the old regime, was $1,661,669,958. The results of the new appraisal were as follows:

ASSESSMENT AND EQUALIZATION OF REAL PROPERTY IN 1910[1]
(MILLIONS)

Districts	Quadrennial appraisers	Local boards	Tax commission	Amount added by tax commission	13th census valuation of farm land and buildings
Townships	$1,229.4	$1,338.0	$1,678.6	$341.0	
Corporations	2,323.6	2,410.9	2,547.9	137.1	
Totals	$3,553.0	$3,748.9	$4,226.5	$478.1	$1,654.2

Strong emphasis was laid in the appraisal upon the legal standard of full cash value, and this emphasis, together with a general public sentiment in favor of higher valuations, led the local appraising officials to make the most satisfactory assessment of real estate that had ever been made in the history of the state. Credit for this advance is due to several factors.

In the first place the tax limit law goaded many localities on to much higher valuations.[2] On the customary valuations the tax rates in many tax districts had mounted to $4.00 and higher per $100. The tax limit law of 1910 restricted the levy to ten mills on the dollar, with an additional five mills for certain sinking fund

[1] Ohio Tax Commission, *Report*, 1911, pp. 216, 217.

[2] R. M. Dittey, "The Uniform Rule and Tax Limit Legislation in Ohio," *Proceedings of the National Tax Conference*, 1912, p. 229.

and emergency purposes.[1] If in any year the ten mills would not produce an amount equal to the taxes levied in any district in 1909, plus 6 per cent in 1911, 9 per cent in 1912, and 12 per cent in any year thereafter, the levy might be increased in order to obtain this minimum revenue, but in no case beyond fifteen mills. Various changes have been made in this tax limit law and it has become one of the storm centers of the tax fight in Ohio. The absolute limitation has been eliminated, and in some other ways the restriction has been loosened slightly;[2] but the fundamental principle stands, and the two leading gubernatorial candidates were pledged to support the "one per cent" law in 1916.

It was apparently expected by those who framed this law that the maximum rates authorized therein would prove attractive to the owners of intangibles, for an amendment of 1911 carried a rider of an "immunity bath" for those who had neglected to make full return of their possessions before 1911. With the fear of back taxes removed it was reasoned that taxpayers would gladly hasten to subject their bank deposits and other intangibles to a possible maximum rate tax of 1½ per cent. The returns of personal property do show a marked increase after 1910, but the aggregate of intangibles represents only a small proportion of the amount of such property taxable in the state.[3]

In the second place one prolific source of competitive undervaluation — the direct state tax — had been practically eliminated since the appraisal of 1900. The direct state levy for general state purposes had been abandoned in 1902, but the state continued to collect a tax on general property for sinking fund and school purposes, the total levy amounting to 2.89 mills. This levy was reduced to 1.35 mills in 1903, and in 1911 it was 4.51

[1] 101 *Ohio Laws*, 430.

[2] 102 *Ohio Laws*, 269 (1911) created a county budget commission charged with the duty of supervising the operation of the tax limit law. In 1913 the people were permitted to extend the tax levy for any particular purpose for not to exceed five years, provided the total levy was kept within 15 mills (103 *Ohio Laws*, 57). In 1917 the favorable vote required to fund temporary debt without including the interest and sinking fund charges within the 10 mill limit was reduced from two-thirds to a bare majority. 107 *Ohio Laws*, 575.

[3] *Special Message of Governor Cox to the Extra Session of the Legislature*, July 20, 1914, p. 8. Cf. below, p. 510.

mills. The state tax on property in 1902 was $5,686,000; in 1903 it dropped to $2,687,000, from which point it rose slowly to $3,171,000 in 1910. Meantime the state's revenue from indirect taxes had risen from $2,530,000 in 1901 to $8,396,000 in 1910.[1] That part of the state tax which was levied for school purposes was redistributed to the counties at the rate of $2.00 for each enumerated child of school age. The special committee of the senate reporting in 1910 pointed out however that the redistribution of even this relatively small sum was productive of some injustice.[2] But the total amount involved was not sufficiently large to be a material factor in stimulating competitive undervaluation in the reappraisal of 1910.

In the third place the presence of a state tax commission with sweeping powers of supervisory control over the actions and results of local officials provided an incentive for a more thorough appraisal than had ever before been attempted.[3] The tax legislation of 1910 gave the tax commission authority over the decennial boards of appraisal, but much of their work had been done by the time that the commission was organized and ready for business. The commission's chief opportunity for influencing the results, therefore, lay in its powers of reviewing and correcting the returns and in requiring local boards to review and correct their own work. The powers of review were vigorously exercised by the tax commission and in all twenty-eight county boards and thirty-two city boards were ordered to reconvene and complete their work, or do it over again.[4] Comparatively little use was made of the power to order reassessments; and of the seven instances in which reassessments were made, four were townships and three were villages, so that the volume of property reached in this way was inconsiderable. No specific causes were assigned by the commission for the various reassessment orders issued.

Finally, as a factor in the reform movement, underlying not only the tax limit law and the tax commission but also the various corporation taxes which had been earlier enacted, was the growing

[1] Ohio Tax Commission, *Report*, 1911, pp. 18, 19.

[2] *Report of the Special Committee of the Senate*, 1910, p. 6.

[3] Some of the cities had the services of special appraising agencies.

[4] Ohio Tax Commission, *Report*, 1911, pp. 48–50.

dissatisfaction of the people with existing tax conditions. Their unrest was the fear of those walking in darkness, for unseen evils. They rebelled against tax rates of 3 per cent and 4 per cent but again and again they had refused to take the first step by amending the constitution. The present movement represents the last rally under the standard of the general property tax. It was discreditable to the state tax officials that they contributed to the defeat of the proposal for an actual reform tax amendment in the constitutional convention of 1912.[1] The amendment finally proposed by the convention permitted no expression of choice upon the uniform rule, since this rule was reaffirmed by the amendment. The proposal naturally passed because of the additional features, including authorization of income and inheritance taxes and the removal of the exemption from future issues of local public bonds.

The purpose of the equalization made by the tax commission was, of course, the correction of such inequalities as had developed in the process of local appraisal and review. The small state levy rendered the problem of intercounty equalization relatively of much less importance than the equalization among the tax districts of the same county and among the individuals of a district. But practically nothing was done with the last of these problems as the commission ordered only seven reassessments, all in small districts. Greater activity was displayed in equalizing among the districts of the same county and few districts escaped with no change in the local figures. These corrections were always in the nature of a flat percentage increase applying to the whole district, and were in addition to any action taken by the district or county boards. Average values of land in adjoining townships were compared and special agents were sent into some counties. The commission states that some special investigations were made by persons familiar with local conditions. The close agreement of the total assessed valuation of the land in townships as equalized by the commission and the valuation of farm lands and buildings as returned by the thirteenth United States Census suggests the use of the latter as a guide. The various county

[1] R. M. Dittey, *loc. cit.* Cf. below, p. 505, and notes.

totals display a similar correspondence.[1] Specific recommendations of changes needful to produce equality were made by some local boards, and in other cases, especially in the larger cities, the local boards of review voluntarily corrected their own figures. The commission usually accepted both the local suggestions and the local corrections as the basis for its own action, since it was in no position to test either the original or the amended data.

A further reason for careful scrutiny of the work of the county boards of equalization is seen in the fact that many members of such boards, being county officials, were candidates for reëlection in November, 1910, and refused to give the necessary attention to the work of equalization during the campaign months. In such equalization as was undertaken, their attitude was influenced by local political considerations.[2]

The subsequent changes in the tax law have all contained the assumption that in the event of another general reappraisal of real estate, the equalization would be performed by the state tax commission. In certain counties the auditors have made use of their discretionary authority to order such reassessments for the purpose of preserving local equality and in order to obtain sufficient revenue for local needs. In these cases the law has apparently required the complete reassessment of the county. The law of 1915, known as the Parrett-Whittemore Law, was held unconstitutional in a case brought to test the county auditor's authority to order a reassessment of real estate in certain tax districts.[3]

The equalization of 1910 was confined to real estate, and the commission made no attempt to readjust the personal property returns. Since 1910 no formal equalization of the personalty assessments have been made, and such changes as the commission has ordered have come as the result of appeals. More influence has been exerted through the commission's supervision over the original assessment and the detailed results of these assessments will be considered below in connection with the subject of central supervision.[4]

[1] Cf. Thirteenth Census, 1910, vii, pp. 320–328, and Ohio Tax Commission, *Report*, 1911, pp. 70–216. Cf. also table above, p. 486.

[2] Ohio Tax Commission, *Report*, 1910, p. 4.

[3] *Godfrey* v. *O'Brien*, 95 *Ohio*, 1.

[4] Cf. below, pp. 501 ff.

Great as was the improvement in the assessment of real estate, it was exceeded relatively by the gains made in the assessment of mines and mining property. The tendency has been universal to delay the extension of improved methods of assessment to mining property, and through the combined negligence of legislators and tax officials these properties have frequently escaped their just burden.[1] In 1901 the total assessment of coal-oil and mineral values, which the assessors were required to return separately, was confined to three counties and aggregated only $298,794.[2] In 1911 mining property was entered on the duplicate at $17,925,993 and the commission declared that these properties were still undervalued.[3] An amendment of this year permitted an annual assessment of the rights to mineral deposits, and opened the way for an early adjustment of the taxable basis of these valuable rights.[4] The matter has not been referred to by the commission since 1911, and no further data are available on the subject. In discussing the problems of mine taxation in West Virginia the question was raised whether such property rights could be properly taxed under the general property tax.[5] This question is pertinent also in Ohio, though it is of academic interest only because of the remote prospects of a change in that system.

The Administration of Corporation Taxes

The Taxation of Public Utility Corporations. — It is beyond the scope of this chapter to enter into the history of corporate taxation in Ohio, extended treatment of which is the more unnecessary since the publication of Professor Bogart's *Financial History of Ohio.* Before turning to the commission's work in the assessment of corporations, however, the chief features of the system of corporate taxation will be briefly reviewed. Three periods may be distinguished.

1. *Prior to 1893.* This early period was characterized by the use of the general property tax and the absence of central administration. Railroad taxation began under the Kelly law of 1846,

[1] Cf. the experience in West Virginia, Michigan, and Minnesota.
[2] Ohio Tax Commission, *Report*, 1911, p. 26.
[3] *Ibid.* [4] 102 *Ohio Laws*, 89. [5] Cf. above, p. 336.

which marked the final stage of the development of the general property tax.[1] In 1852 every canal, turnpike, insurance, bridge, telegraph, and other company was required to list for taxation, at its actual value, its real and personal property within the state.[2] The real property was to be returned to the auditors of the counties where the same was located and the personal property was to be apportioned locally on the mileage basis. Beginning with 1859 the officers of railroad, canal, bridge, insurance, telegraph or other joint stock companies, except banks, were required to list their personal property at its true value with the county auditors.[3] Under this law railroad officials were allowed to assess their own companies and no authority existed anywhere to remedy inequalities. The situation led to the separate assessment of the railroads in 1862 by the boards of county auditors, for the equalization of whose figures the state board of equalization for railroads was established in 1865.[4] In the former year telegraph companies were taxed on their gross receipts, while express companies were subjected to a tax levied on the gross receipts less the amount actually paid for transportation expenses.[5] The system of corporation taxes thus outlined continued without substantial change to 1893.

2. *1893–1910.* This period was characterized by the use of taxes on gross earnings and franchise taxes in addition to the general property tax, and by the beginnings of central administration of corporation taxes. Some use had been made of taxes on gross receipts before 1893 but they had not been regarded as excise taxes nor had their use been as general as it became in the second period. It has already been noted that the series of additional taxes, with the new state board for their administration, were the alternative chosen instead of the recommendations of the special tax commission of 1893 for general administrative centralization.[6] This commission had estimated that the railroads were paying taxes on a 25–30 per cent basis, while the other property was paying taxes on a 50–60 per cent basis.[7] The total

[1] Cf. above, pp. 53–56.
[2] 50 *Ohio Laws*, 134.
[3] 56 *Ohio Laws*, 175.
[4] Cf. above, p. 53.
[5] 59 *Ohio Laws*, 91.
[6] Cf. above, pp. 479, 480.
[7] *Report of the Tax Commission of Ohio*, 1893, p. 59.

assessed valuation of the railroads was $105,000,000, and that of horses $47,000,000, or nearly half as much. In order to equalize the tax burden, the commission proposed a franchise tax on gross earnings in addition to other taxes. Under the spell of the principle of excise taxation here introduced the people spent some seventeen years experimenting with divers taxes, while the administrative chaos continued.

The first of these experiments was the so-called Nichols law, passed in 1893.[1] The original purpose of this act was to improve the taxation of express, telephone, and telegraph companies. The state treasurer, auditor, and attorney-general were constituted a board of state appraisers, the earliest function of which was the ad valorem assessment of the property of the three classes of corporations above mentioned. All of these corporations were to make sworn returns of the amount and value of their capital stock, and of their real and personal property. In addition, telegraph and telephone companies were to report separately their mileage within and without the state, while the express companies were to return the gross receipts from each office in the state. In assessing the property the board was to be guided by the value of the capital stock.

The principle of centrally administered ad valorem taxation, here introduced, was not further developed during this second period. Instead, excise taxation, levied on gross receipts, was widely used. The first application of the excise tax was a rate of 2 per cent upon the gross receipts of express companies in 1894.[2] In this year also sleeping car companies were subjected to an excise tax of 1 per cent, levied upon the proportion of their capital stock which represented property used in the state. The assessment was made by the state board of appraisers and assessors, to which sworn returns were to be made. In 1896 an excise tax of one-half per cent was imposed on the gross receipts of practically all other public utility companies in addition to the regular taxes upon tangible property.[3] The excise taxes were

[1] 90 *Ohio Laws*, 330.

[2] 91 *Ohio Laws*, 237; *ibid.*, 408, for tax on sleeping car companies.

[3] 92 *Ohio Laws*, 79. The list included: electric light, gas, natural gas, pipeline, waterworks, street railroad, railroad, messenger and signal companies.

codified by the so-called Cole law of 1902, and extended to express, telegraph, telephone, and union depot companies, while the rate was made uniform at 1 per cent.[1] In 1904 water transportation and heating and cooling companies were added.[2] All of the receipts from the excise taxes were to be used by the state in lieu of direct state taxes which were being greatly reduced.

The excise taxes upon the public service corporations were paralleled in 1902 by a franchise tax of one-tenth per cent upon the proportion of the capital stock representing property in the state, of domestic and foreign corporations organized for profit, other than public service corporations.[3]

3. *1910 to the present.* — These changes bring the outline of the development of corporate taxation up to 1910, when the creation of the tax commission was made the occasion for certain important modifications in the rates levied by previous laws and in the administrative methods. This period is marked by differentiation in the rates of excise taxation and in the central assessment of all property of these corporations.[4] Railroad and pipe-line companies were thereafter to pay a tax of 4 per cent on their gross receipts; express and telegraph companies, 2 per cent; and other public service companies, 1.2 per cent.[5] The rate on the proportion of the capital stock of freight, sleeping car, and special equipment car companies which represented property used in the state was also advanced to 1.2 per cent.

The most important administrative change in corporate taxation in 1910 was the abolition of the various assessing and equalizing boards, and the centralization of their functions into the hands of the tax commission. The railroads had already been assessed for 1910 by the boards of county auditors when the tax commission was established, and the principal work of that body in connection with the corporate assessment of 1910 was to complete the valuation of express, telegraph, and telephone companies for local taxation. This valuation had already been begun for 1910 by the former board of appraisers and assessors, as the

[1] 95 *Ohio Laws*, 136.
[2] 97 *Ohio Laws*, 324.
[3] 95 *Ohio Laws*, 124.
[4] Cf. Bogart, *op. cit.* p. 343.
[5] 101 *Ohio Laws*, 399.

commission did not take office until July 1. The partially finished assessments were turned over to the commission for completion; but owing to the pressure of other work, the unfamiliarity of the new appointees with their official duties, and the unsatisfactory character of the data returned under the reports required by the old board, the commission's action was confined chiefly to an equalization of values.[1] The total valuation of the three classes of companies was increased by $6,828,686, of which $6,154,341 fell upon the telephone companies alone. This increase is only partly explained by the rise in the number of telephone companies assessed, from 518 in 1909 to 575 in 1910, but no other explanation is offered for such relatively drastic action in a year when the only aim was the equalization of values.

Since 1911 the commission has been responsible for the assessment of all public utilities, and its most vigorous and efficient service has been rendered in the discharge of this duty. Very little had been developed by the earlier boards, either of principles or practice, that was worthy of preservation. The methods of the boards of county auditors in the assessment of railroads were completely discarded and the railroad valuations were revolutionized. The commission professed to follow the practice of the state board of appraisers and assessors under the Nichols law in using the market value of the stock as a guide in valuing the express, telegraph and telephone companies. While the law does not now require the use of this criterion of value, it does provide that the market value of the stock of these companies shall be determined, and the commission has proceeded upon the theory "that the market value of the capital stock was the equivalent of the value of the entire property of the company."[2] But the former state board had apparently used the statutory standard as the maximum while the commission has treated it as a safe minimum, if one may judge from the differences in the valuations obtained by the two boards. The tax commission has attempted to explain the differences by advancing the argument that whereas stock market values were in excess of plant values

[1] Ohio Tax Commission, *Report*, 1910, pp. 4, 5; *ibid.*, 1911, p. 23.

[2] *Ibid.*, 1911, p. 28.

when the Nichols law was passed, the reverse is true today.[1] Whether this argument be sound or not, it has served the commission as the ground for making heavy and continual advances in valuation.

In recent years the principal reliance has been placed upon net earnings, which have been capitalized at rates ranging from 8 per cent for the railroads to 12 per cent for natural gas and pipe-line companies. These variations in the rates of capitalization were in recognition of differences in the permanence of the investment and variations in the risk involved in the different public service industries.[2]

Numerous critics have pointed out that in practice this is the least satisfactory method of corporate valuation.[3] The apportionment of net earnings to the state is arbitrary, the selection of a proper rate of capitalization presents numerous difficulties and the strict reliance upon the net earnings as the basis of taxable value, waiving the above objections to this plan, results in favoring the utility corporations in a way that other enterprises are not favored. The choice of rates of capitalization has also been criticized. The auditor of Cuyahoga county recently published data which indicated a discrepancy of some $32,268,000 between the stock and bond market value and the assessed value of the railroads in Cuyahoga county.[4] Although without legal warrant, the use of high rates of capitalization affords a roughly equitable compensation to the utilities for the additional burden involved in the excise taxes. In other states the legal objections to equalizing corporate assessments with other assessments have sometimes led to a similar adjustment.[5] In Ohio an equalization between the public utilities and other corporations is doubtless required, but it should be attained by additional taxes upon the private companies, which appear to be quite inadequately reached under existing tax laws.[6]

[1] Ohio Tax Commission, *Report*, 1911, p. 28.

[2] *Personal Interview with Commissioner A. B. Peckinbaugh*, April 4, 1915.

[3] *E. g.*, Minnesota Tax Commission, *Report*, 1912, pp. 208, 209.

[4] J. A. Zangerle, *As To Taxation of Steam Railroads in Cuyahoga County*, p. 22.

[5] Cf. *e. g.*, the discussion of the situation in Michigan.

[6] Cf. H. L. Lutz, "The Taxation of Corporations in Ohio," *Proceedings of the*

The results of central corporate assessment in Ohio have been quite remarkable. The figures for 1910, 1911, and 1916 are presented below.[1] Reference to this table will show that extraordinary increases have been made in the valuation of every class of company. These increases were in part the natural result of the state-wide campaign for the elevation of the standard of valuation. The limitation of the tax rate rendered imperative a sufficient increase in valuation to compensate for the reduction of the rate. Further, the commission took the duty of corporate assessment more seriously, at the outset, not only because of the direct responsibility involved but also on account of the general desire to see the taxes of corporations increased. In consequence the total valuation of the corporations centrally assessed increased in 1911 by 246 per cent over 1910, while real estate assessments increased by only 154 per cent. More significant even than the increase in the volume of assessment was the gain in the number of companies assessed. This meant that a considerable number of corporations had been escaping taxation altogether under the former regime. Vigorous pursuit of delinquent companies has been characteristic of the persistent and aggressive policy followed by the commission and greáter equality has thereby been attained among the corporations themselves.

The available data do not permit a comparison of the bases of valuation used now for corporations and other property, nor for comparison of the tax burden upon different classes of corporations. In the latter case, however, it should be noted that some wide variations occur in the relation of the assessed valuation to the volume of gross receipts returned under the excise tax law. The table on the next page presents some of the more striking variations in 1912 and 1914.[2]

It is admitted that gross receipts do not form, for all classes of corporations, an equally safe criterion of the value of the property used in the business. There are many variations in the relative importance of fixed plant to the volume of receipts. The

Tax Conference and Fourth Annual Meeting of the Ohio Municipal League, 1915, pp. 16 ff.

[1] Cf. below, p. 508. [2] Compiled from the annual reports of the Tax Commission.

variations that are shown here, however, seem to be excessive even after allowing for the differences in the extent of interstate business performed. Wide differences exist in the relation of assessment to gross receipts between classes of corporations whose physical equipment and business present certain resem-

RATIOS OF ASSESSED VALUATION TO GROSS RECEIPTS

Corporation	1912	1914
Express companies	.88	.758
Telegraph "	11.00	11.2
Telephone "	4.7	4.34
Pipe-line "	16.0	20.5
Natural gas "[1]	3.4	3.54
Union depot "	11.0	14.3
Waterworks "	7.0	5.4
Heating and cooling companies	2.7	1.9[2]

blances, as for example, between the pipe-line and the natural gas companies, the waterworks and the heating and cooling companies, or the telegraph and telephone companies.[3]

The valuations which are determined by the commission are apportioned by it to the taxing districts on the mileage basis. The moneys and credits are to be distributed in such a way as to equalize the real estate, structures, and stationary personal property in each district in proportion to the whole valuation of the tangible property in the state.[4]

The codification of the corporation tax laws by the act of 1910 did not eliminate the two surtaxes which had been developed in the preceding period of experimental and piecemeal tax legislation. These were the excise tax on public utilities and the franchise tax on the capital stock of other corporations. The proceeds of these taxes go into the state treasury, and their retention in 1910 was a part of the scheme for the separation of the sources of state and local revenues that had distracted public attention for so long from more fundamental matters of tax reform.

[1] Includes artificial gas companies in 1914.

[2] Includes data for one company only in 1914.

[3] Cf. *Report of the Special Tax Commission of Ohio*, 1908, pp. 28–30, for similar criticisms.

[4] 102 *Ohio Laws*, 224.

There is no need here to enter into a discussion of the principles underlying the plan of separation of sources. It appears certain, however, that Ohio dallied with projects for separation to the detriment of a more thorough reform in the tax system. There are good grounds for thinking also that the retention of the excise taxes at the rates now in vogue has meant unduly heavy taxation of some, if not all, classes of utilities in comparison with other corporate property. For example, in 1911 the steam railroads paid an excise tax of $1,787,853, in addition to the general taxes upon an assessed valuation of $571,281,620. There has been no official determination of the average rate of taxation but in view of the limitation imposed in 1910, the average could not have been far from 1 per cent. Assuming this figure, the local taxes of Ohio railroads would have been $5,712,816, or a total of state and local taxes of $7,699,669. This burden of taxes should be compared with that imposed by other states. In 1912 the Minnesota tax commission prepared various estimates of the valuation of the railroads in that state, which ranged from $415,000,000 to $574,000,000. The taxes actually paid in 1911 on gross receipts in Minnesota were $3,670,760, and had the rate been 5 per cent instead of 4 per cent, the tax paid would have been $4,588,450.[1] The Wisconsin railroads paid $3,330,000 in taxes in 1911 on a valuation of $297,935,000.[2] On the Ohio valuation they would have paid $6,341,225, or more than $1,000,000 less than the estimated total for the Ohio roads.

The excise tax law was amended in 1911 in a way that appears to penalize the public utility still more unfairly.[3] The amendment defined "gross earnings" to be the "entire earnings for business done by an incorporated company engaged in the operation of a public utility under the exercise of its corporate powers, whether from the operation of the public utility itself or from any other business done whatsoever."[3] Under this section the commission held in one case that income from rents, dividends, and subsidiary companies were to be included in the gross earnings of a public utility. The law and the above ruling appear to be aimed at the

[1] Minnesota Tax Commission, *Report*, 1912, ch. 15. [3] 102 *Ohio Laws*, 224.
[2] Wisconsin Tax Commission, *Report*, 1911, p. 35.

utilities holding company, but the method of reaching such earnings is capable of harmful effects in some cases.[1] The commission adds the recommendation that in view of the fact that public utility companies are paying taxes on the full value of their property, no increase should be made in the excise and franchise taxes now required of such corporations. The 4 per cent rate on gross earnings has been appealed from by two roads as being a confiscatory rate, but no decision has at yet been reached.

Less objection arises against the franchise tax of three-twentieths per cent levied upon the capital stock of domestic corporations organized for profit, and upon the proportion of the capital stock of foreign corporations represented by property owned and business transacted in the state. This is also a surtax carried over from the former regime; it is paid to the state for state purposes in addition to the local taxes upon the assessed valuation. But the private corporations pay local taxes upon valuations which were determined locally except in certain instances under the Parrett-Whittemore law,[2] while in the case of the public utilities the local rates are applied to valuations centrally determined. There can be little doubt that notwithstanding the improvement of local assessments, the tax commission has held a higher standard of valuation in assessing public utilities than the local assessors have used in valuing the tangible property of private corporations.

The commission's administrative duty in connection with the excise tax is the official determination of the proper amounts of such taxable receipts, the chief source of information being the reports of the companies themselves. A thorough system of inspection has been maintained, and in 1911 the examiners discovered $3,714,000 of omitted gross receipts. In 1912 the omissions amounted to $1,123,000.[3] The proportion of the capital

[1] Ohio Tax Commission, *Report*, 1912, p. 12. This law was sustained in *The Ohio Tax Cases*, 232 *U. S.*, 576.

[2] Cf. below, p. 501.

[3] Ohio Tax Commission, *Report*, 1911, p. 451; *ibid.*, 1912, p. 412. No figures have been published since 1912 but in 1916 the commission announced that it expected soon to certify to the state treasurer a large amount of delinquent excise taxes covering the past five years. *Report*, 1916, p. 8.

stock of private companies which shall be subject to the franchise tax is determined from detailed reports made by the companies. So far as can be learned, no special system of inspection is maintained for these reports.

The Assessment of Private Corporations. — The revision of the tax laws in 1915 introduced a provision requiring the tax commission to assess the property of all intercounty corporations.[1] These corporations were to return their lists to the auditor of the county in which their principal place of business was located, or (if the principal place of business was outside the state) to the auditors of any counties in which they did business or held property. These officials were to transmit the returns to the state tax commission, by whom the assessment was to be made and the final valuation apportioned to the various counties in which the property was located. The attorney-general ruled that the section in question did not authorize an assessment of the property of the manufacturing, mercantile, and other corporations involved under the unit rule,[2] and the commission has been compelled to assess separately the different items of property as these were returned by their corporate owners. This ruling harmonized the assessment of the private corporations, whether assessed by local or by central authority; but it perpetuated the discrimination in assessment methods as applied to the private and the public service companies. No data are at hand as to the operation of this section of the tax law. The revision of 1917 returned all private corporations to the local assessment jurisdiction.

Supervision of the Local Officials

The tax commission was also given in 1910 sweeping powers of control over the local assessors, and was placed in charge of the various administrative duties which hitherto had been performed by the state auditor. The latter official had held a place of some importance in the taxing system since the introduction of the general property tax. He had published the tax laws, and through the county auditors he had issued instructions to the assessors.

[1] 106 *Ohio Laws*, 249, § 13.

[2] *Attorney-General's Rulings*, February 23, 1916, *Dept. Rep.* iii, p. 818.

The assessment forms had also been prepared under his supervision. His authority was in no sense supervisory, however, and was utterly inadequate for the needs of the case.

The chief supervisory duties of the new tax commission were the following: the preparation of all forms used by local assessors, and the compilation of such instructions as were deemed necessary; the oversight of the proper enforcement of all laws relating to taxation; the authority to order reassessments in any tax district; and the duty of hearing appeals and complaints.

According to Governor Harmon, the commission had the power under the act as amended to "make all examinations necessary to secure information required for the discharge of its duties with respect to all kinds of property."[1] Under this general grant of authority the Governor believed that the commission could require banks and loan and trust companies to disclose the particulars of individual deposit accounts. Section 162 of the bill as amended in 1911 prohibited the commission from pushing its investigations this far, but the section was vetoed by Governor Harmon on the ground of being a practical exemption of these classes of property. The tax law of 1913 definitely forbade the invasion of the privacy of bank books and the records of other financial institutions.[2]

The use of the power to order reassessments has been, up to the present time, but insignificant. In 1911 and again in 1912 the commission brought strong pressure to bear upon the local assessors for a more complete listing and assessment of personal property. The results of these efforts will be taken up below.[3] Notwithstanding the assertion of ex-chairman Dittey that these results furnish "convincing proof that substantially all property now taxable under our laws can and will be placed upon the tax list and pay taxes, even though the present laws remain unchanged,"[4] the commission recommended in 1913 a revolution

[1] Cf. *Veto Message of Governor Harmon*, in 102 *Ohio Laws*, 260, 261.

[2] Cf. the references to this subject in the Commission's *Report* for 1914, p. 7, and *ibid.*, 1915, p. 10. The language is rather vague but it contains the implication that the commission would welcome the authority to inspect such records.

[3] Cf. below, pp. 505 ff.

[4] R. M. Dittey, "The Uniform Rule and Tax Limit Legislation in Ohio," *Proceedings of the National Tax Conference*, 1912, p. 233.

of the whole assessment machinery along the line proposed twenty years earlier by the special tax commission of 1893.[1]

The act of 1913 was the most radical administrative change in taxation that has yet been undertaken in the United States. The central and most important feature was the erection of new assessment districts, coincident with the boundaries of counties, and the substitution of district assessors or deputy tax commissioners, as they were called, appointed by the governor, for the locally elected township and ward assessors. The district assessors might be removed by the tax commission, with the consent of the governor. Special "District Boards of Complaint" were also provided, the appointment and removal in this case being vested in the tax commission with the approval of the governor. In counties of more than 65,000 population at the last federal Census, two assessors were to be chosen, of different political parties. Not more than two members of the board of complaints were to be of the same party. All of the duties formerly performed by the county auditor were transferred to the district assessors, who were authorized to appoint deputies and clerical assistants with the approval of the tax commission. Under the direction of the latter all property, real and personal, was to be assessed annually; the final results of the county assessment were to be equalized by the tax commission and appeals were to be taken to it from the decisions of the county boards of review.

This radical innovation was not allowed a fair test, for the turn of the political wheel brought into office in 1914 an opposing political administration which was pledged to overthrow the legislation of its predecessors. The administrative features of the tax law were entirely recast[2]—the county auditor was made county assessor ex officio, the local assessor was again made an elective officer, and a bipartizan board of review was to be appointed by a board consisting of certain elective county officers.

The tax law of 1915 was nullified by the courts after being in operation for only one assessment, and in 1917 a new law was

[1] Cf. above, p. 479. Also, *Recommendations of the Tax Commission of Ohio to the Governor and General Assembly*, February, 1913. This law, known as the Warnes Law, is in 103 *Ohio Laws*, 786.

[2] 106 *Ohio Laws*, 246.

passed.[1] This law retains the local administrative machinery as established in the act of 1915. The principal change introduced was in the method of listing personal property. The county auditor may send listing blanks prior to the second Monday of April to all persons liable to taxation on personal property. These blanks are to be filled out by the taxpayer and sworn to before the assessor or any notary and returned to the auditor before May 1. The assessor calls upon those who have failed to return, or have made an improper return, by this date. Failure to make the return will be penalized by the loss of the exemption of $100 and the imposition of a 50 per cent penalty. Real estate may be reassessed at the discretion of either the county auditor or the state tax commission.

These changes in the tax law have followed each other so quickly that there is little opportunity for critical comparison. It is exceedingly unfortunate that all of these measures have been to so great a degree the product of partizan political influences, from which it seems impossible soon to free the whole administrative machinery of Ohio. Advantage was taken of the extreme centralization of power under the act of 1913 to make a long list of political appointments, and so to strengthen the party machine in the state. The opposing administration snatched this power from the governor, but it has thrown much of the administrative organization into the arena of local partizan politics, and between these two extremes there is little to choose.

Whatever the type of administrative organization, the crucial test of its efficiency will be the results secured under the general property tax. Especially is this true in Ohio, where so many efforts to modify this system of taxation have failed. Former members of the tax commission have been of the opinion that "when the administrative features of the present laws are improved, as may easily be done, there will be little difficulty in securing the return of all personal property and having it assessed at full value." In 1911 the conviction was expressed that "the Ohio system is wise, sound in principle, and fundamentally just, and (that) by proper administration the gross evils heretofore

[1] 107 *Ohio Laws*, 29.

existing can readily be corrected." [1] The present members of the tax commission would probably not subscribe to this particular statement, but they have not taken that positive stand against the general property tax which would be consistent with strong conviction of its many defects. On the other hand their references to the use of inquisitorial power in order to list bank deposits silences any mild disclaimer. Certainly through the state at large there is yet a considerable majority who would endorse the earlier view of the tax commission.[2] The test of the soundness of such views, so at variance with general experience, is readily made, and for that purpose an analysis of the personal property assessments for certain years has been prepared.[3]

The results of this analysis for the year 1910 are quite similar to those found in other states at the beginning of central administration. Farm animals composed the bulk of the tangible property; and the intangible property, while forming a larger proportion of the total personalty assessment than in some other states, clearly included only a nominal return of certain forms of wealth, notably moneys and credits. The amount of credits returned in 1876 was greater than in any subsequent year, except one, up to 1910.

Only the figures from 1910 to 1913 are strictly comparable, since the assessments for 1914 and 1915 were made under the direct control of the tax commission. During these comparable years notable increases were made in most of the classes of tangible property, especially merchants' and manufacturers' stock, which for the first time were placed on an adequate basis of valuation. But in the two critical classes of intangible property the commission had begun to lose ground by 1913. The total of moneys returned in 1913 was less than in 1912, and the rate of increase in the assessment of credits was considerably slackened.

[1] Ohio Tax Commission, *Report*, 1911, pp. 37, 38.

[2] The former chairman, R. M. Dittey, was largely responsible for such views. Cf. his addresses, "Taxation and Gas Companies," Feb. 7, 1912; "The Taxation of Newspaper Properties," Feb. 14, 1912; "Proposed Constitutional Changes in Taxation," Feb. 27, 1912. Also, Albert J. Nock's characterization of Mr. Dittey reprinted from *Collier's Weekly*, June 15, 1912.

[3] Cf. below, pp. 509, 510.

The commission's policy evidently forced taxpayers to dispose of, or secrete more carefully, their holdings of securities, and so the total of this class for 1913 fell below the figures of 1912. All along the line, then, in 1913 the Ohio tax commission had begun to lose ground in its attempt to force all property on the duplicate.

The returns for 1914 were quite remarkable in many ways but they demonstrated even more convincingly the collapse of the general property tax. Through the appointive assessors the commission added over $100,000,000 to the assessment of manufacturers' stocks, and made significant increases in the returns of farm animals, vehicles, and musical instruments. The group "all other property" was excessively large in 1913, and in 1914 it was broken up by separating a number of forms of household, personal, and office belongings, vessels, machinery, and farm wagons, which reached the total of $133,300,000. In the intangible group the most startling gain was in stocks and bonds; but this included the assessment against the Rockefeller estate, amounting to $311,000,000, afterward disallowed by the courts. This fiasco of the Cleveland deputy assessors was successful only in diverting public attention from certain other defects in the administration of the tax system, especially the well-known fact that many other owners of large amounts of such property were escaping with comparatively light taxes. The improvement in the assessment of credits was due to special efforts made by the tax commission to trace and assess mortgages. A high proportion of those discovered were naturally listed by the assessors, who were under the control of the tax commission. The amount of moneys returned was about 20 per cent of the total bank deposits in the state in 1914.[1]

The figures for 1915 require little comment. Slight losses in live stock, merchants' stocks, and other tangibles are somewhat more than counterbalanced by the gains in vehicles and manufacturers' stocks. The gain in credits is overbalanced by the losses in the return of moneys and investments in stocks and bonds. On

[1] Cf. *Taxation in Ohio, Report of the Civic League of Cleveland*, 1915, pp. 8, 9. It is here estimated that not one-third of the taxable intangibles held in the state are on the duplicate.

the whole, the second year of state controlled assessment of personal property shows a disappointing amount of intangibles secured, that is, it should disappoint those who have stood so firmly for the tax system which was here being administered.

The figures for 1916 show some improvement over those of 1915, but the gains are neither extensive nor consistent with the progress of preceding years. Mercantile stocks continue to decline, but the loss is more than balanced by the increased assessment of manufacturers' stocks. The return of investments by corporations continues to be quite erratic, while the gain in the return of money is more than offset by the loss in credits, a situation contrary to that of 1915. In view of the remarkable prosperity of the people of Ohio in 1916 these results, like those of 1915, must be regarded as evidence of the very unsatisfactory operation of the general property tax.

It is very unfortunate, from the point of view of tax administration, that the completely centralized assessing machinery established in 1913 was not allowed to stand for a few years. The experiment was unique and its results would have been most instructive. In a single year they demonstrated the gain that could be made in the assessment of many classes of property. Of greatest interest would have been the effect of this drastic administration on the returns of intangibles and on the retention of such property within the state. After two years a marked tendency to migration was reported,[1] and this would doubtless have been accelerated by continued drastic administration. The experience of the years 1911–13 suggests that the commission could not have held even the amounts that were listed in 1914. Nevertheless, continuance of the experiment would soon have demonstrated either the extent to which strong central administration is able to restore the general property tax, or in the writer's judgment, the complete failure of that system of taxation.[2]

[1] *Taxation in Ohio, Report of the Civic League of Cleveland*, 1915, p. 17.

[2] The legislature of 1917 passed a bill exempting mortgages from taxation upon the payment of a registration fee of one-half of one per cent (107 *Ohio Laws*, 695). This bill became a law without the approval of the governor, and was promptly held invalid by the supreme court. Cf. *Cleveland Plain Dealer*, July 3, 1917.

APPENDIX A, CHAPTER XV

NUMBER AND VALUATION OF THE CORPORATIONS ASSESSED BY THE OHIO TAX COMMISSION[1]

Class of company	1910		1911		1916
	Number	Valuation	Number	Valuation	Valuation
Electric light	110	$6,387,934	167	$29,373,430	$46,174,150
Gas (artificial)	18	251,953	21	1,081,930	1,491,690
Natural gas	83	20,881,531	105	78,486,270	122,522,050
Pipe line	5	5,406,796	6	29,614,820	52,962,750
Waterworks	31	1,357,630	36	4,894,110	4,905,050
Messenger and signal	...	.....	11	317,130	476,750
Union depot	5	916,860	6	2,674,670	3,665,420
Water transportation	10	191,680	13	668,990	2,308,950
Heating and cooling	3	31,780	3	280,000	70,500
Steam railroads	87	167,453,818	98	571,281,620	717,858,020
Electric railroads	82	32,693,904	86	123,044,180	164,806,580
Sleeping car	1	928,603	1	1,287,847	.....
Freight car line	34	837,785	98	1,917,156	.....
Express	7	1,461,960	7	1,977,310	1,867,030
Telegraph	3	2,734,725	3	4,847,260	5,589,980
Telephone	575	21,654,529	634	61,116,110	77,516,020
Total	...	$263,191,480	...	$912,862,833	$1,202,214,990

[1] From the annual reports of the Commission. The number of separate assessments was not given in 1916.

APPENDIX B, CHAPTER XV

ANALYSIS OF PERSONAL PROPERTY RETURNS IN OHIO, 1910–16
(MILLIONS OF DOLLARS)

I. Tangibles

Year	Live stock	Vehicles	Watches	Musical instruments	Merchants' stocks	Manufacturers' stocks	Other tangibles	Total tangibles
1910.....	110.0	8.6	.9	8.8	36.4	12.2	....	177.0
1911[1].....	141.8	16.9	1.2	16.1	69.4	20.2	....	265.6
1911[2].....	2.5	1.5	...	...	82.8	216.2	...	303.1
1911[3].....	144.3	18.4	1.2	16.1	152.2	236.4	...	568.7
1912[1].....	146.9	19.3	1.6	20.7	74.0	22.6	...	285.1
1912[2].....	2.7	1.4	...	...	85.7	245.5	...	335.5
1912[3].....	149.6	20.7	1.6	20.7	159.7	268.1	...	620.6
1913[1].....	158.1	23.9	1.4	20.9	73.0	23.1	...	294.4
1913[2].....	2.1	1.9	...	...	106.7	168.3	...	279.0
1913[3].....	160.2	25.8	1.4	20.9	179.7	191.4	...	573.4
1914[1].....	181.2	41.1	1.9	26.2	84.1	19.7	98.9	453.1
1914[2].....	3.0	3.8	...	...	94.9	274.7	34.3	403.9
1914[3].....	184.2	44.9	1.9	26.2	179.0	284.4	133.2	857.0
1915[1].....	174.9	51.9	1.7	27.0	81.1	19.6	95.3	453.4
1915[2].....	2.9	4.2	...	...	95.2	284.6	23.4	410.3
1915[3].....	177.8	56.1	1.7	27.0	176.3	294.2	118.7	863.7
1916[1].....	178.5	61.7	1.5	25.7	81.7	19.4	97.7	466.2
1916[2].....	2.4	5.7	...	...	85.8	328.4	38.6	460.9
1916[3].....	180.9	67.4	1.5	25.7	167.5	347.8	136.3	927.1

[1] Returned by individuals to assessors.
[2] Returned by corporations to county auditors, or county assessors.
[3] Total for the year.

APPENDIX B — *continued*

II. Intangibles

Year	Moneys	Credits	Property listed as banker, broker or jobber	Bonds and stocks	Total intangibles	*III.* All other property
1910.....	59.5	69.9	..	6.5	151.2	39.7
1911[1].....	74.2	91.2	.7	20.6	186.7	93.7
1911[2].....	20.0	40.0	.7	4.3	65.2	183.5
1911[3].....	94.2	131.2	1.4	24.9	251.9	77.2
1912[1].....	96.7	108.5	1.4	26.6	233.2	87.2
1912[2].....	22.5	39.7	1.3	12.7	86.2	221.3
1912[3].....	119.2	148.2	2.7	39.3	319.4	308.5
1913[1].....	99.7	108.2	1.4	31.9	241.2	89.2
1913[2].....	13.0	46.7	.1	2.1	61.9	114.8
1913[3].....	112.7	134.9	1.5	34.0	303.1	204.0
1914[1].....	120.5	157.5	1.3	400.9[4]	680.2	9.9
1914[2].....	29.5	62.4	..	46.4	138.3	34.2
1914[3].....	150.0	219.9	1.3	447.3	818.5	44.1
1915[1].....	114.4	159.6	1.3	83.1	358.4	11.4
1915[2].....	29.5	89.2	.1	9.1	127.9	20.6
1915[3].....	143.9	248.8	1.4	92.2	485.3	30.0
1916[1].....	137.1	142.9	.9	88.7	369.6	6.8
1916[2].....	43.5	62.3	.2	45.7	151.7	19.9
1916[3].....	180.6	205.2	1.1	134.4	521.3	26.7

[1] Returned by individuals to assessors.
[2] Returned by corporations to county auditors, or county assessors.
[3] Total for the year.
[4] The Rockefeller assessment of $311,000,000 should be deducted throughout.

CHAPTER XVI

STATE TAX COMMISSIONS IN THE EASTERN STATES[1]

1. The State Tax Commissioner of Connecticut

The tax system of Connecticut has passed through much the same phases of development that have been experienced in the other states; though in certain respects the traditional attitude of this section toward governmental functions has yielded more slowly to the pressure of new needs and conditions. The tax system of colonial Connecticut, being largely borrowed from Massachusetts, naturally placed large reliance upon property taxation, with the difference that greater use was made of assessment upon estimated income instead of upon selling value.[2] The increasing revenue needs of the colony led, during the second half of the seventeenth century, to the assessment of property by commissioners elected in each town. These commissioners then met at Hartford for the inspection and equalization of the lists. Any differences among them were referred to the General Assembly. The neglect of the commissioners so imperilled the tax system that in 1692 special agents or inspectors were provided for the task of inspecting and correcting the lists. The change worked but small improvement, and early in the eighteenth century the function of review was merged with that of assessment and the boards of listers became the local boards of review. The counterpart of state equalization, which the earlier commis-

[1] In Chapters XVI, XVII, and XVIII brief accounts are given of the more recently established tax commissions, and of the tax departments in some other states which have of late been given more extensive powers. For convenience the geographical grouping has been followed. No account has been given of the work of the Idaho tax commission, which was abolished in 1915; nor of the commissions in Montana, Arkansas, and North Dakota, because of the lack of recent information concerning their activities.

[2] Cf. F. R. Jones, *History of Taxation in Connecticut, 1636–1776.*

sioners had performed, disappeared with the commissioners. The listers continued to report their lists to the General Assembly until 1818, and in the event of failure on the part of an assessor to report his list, the General Assembly doomed the town and fined the delinquent official.[1]

The property taxes of the colonial period were supplemented in Connecticut by a series of taxes on "faculties," on incomes, and on polls. The last of these was especially heavy and the inequity of its burden led to increasing agitation for a change in the tax system.[2] The new constitution of 1818 introduced the principle of taxing property on selling value instead of on income and during the next thirty years the emphasis shifted from burdensome poll taxes to more extensive property taxation. The general property tax was introduced in 1849.[3]

The details of the development of the property tax are not essential to the present purpose. The incoming property taxes were locally administered, except for a state board of equalization which had been provided in 1820.[4] For the first year this board was to consist of one commissioner from each county, who, with the state treasurer and controller, were to equalize the annual assessment lists of the several towns. The following year the local representatives were omitted and the two state officers originally named continued to act as the state board of equalization until the addition of the tax commissioner in 1901.

This board of equalization does not appear to have been equal to the task asked of it, and the characteristic tendencies of local assessment became more pronounced simultaneously with the extension of property taxation. So rapidly did these defects become prominent that the legislature created, in 1843, one of the earliest special tax commissions in the United States for the purpose of studying the operation of the tax system and reporting upon necessary changes. The commission recommended more complete listing of property, publicity for the lists returned, and

[1] Cf. *Laws of Connecticut*, 1774, p. 129; *ibid.*, 1796, p. 275; *ibid.*, 1807, p. 757.
[2] Jones, *op. cit.*, pp. 30, 31.
[3] *Statutes of Connecticut*, 1849, pp. 604, 605.
[4] *Laws of Connecticut*, 1820, ch. 52.

abolition of the state board of equalization.[1] These recommendations received no serious attention from the legislature. Naturally, such limited proposals would have produced little effect, had they been accepted. Evasion and undervaluation continued and during the second half of the nineteenth century three more special commissions were created in the hope of attaining a satisfactory solution to the problem of equitable taxation under the uniform rule. In addition, various attempts had been made to render the board of equalization more competent to deal with the problem of equalization, a problem which had become much more serious with the vastly increased tax burden of the Civil War. In 1866 the board had been reinforced by the addition of one commissioner from each senatorial district. These commissioners were to review the tax lists with the original assessors, and, if necessary, inspect the properties themselves and report to the board of equalization.[2] The year following the duties of a commissioner were made more specific. He was required, with a selectman, to inspect a sufficient number of homesteads in each town, and not less than ten farms situated in different parts of the town, together with enough other taxable property to ascertain the average actual cash value thereof; and then prepare a table showing the percentage of full value used by the assessor for each class of property.[3] The special tax commission of 1868 commented upon the situation as follows:[4]

> But when it is considered that the same pernicious influence of self-interest, which had produced undervaluation by the local town officers, was still left in full operation upon the action of every member of these boards, in the valuations in their respective local districts, it is not strange that this intended check should have proved to be of very little practical avail.

This analysis of the outcome proved correct and the provision for commissioners of equalization was repealed in 1871.

The reports of the special tax commissions need not be reviewed in detail. It is of interest in this connection to note, however, that

[1] Chapman, *op. cit.*, pp. 27, 28, reviews this report. It has not been available to the writer.

[2] *Laws of Connecticut*, 1866, ch. 83.

[3] *Ibid.*, 1867, ch. 146.

[4] *Report of the Special Commissioners on the Subject of Taxation*, 1868, pp. 5, 6.

the one recommendation which was presented by each of the three commissions was for the appointment of a state tax commissioner, who was to exercise general supervision over the tax system. Bills for this purpose failed of passage on more than one occasion and when the tax commissioner was finally provided, in 1901, the particular function which had been first suggested by the commission of 1867[1] — general supervision of the tax system — was not included, nor has he been authorized to the present to exert any effective influence over the local assessors.

The act of 1901, creating the office of state tax commissioner, provided for the appointment of a tax commissioner by the governor for a term of four years at a salary of $3000.[2] He was required to act as a member of the state board of equalization, to administer the corporation taxes, and to inquire into the conditions of local assessment, not for the purpose of supervision but rather with a view to securing materials which might serve to assist the state board of equalization in its action. The reports published by the tax commissioner before 1908 contain no material that would assist in a description of his work; the following brief account of his activities is therefore confined to the period since 1908, the date of the first important biennial report.

The state board of equalization is composed of the treasurer, the comptroller, and the tax commissioner. The latter is required to report annually to the board the results of his official inquiries relative to tax conditions in the different towns; and as a rule, the only data upon which the equalization could be made have been those compiled for this purpose by the commissioner. These data include the assessors' statements of the percentages used in assessing manufacturing plants and property in general; the selectmen's estimates of the percentage of assessment; the town grand lists for the present and the preceding assessments; and such material as the tax commission may have obtained in the course of local visits or from any other source. No attempt has ever been made to compile, in any systematic way, data relating to the percentage of full value that has been used by the assessors,

[1] *Report of the Special Commissioners on the Subject of Taxation*, 1868, pp. 11, 15ff.
[2] *Laws of Connecticut*, 1901, ch. 62.

and since the adoption, in 1915, of the plan of apportioning the state tax upon local expenditures instead of upon assessed valuation, such compilations will be of diminishing importance. Under this law the town lists are to be corrected by the board of equalization only when, in the judgment of the board, such action may be necessary for any other purpose, such as the distribution of state funds in aid of schools, highways, or other purposes.[1]

This innovation in the method of apportioning the state tax was the result of the tax commissioner's recommendations on the subject since 1910.[2] His arguments were strengthened by the unsatisfactory equalization which the board of equalization was able to make. It does relieve state officials, already crowded with other duties, from the thankless task of an equalization more or less blindly made and probably will promote equality of distribution of the state tax, which now amounts to about $1,750,000 annually.

The state equalization in Connecticut was unsatisfactory, not only because of the limited sources of information open to the board, but also because of the practice of equalizing by adding a lump sum instead of dealing with classes of property. Since 1897 the board has dealt vigorously with the local returns in this respect,[3] the annual additions ranging from $91,000,000 to $151,000,000. Under the circumstances, however, these corrections could have had little influence in promoting greater equality of assessments. This conclusion is substantiated by the material compiled by the Joint Committee on Taxation and State Finance of the Connecticut Chamber of Commerce. These materials are chiefly for the year 1915 and represent therefore the condition of local assessments at the close of the active career of the state board of equalization.[4]

The most serious defect, perhaps, has been the wholesale escape of personal property in every form. The experience of other states

[1] *Laws of Connecticut*, 1915, chs. 251 and 309.

[2] Connecticut Tax Commissioner, *Report*, 1910, p. 47; *ibid.*, 1912, p. 69; *ibid.*, 1914, p. 94.

[3] *Laws of Connecticut*, 1897, ch. 159, authorized the board to raise or lower assessments to full value.

[4] *Report of the Joint Committee on Taxation and Finance of the Connecticut Chamber of Commerce*, 1916, *passim*.

has been confirmed in an interesting way by the relative returns of real and personal property in Connecticut. Everywhere the relatively wealthier districts have succeeded in preventing the larger proportion of their personalty from reaching the tax rolls. In 1915 the two counties which ranked, respectively, sixth and last in density of population ranked highest in the proportion of personalty to total assessment. The county with the greatest density of population was next to the last in the proportion of personalty to total assessment. For the state as a whole personalty was less than 16.3 per cent of the total assessment, and of the personalty returned, three-fourths was listed under three classes — "goods and materials of manufacturers," "goods and merchandise of merchants and traders," and "automobiles." The last of these classes was very unevenly assessed over the state, average assessed values ranging from $368 to $649 among counties and from $101 to $830 among towns. The special tax commission of 1915 reported that 25 per cent of the motor vehicles registered with the secretary of state were not even listed on any tax roll in the state.[1]

Similar discrepancies were shown to exist throughout the list of classes of property, both tangible and intangible. They are evidence not only of the natural deficiencies of the general property tax but quite as much of the weakness of the administrative system in Connecticut. Nowhere have state tax commissions been able to transform the general property tax completely, though with vigorous exercise of reasonably ample administrative powers the assessment of real estate and of some forms of personal property has been rendered fairly uniform. The nonuniformity of property assessments in Connecticut has been intensified by the absence of adequate powers of central supervision and equalization.

The effect upon local assessments of the new plan of distributing the state tax remains to be seen. It has been frequently pointed out above, however, that the state tax has been by no means the only cause of irregularities in the local assessment, and there appears to be no sufficient reason for believing that the local officials in Connecticut will assess uniformly for county and

[1] *Report of the Special Tax Commission of Connecticut*, 1917, p. 30.

local taxation without some sort of central guidance and oversight, and possibly, stronger corrective powers.

The recent Connecticut results confirm outside experience also with regard to the assessment of intangibles at a low flat rate. Such a tax, at the rate of four mills on the dollar, has been imposed upon choses in action since 1889.[1] Owners of such property have had the option of listing them for local taxation at the local rates or of registering them with the state treasurer and paying the lower flat rate. For the year 1915 the total amount registered with the treasurer was $105,745,000, and with the local assessors $11,402,000. There is no central supervision of either of these returns and the listing of this property is a voluntary act, except in so far as the assessor may use his right of arbitrary assessment. The joint special committee commented upon the situation as follows:[2]

> It is hardly conceivable that in the thrifty state of Connecticut there are seven towns in which there is no ownership of taxable bonds, choses in action, money, or deposits, or in which all such property is listed for the owners by brokers in other towns. It is perhaps conceivable that in this same thrifty state there are towns in which the total amount of taxable intangible property amounts to $50, $62.66, and $95, respectively. If conceivable, this is at least highly improbable. It is equally improbable that there are five other towns in each of which the aggregate of taxable intangible property amounts to $500 or less. It is certainly not to be believed that there are 33 towns in the state of Connecticut, out of a total of 168 towns, in no one of which the total value of taxable intangible property amounts to $5,000.

Finally, the effect of the absence of central supervision is to be seen in the loose and careless way in which the local officials have compiled their reports and kept their records. The practice of returning property, especially that belonging to corporations, under the wrong classification has made the grand lists as published by the tax commissioner practically useless.[3] It is needless to point out that this practice greatly favors evasion and undervaluation, while it makes careful equalization upon the basis of these returns wholly impossible.

[1] *Laws of Connecticut*, 1889, ch. 248. The rate was 2 mills until 1897, when it was increased to 4 mills, *Laws*, 1897, ch. 216.

[2] *Report of the Joint Committee on Taxation and State Finance to the Connecticut Chamber of Commerce*, 1917, p. 37.

[3] *Ibid.*, pp. 58–60.

The system of corporation taxes in Connecticut has recently been almost entirely recast, and with this change the tax commissioner's duties have naturally been materially modified. The transition came in 1915 as the result of the recommendations of the special commission on the taxation of corporations, in its report of 1913.[1] The structure and operation of the earlier system of corporation taxes are so thoroughly described in that report that it is unnecessary to dwell upon those topics here. The new system, together with the tax commissioner's duties in connection therewith, will be briefly outlined.

The special commission of 1913 had recommended the introduction of gross earnings taxes for all public service corporations. This plan was adopted in 1913 for telegraph, telephone, express and car companies;[2] and in 1915 for railroads, street railways, water, gas, electric and power companies.[3] The determination of the taxable gross earnings is left with the state board of equalization, of which the tax commissioner is the most active member in tax administration. The board has been sustained by the courts in ruling that taxable gross earnings include the income from all operations, whether from the principal business or from any subsidiary business conducted by the company, without deduction for operating expenses, taxes, or bad debts.[4]

The act of 1915 introduced a new method of taxing miscellaneous business corporations, which had hitherto been taxed on their property as assessed by the local assessors, while their stocks had been exempt to the holders. The new law imposed a tax of 2 per cent on the net income of such corporations as were subject to taxation under the federal income tax. The Connecticut law adopted the terms and requirements of the federal law, and provided for the use of the reports made to the internal revenue office for the assessment of the tax. This arrangement simplifies greatly the administration of the tax, and makes possible the collection of about $1,600,000 of revenue at an annual expense to the state of about $3000. The tax commissioner suggests the extension of

[1] *Report of the Special Commission on Taxation of Corporations*, 1913.
[2] *Laws of Connecticut*, 1913, ch. 188.
[3] *Ibid.*, 1915, ch. 150.
[4] 90 *Conn.* 452.

this law to individual and partnership concerns in the same fields of business as the corporations subject to the act.[1]

The Connecticut inheritance tax dates to 1889 but until 1915 its administration was wholly a local matter.[2] Each of the one hundred and thirteen probate judges in the state was entirely independent in his construction and application of the successive inheritance tax laws, subject only to the few supreme court decisions and to an order from the state treasurer for a new appraisal in case the return were unsatisfactory to him. This was only a check against excessively low valuations, and in consequence the history of the law is a record of misunderstanding, great divergence of interpretation, and serious loss of revenue to the state.[3] Under the law of 1915 a copy of the appraisal of every estate in excess of $500 must be filed with the tax commissioner. He may ask for a reappraisal, and he may object to the revaluation before the court, which is empowered to correct the inventory. He may also call for a statement of the taxes calculated by the probate court to be due upon any estate.[4]

Although the Connecticut tax commissioner has possessed no supervisory authority over the local tax officials, he has been in a position to observe their conduct and to form reliable estimates of their general attitude toward their work. The drift of his observations along this line has been discouraging. For instance, in 1909 the annual election of the local board of assessors was discontinued in favor of a three-year term, with election of one assessor each year.[5] Towns selecting assessors under special charter provisions were not included. The tax commissioner wrote in 1910 that the assessors' work showed "very great improvement." It was anticipated that with a three-year term the assessor's interest would be sustained throughout the year and would lead him to collect useful data on the valuation of property in and out of the statutory assessment period.[6] But these not unreasonably high

[1] Connecticut Tax Commissioner, *Report*, 1916, p. 64.
[2] *Laws of Connecticut*, 1889, ch. 180.
[3] Connecticut Tax Commissioner, *Report*, 1914, pp. 66–70.
[4] *Laws of Connecticut*, 1915, ch. 332.
[5] *Ibid.*, 1909, ch. 173.
[6] Connecticut Tax Commissioner, *Report*, 1910, p. 8.

hopes have been shattered. While insisting upon the benefits to be derived from the longer term, the commissioner reported in 1912 that in many towns conditions remained about as before.[1] Two years later the majority of assessors were said to be copying old lists, accepting owners' valuations, failing to view property, and neglecting the law at various other points.[2] In 1916 the following dejected statement was made: [3]

> There is no particular change in the manner or method of work of the local tax officials in the different towns. There continues to be a wide variation in efficiency and interest, and the laws in too many instances are administered by the force of inertia rather than by the incisive effort and application of the tax officials. There is no evidence of a supervisory authority, and each official performs official acts in accordance with his own notion and energy.

The longer term of office, in itself, has not sufficed to stimulate the great mass of assessors into keener interest than their predecessors had experienced. Nothing short of the control which effective state supervision means can bring this inspiration to them.

The active legislature of 1915 adopted another of the tax commissioner's recommendations looking toward more effective financial administration. This was the establishment of a state board of finance, to consist of three citizens appointed by the governor for a six-year term, and the treasurer, comptroller and tax commissioner.[4] This board is to receive the various departmental estimates of revenue and expenditure, hold hearings upon them, and report their findings at the next session of the General Assembly. In addition, the law provided a joint committee on appropriations, to consist of two senators and five representatives. This committee and the board of finance are to hold joint meetings during the legislative session and consider all bills for the appropriation of money. Such bills go automatically to this joint body unless the legislature suspends this order by two-thirds vote. The board of finance and the joint legislative committee are authorized to originate bills. As a step in the development of state budgetary procedure this plan promises well. It suggests

[1] Connecticut Tax Commissioner, *Report*, 1912, pp. 13, 14.
[2] *Ibid.*, 1914, pp. 13, 14. [3] *Ibid.*, 1916, p. 26.
[4] *Laws of Connecticut*, 1915, ch. 302.

the next line of development in American financial administration, which must surely be the extension of some degree of central control over the state and local expenditures in order that a better coördination of outgo and income may be secured.

From this brief survey of the Connecticut tax commissioner's activities it may be seen that this official has been a vigorous and progressive force in the state, developing sentiment and molding legislation in the direction of more effective tax administration. The comparison of his official recommendations through the biennial reports with the record of tax legislation reveals the remarkable degree of leadership which the Connecticut tax commissioner has attained in financial matters. In many respects this legislation is fully as progressive as that found elsewhere, while in more than one instance Connecticut has become the resourceful pioneer, undertaking new ways of meeting old problems, as in the plan of apportionment, or striking out resolutely into new paths for the attainment of new financial ends, as in the creation of the board of finance. In one respect, however, Connecticut's tax law is singularly deficient, and the tax commissioner has not urged this reform as insistently as he has other matters. This defect is, of course, the lack of central supervision over the local assessment; and the reason for it is clearly enough the New England sentiment for local autonomy. This sentiment has been giving way in other New England states, but in Connecticut it is still a sufficiently powerful factor to check legislation and to prevent a tactful tax commissioner from making more than casual reference to the need of greater supervision. Connecticut needs to study the developments in tax administration in other New England states and elsewhere, and to consider wherein those developments may contribute to the improvement of her own tax system.

2. The State Tax Commission of New Hampshire [1]

The development of centralized tax administration came much more slowly in New Hampshire than in the neighboring state of Massachusetts. The general structure of the tax system was

[1] M. H. Robinson's *A History of Taxation in New Hampshire* contains much interesting historical material.

established a century or more ago and but few changes have since been made.[1] This system was, of course, the general property tax. The assessment was made originally by the selectmen and later by locally chosen assessors, or listers. No provision was made for the equalization of individual assessments, and the only means of relief was in the appeal of the individual taxpayer to the courts. The constitution required a reappraisal of real estate at least as often as once in five years. From 1775 to 1878 these periodic reappraisals were equalized by a committee of the legislature, though the results were apparently of little value as contributing to greater equality of tax burden. A special tax commission reported on the subject in 1878, and expressed the conviction that a state board for the equalization of values was a pressing need of the state. It added, " . . . if the new sources of revenue recommended by the commission are adopted, a Board of Equalization will become a necessity." [2]

Upon the recommendation of this commission, state and county equalization was introduced in 1878.[3] The county commissioners of each county were required to equalize the returns of real estate after each quinquennial appraisal, and the chairman of each board (or any member) was to meet with the state board of equalization. This board was composed of five members appointed by the supreme court and commissioned by the governor for a term of two years. The act of 1878 suggested that the state board of equalization exercise general supervision over local tax officials, but the real meaning of this term was not then appreciated and its possibilities were not realized. The county representatives were withdrawn from active participation in the state equalization in 1891, and were required only to submit such data on the subject of local assessment and equalization as might be of assistance to the state board.[4] This board assumed also in 1878 the function of railroad assessment which had been performed since 1843 by the justices of the supreme court; [5] it began the appraisal of the lines

[1] W. B. Fellows, " Taxation in New Hampshire," *Proceedings of the National Tax Conference*, 1915, pp. 177–187.

[2] *Report of the New Hampshire Tax Commission of 1878*, p. 39.

[3] *Laws of New Hampshire*, 1878, ch. 73.

[4] *Statutes of New Hampshire*, 1891, ch. 63. [5] *Ibid.*, 1843, ch. 39.

and equipment of the telegraph companies [1] and the oversight of the returns of express companies.[2] Five years later the assessment of telephone companies was added.[3]

This typical administrative organization of the period operated even less satisfactorily in New Hampshire than in many other states because of the strong influence of the idea of local autonomy. The growing realization of the inequitable conditions which prevailed led finally to the creation of a special tax commission in 1907. Its report, published in 1908, presented a careful survey of the state's tax system with a comprehensive plan for administrative reorganization.[4] The conditions found by the special commission to exist may be briefly summarized.

The condition of real estate assessment was tested by the sales method, for which about three thousand usable sales had been collected. The average ratio of assessed to true value, as shown by these sales, was 72 per cent in 1907 and 76 per cent in 1908. But in 1907 there were four counties below this average and the range was from 56 per cent to 86 per cent. In 1908 the range was from 60 per cent to 89 per cent. Though the law at that time required a distinct assessment of separate parcels, the assessors usually made a lump assessment of all of the real estate belonging to one owner. Many of the sales collected by the special tax commission had to be rejected because the assessors could not find on their books the property described in the deeds. The wild lands and timber lands were rarely surveyed by the assessors. Using the survey made by the United States Forestry Service in part as the basis, the wild lands of the state were found to be assessed at one-fourth to one-third of full value.

Live stock was said to be undervalued 35 per cent to 45 per cent, industrial corporations were estimated to be assessed at 34 per cent of full value, and not above one-tenth of the moneys and securities were found to be taxed. The board of equalization had followed no method whatever in assessing the corporations under its jurisdiction, but under the leadership of the state courts it had

[1] *Laws of New Hampshire*, 1878, ch. 54.
[2] *Ibid.*, ch. 51. [3] *Ibid.*, 1883, ch. 110.
[4] *Report of the New Hampshire Tax Commission*, 1908.

made such allowances as seemed proper in order to secure approximate equality of assessment between corporate and other property. In the absence both of adequate means of investigating local assessments and a proper method of corporate valuation, the unsatisfactory character of the results is apparent.

The act for the creation of a permanent tax commission in New Hampshire was passed in 1911,[1] following the recommendation on the subject advanced by the special tax commission of 1908.[2] In its final form the bill was a combination of two bills offered by the earlier commission, one providing for the tax commission and the other for the administration of the corporation taxes by the tax commission.[3] This body was made bipartizan by requiring that one member be chosen from the leading minority party, but the law also required that all three appointees should be persons known to possess knowledge of the subject of taxation. The members were to be appointed by the supreme court and commissioned by the governor. The court was to designate one member as chairman and another as secretary. The latter is the active head of the commission and is required to maintain regular office hours in the state house throughout the year. His salary is $3000 and that of the other two members $2500. The regular term of office is six years.

The act of 1911 abolished the state board of equalization and transferred its duties to the tax commission. These duties included the biennial equalization of property valuations in the several towns and cities and the assessment of the public service corporations. In addition, and most significant of all in view of the strong sentiment for local self-government, the commission was given general supervision over the tax system. This supervision was to be exercised by conferring with, advising, and instructing the local assessors; by issuing orders for the institution of proceedings for the enforcement of laws; and by collecting information and hearing complaints. Authority was also

[1] *Laws of New Hampshire*, 1911, ch. 169. Cf. A. O. Brown, "A Tax Commission with Power," *National Tax Bulletin*, ii, pp. 94 ff., January, 1917.

[2] *Report of the New Hampshire Tax Commission*, 1908, pp. 311–315.

[3] The first attempt to secure a tax commission failed, in 1909. Brown, *loc. cit.*

granted in these appeal cases to order a reassessment whenever such action was regarded as advisable or necessary.

In preparation for its task of equalizing the assessment of 1912 the commission spent considerable effort in impressing upon the local assessors the desirability and importance of assessment at full value. Written instructions to this effect were issued, and visits were made to every county of the state. This preliminary educational campaign proved to be of small influence and the commission proceeded to a vigorous equalization, the details of which have not been published. This equalization was made on the basis of material collected independently of the local assessment by the commission and by the railroad companies, the object of the latter being the prosecution of their appeals from the increases made by the state board of equalization in 1909. There was no general use of the sales method, though some evidence was obtained comparing assessed and selling values of real estate. More use was made of sampling. The real estate in about one hundred towns was sampled and in some cases at least these sample appraisals extended to live stock, manufacturing property, and stock in trade. The probate records afforded evidence of the escape of mortgages and other intangibles. The commission concluded that on the average the state was assessed at about 61 per cent of true value.[1] This ratio was used for the purpose of equalizing the corporate assessments to those of other property, but not in the general adjustment of local assessments in 1912.

In this year only $10,438,500 was added to a total local valuation of $379,647,000, so that there was clearly no thought of equalizing assessments up to full value, notwithstanding the instructions to the assessors at the beginning of the assessment period. Even this small amount was placed on the tax rolls by compromises which completely satisfied no one.[2] The commission's activity in equalization has somewhat decreased since 1912. In 1914 no additions were made to the local returns because no evidence appeared which indicated that property had not been assessed at

[1] New Hampshire Tax Commission, *Report*, 1911, Second Edition, pp. 34, 35.

[2] A. O. Brown, "A Tax Commission with Power," *National Tax Bulletin*, ii, pp. 94–100. January, 1917.

full value.[1] The total local assessment had been increased from $263,074,000 in 1911 to $379,647,000 in 1912, and the amount added by the tax commission brought this total to $390,086,000. By 1916 this total had increased to $410,150,000. The lack of evidence must have been due to a diminished ardor in the search therefor, since the commission's addition in the equalization of 1912 did not overcome the undervaluation which its own calculations had shown to exist. In 1916 the chairman stated that the direction and equalization of a general reassessment of property was the most important task then confronting that body.[2] Despite the large initial increase and the slow but steady advance in the years following, many forms of property are now underassessed. Merchandise stocks, reclaimed farms, and summer resort property are among the classes in greatest need of attention. The returns of intangibles are naturally not satisfactory; this situation, together with the whole personal property schedule since 1911, is discussed below.[3]

The central administration of railroad taxes began in 1843 with a law which required the railroad companies to pay a tax of one per cent upon the value of that part of their capital stock expended within the state, after certification by the justices of the superior court.[4] In 1867 this capital was to be taxed in proportion to the taxation of other property in the various towns in which the roads were located. The justices of the supreme court were to determine the value of such capital, the rates of taxation in the respective towns, and the amount of the tax.[5] This law continued, without any particular methods being provided whereby the supreme court justices were to fulfill these tasks, until 1878. In this year the basis of railroad taxation was made the road, rolling stock, and equipment, which were still to be taxed in proportion to the other property in the several towns in which the roads

[1] *Personal Letter from W. B. Fellows, Secretary to the New Hampshire Tax Commission*, June 28, 1915.

[2] A. O. Brown, *loc. cit.* The constitution requires a general reassessment at least once in five years.

[3] Cf. below, pp. 530 ff.

[4] *Statutes of New Hampshire*, 1843, ch. 39.

[5] *Ibid.*, 1867, ch. 57.

were located.[1] The state board of equalization was charged with the administration of this act, and it proceeded to use in general the methods employed by the supreme court for this purpose. The assessment was promptly appealed from, and the supreme court sustained as unconstitutional that portion of the law which required taxation at the average rate of the property in the respective towns through which the railroad operated,[2] although for *eleven* years this tribunal had administered the earlier law containing this provision. The board of equalization then voted to regard the tax as a state tax and to apply the average state rate.[3]

This was a singular administrative modification of the statute but the board of equalization was evidently a resourceful body. This quality appears also in its method of determining the average rate. The rate as calculated was $1.44 per $100 in 1880, but because of the local undervaluation the rate used was $1.25 per $100. The problem of ascertaining by any independent scientific investigation the degree of undervaluation which prevailed apparently did not occur to the board. In the absence of a clear statutory definition of the average rate of taxation the board formulated a rule which was employed until 1909. This rule called for the division of the total local assessment, the insurance stock, and savings bank deposits (which were subject to specific taxation), into the total of local taxes plus the specific taxes on savings deposits and insurance stock.[4] The result was a lower average rate than would have been obtained by the exclusion of the classes of property specifically taxed. This rule was approved in the subsequent tax laws and in various court decisions. In 1908 the average rate as the board applied it to the corporate assessments was $1.72 per $100; excluding the property specifically taxed, it would have been $1.98 per $100.[5] The following

[1] *Laws of New Hampshire*, 1878, ch. 62.

[2] 60 *New Hampshire*, 87.

[3] Cf. *Valuation and Taxation of the State of New Hampshire*, 1906, pp. 12 ff. This rule was enacted into law by *Laws of New Hampshire*, 1881, ch. 122.

[4] *Ibid.*, p. 13.

[5] *Ibid.*, 1908, p. 6. Cf. *Statutes of New Hampshire*, ch. 64, § 1 and 60 *New Hampshire*, 87; 70 *New Hampshire*, 200. It was also approved in the acts provid-

year these classes of property were definitely excluded, and the new average rate rose to $2.138 per $100.[1] In this year also the board made a material advance in the railroad assessment, totalling some $8,500,000. These increases were appealed and the data on the condition of local assessments were used by the tax commission in its equalization of 1912.

The special tax commission of 1908 disagreed on the question of the results of corporate assessment in New Hampshire. The majority of this commission defended the results of the state board of equalization but without expressing a positive opinion on the percentage of full value which this board had reached.[2] The minority members made various calculations to show that corporate property, especially that of railroads, was very greatly undervalued by the state board. The total assessment of $26,569,000 for 1907 was claimed to be considerably less than half of the true value of the railroad property of the state at that time.

The methods used in the valuation of corporations have been a combination of the stock and bond valuation and the capitalization of earnings, modified by particular circumstances in each case. The chairman of the commission wrote that security values were regarded as very important, although all of the evidence that could be secured was considered.[3] The assessment of steam railroads in 1911 was $34,437,000. By 1916 this total had increased to $39,796,000.

The principal problem in the adequate taxation of other public service corporations is that of securing greater uniformity of assessment through a further extension of the commission's jurisdiction. The results of central assessment have been satisfactory, but the legal classification of companies for central and local assessment is anomalous. Street railway companies are centrally assessed, though in some cases the plant lies entirely within a single city. On the other hand, light, heat, and power

ing for central assessment of express and car companies, *Laws of New Hampshire*, 1907, chs. 81 and 91.

[1] *Laws of New Hampshire*, 1909, ch. 66.

[2] *Report of the New Hampshire Tax Commission*, 1908, pp. 99, 121–140.

[3] *Personal Letter from A. O. Brown, Chairman of the New Hampshire Tax Commission*, August 7, 1915.

companies are locally assessed, though the equipment and business operations of these concerns often extend throughout several cities and towns. The piecemeal assessment which of necessity is made by the local assessors in such cases is utterly inadequate.[1]

In its first annual report the commission announced a positive policy of law enforcement under its powers of supervision,[2] but the practical difficulties in the way of such a program had not been fully anticipated. They were stated by one member of the commission in his remarks at the National Tax Conference in 1912:[3]

> We say to the selectmen of a town, "Reassess the property." They reply, "We will reassess, but we will reassess at the original figures. We swore we had assessed at full and true value last April, and we are not going to swear to anything else now."

The speaker expressed great respect for the difficulties of proving the assessors guilty of "willful intent," and as long as the commission was restricted to the slow and uncertain remedy of prosecution before the courts, the authority to order reassessments offered but small advantage. This defect of the New Hamsphire law was fortunately removed in 1913 by an amendment which authorized the tax commission to appoint special assessors to perform the reassessment, in case the local assessors refused to do it or in the event that the local reassessment proved unsatisfactory.[4] As in other states, the existence of this authority has largely obviated the necessity for its use, so far as the intentions of the assessors are concerned. The following account of the commission's procedure indicates the relation in which the central administrative head stands to the local officials with respect to supervision of their work:[5]

> . . . there has been a friendly coöperation between the local assessors and the members of the tax commission in efforts to make all assessments ac-

[1] A. O. Brown, *loc. cit.*, p. 94.

[2] New Hampshire Tax Commission, *Report*, 1911, Second Edition, ch. 3.

[3] W. B. Fellows, "Problems encountered in Establishing Central Supervision in a State under a Town Form of Government," *Proceedings of the National Tax Conference*, 1912, p. 470.

[4] *Laws of New Hampshire*, 1913, ch. 223.

[5] W. B. Fellows, "Taxation in New Hampshire," *ibid.*, 1915, pp. 177, 178.

cording to law. A few reassessments have been made under formal orders, but the most of the work is done through consultations and advice. In rare cases veiled threats are required, but on the whole it is found that the local assessors are as ready to comply with the law as are other people.

Meetings are held with them at different places in the state. They are made acquainted with the statutes and decisions of the court, as well as any facts which have come to the attention of the commission. A constant correspondence is maintained, and two things are kept ever before them: first, appraisal at full and true value; second, the taxes raised must be paid, and the evasion of one person unjustly adds to the burden of others.

In the same paper figures were presented to show that in 1914 real estate had increased 52 per cent over the assessment of 1911, manufacturing establishments 69 per cent, and taxable intangibles 81 per cent. The total valuation of the state had increased 55 per cent. But these attractive percentages, while suggestive of improvement, are far from conclusive evidence that the state was assessed at full value in 1914, and the gains here registered hardly excuse the commission from making an effort to list, or to discover, sequestered property.

This conclusion will be clear from an examination of the details of the tax duplicate. The assessment of real estate has increased from $178,900,000 in 1911 to $281,900,000 in 1916, or 58.1 per cent. Accepting the estimate of the special commission of 1908 to the effect that real estate was then assessed at about 75 per cent of full value, this increase allows for some improvement in the basis of valuation in the face of rising real estate values. Nothing definite can be said of the equality of real estate assessments as equalized by the commission in 1912, but it is clear that by 1916 certain inequalities had appeared.

The results of the assessment of personal property are presented below.[1] It is not possible to check these figures from independent sources. The census valuation of live stock in 1910 was $11,900,000. The assessment of this class of property has evidently been on a fairly satisfactory basis, but as in the case of real estate it is impossible to speak definitely on the question of uniformity of assessment.

The listing of intangibles appears to be in the condition that is to be expected under the uniform rule. The difficulty of securing a

[1] Cf. below, p. 554.

proper return of this form of property was realized long ago, under the regime of the state board of equalization. In 1879 the law requiring a sworn inventory of possessions was passed.[1] At this time about $20,000,000 of money on hand and at interest was returned. By 1894 the amount of moneys returned had fallen to about $6,000,000, and the board reported that in many of the cities the law requiring a return of moneys was treated as a dead letter. One city made absolutely no return of moneys in this year.[2] At various times the state board of equalization urged either more vigorous administration or else the repeal of the law taxing moneys at the same rate as other property. The state tax commission revived the law requiring a sworn inventory, and by 1913 it seemed to be on the way to a fair increase in the amount of intangibles listed. This increase, which consisted almost wholly of moneys, could not be retained on the tax roll, and the amount returned has since declined without interruption.

The explanation for this decline which the chairman offered in 1916 was that the shrinkage at this point represented the transfer of holdings of money and of taxable bonds into investments in stocks, which had been exempted by court ruling. These tendencies have doubtless been in operation since 1912, but they do not furnish an altogether convincing explanation for the decline in the assessment of moneys. The volume of deposits in the commercial banks of the state has steadily increased and the decrease in the assessment of public bonds has been far less than that of moneys. In spite of the increase of investments in exempt securities, the volume of moneys still in taxable form in the state has been on the increase. The truth is that the present administrative organization is no match for the taxpayer while the latter is sheltered behind the uniform rule and the taxation of intangibles at excessively high rates.

The item "moneys" does not include interest bearing deposits in savings banks. Since 1864 these deposits have been exempt to the owners, and in lieu thereof a tax of $.75 per $100 has been collected from the banks.[3] Deducting certain exempt assets the

[1] *Laws of New Hampshire*, 1879, ch. 46.

[2] *Valuation and Taxation in the State of New Hampshire*, 1894, p. 24.

[3] *Laws of New Hampshire*, 1864, ch. 2873.

true tax rate is about $.60 on the $100. This law, in which a fundamental principle of tax reform is tacitly recognized, has operated to the satisfaction of all and has never been brought to a judicial test. It apparently violates the uniform rule of the constitution, but as a supreme court justice once said, it rests on peculiar grounds of public policy and appears to have universal consent as an exception to the constitutional rule.[1]

It is clear from this brief survey that the general property tax has not been rehabilitated by the present degree of state control over taxation in New Hampshire. It is even somewhat doubtful if approximate equality of assessment of property other than intangibles is being attained. The commission publishes so few data that it is not possible to test their conclusions on this point. But no other tax commission has found a single equalization sufficient to eliminate all inequalities in the local assessment. On the other hand, steady attention to this task, using the best developed methods of investigation and independent testing of the assessors' work, have not entirely availed elsewhere while the general property tax was retained. The experience of New Hampshire makes perfectly clear the necessity of modifying this tax system as well as of improving the central administrative organization at various points. The size of the state makes close local supervision possible, and the New Hampshire commissioners have been careful to maintain close relations with the local officials. In a certain respect the commission's most notable achievement has been the degree to which it has been able to meet and overcome the local prejudice against administrative centralization, and thus to prepare the way for further administrative developments.

3. The Board of Tax Commissioners of Rhode Island

The tax system of Rhode Island, until a few years ago, was the general property tax in an unusually pure form. There was no semblance of central administration, and even the state equalization which had appeared in other New England states was lacking. The initiative in suggesting a change in the system of taxation appears to have been taken by the governor, who, in his

[1] Quoted by W. B. Fellows, *loc. cit.*, p. 182.

message of January 5, 1909, proposed the appointment of a special committee.[1] This proposal resulted in the establishment of a joint special committee on taxation laws in May of the same year, created "for the purpose of taking into consideration the laws of the state relative to taxation" and reporting such changes as might be deemed advisable.[2] This committee reported in 1910, and for the present purpose the recommendation of greatest interest was that for administrative centralization of the revenue system. It was held that this should be undertaken without delay because of the chaos which had followed the characteristic New England policy of complete freedom of local units from state supervision.[3]

The joint special committee was much influenced by the progress of the movement for central supervision, and recommended the appointment of a tax commissioner who should have "at least advisory, if not revisory powers over local assessments." No action was taken upon the report in 1910, and the committee was continued until the legislative session of 1911 with instructions to report again at that time. In its second report the committee declared that no change of views had been experienced since its first report; on the other hand, its respect for state supervision had been enhanced by the creation, since 1909, of state tax commissions in three states.[4]

The suggestion for central supervision apparently proved unpalatable to the legislature, and the subsequent history of the committee's recommendation reveals the struggle that was made against it. This history is found in the legislative calendar.[5] The committee reported its bill providing for the appointment of a tax commissioner, but the committee on the judiciary moved indefinite postponement and the passage of a substitute measure. The latter was read and referred to the joint committee with

[1] *Message of Governor Pothier to the General Assembly*, January 5, 1909. Quoted in the *Report of the Joint Special Committee on Taxation Laws*, 1910, p. 4.

[2] *Joint Resolution of the General Assembly*, May 6, 1909.

[3] *Report of the Joint Special Committee on Taxation Laws*, 1910, pp. 16, 17.

[4] *Ibid., Second Report*, 1911, p. 8.

[5] The record is quoted in the *Special Report of the Joint Special Committee*, 1911, p. 3.

instructions "further to consider the subject, to give public hearings, and to report to the next General Assembly bills equitably taxing all corporations created by or doing business in this state."

By these instructions the committee was plainly requested to restrict its scheme for a state tax department to the supervision of the corporation taxes. There was here also a thinly veiled attempt to nullify the efforts of the committee, by requiring it to formulate a law taxing all corporations by the same method. Certain public corporations had accepted the provisions of a law of 1909,[1] by which a tax on gross earnings had been levied in lieu of all other taxes except such as had already been imposed, or as might thereafter be imposed "generally and without discrimination upon the property, income, rights, privileges and franchises of all persons and corporations." The committee drafted a law taxing all corporations on their corporate excess. This appeared so burdensome to those companies which had accepted the law of 1909 that they voluntarily surrendered their rights under this law and opened the way for the use of two methods of taxation — the corporate excess of one class and the gross earnings of the other.[2]

The teeth of the plan for central supervision of local assessments were painlessly extracted by changing a single word in the original bill, so as to produce the following result:[3]

SECTION 4. The commissioners may visit any city or town to inspect the work of local assessors, and to confer with, advise and give them such information and request [original wording *require*] of them such action as will tend to produce uniformity in valuation and assessment throughout the state.

A third report of the joint special committee, in 1912, substituted a board of three commissioners for the single official and in this form the bill was passed. The governor was to appoint, with the consent of the senate, three commissioners for a regular term of six years at a salary of $3000. The "tax act of 1912," as

[1] *General Laws of Rhode Island*, 1909, ch. 216.

[2] *Personal Letter from Mr. Z. W. Bliss, Chairman of the Board*, March 23, 1917.

[3] Cf. the wording of this section in the *Second Report* and the *Special Report of the Joint Special Committee on Taxation Laws*, 1911, and as passed.

the measure was called, made a number of important changes in the revenue system.[1] Among the more important of these were the application of the corporate excess method of taxation to manufacturing, mercantile, and miscellaneous corporations, the taxation of the gross receipts of public service companies, the levy of a flat rate of $.40 per $100 on intangibles, the taxation of all tangibles where found, the separate assessment of lands, buildings, tangible and intangible personal property, and the reduction of the state tax by one-half. In the local assessment an offset for indebtedness was allowed only against money in hand, in bank, or at interest and debts due from others, instead of against all property except real estate, as had been the former rule. The administrative duties of the board of tax commissioners, and the effects of these changes upon the state finances and the problem of equitable distribution of the tax burden, will be briefly considered.

The Rhode Island law for the taxation of corporate excess differs from that of Massachusetts in important particulars. Thus, the former requires the inclusion of bonds, debentures, and any indebtedness incurred in the acquisition of real estate or tangible personalty, in calculating the total value of the corporation; and as deductions the company may receive allowance for real estate and all tangible personalty taxed locally, together with all exempt securities or other exempt property. The corporate value of those corporations doing business outside the state is to be apportioned on the basis of the relative value of the real estate or of the tangible personal property, if the company's profits are mainly derived from transactions in real estate, or from manufacturing operations involving the sale or use of tangible personalty, respectively. If the profits are realized mainly from the holding or sale of intangibles, the relative gross receipts for the state and the entire business are to be taken as the basis of distribution of the corporate valuation. In any cases in which these proportions are not equitably applicable, the commission is authorized to make such distribution as is equitable.[2] This gives the commission very wide discretionary powers, and the

[1] *Public Laws of Rhode Island*, 1912, ch. 769. [2] *Ibid.*, ch. 784.

chairman thinks it of doubtful constitutionality. It has been used but seldom, though with such beneficial results both to the state and to the taxpayer that the constitutional question has never been raised.[1] The corporate excess is taxed at the rate of $.40 on the $100, and the entire receipts from this tax are paid into the state treasury for state purposes. In compensation for this increase in the state revenues, and as an allowance on account of the loss in municipal revenues due to the exemption of savings accounts by the act of 1912, the state tax rate was reduced.

The principal task of the board in administering the tax on the corporate excess is the determination of the taxable excess. The original act required the use of the average fair cash value of the capital stock for the preceding three years. This provision proved impractical because of the large number of variables over a three-year period, and in 1915 the board was permitted to use the average value for the year preceding.[2] The actual method of valuing the stocks and bonds is nowhere described in the published reports, but strong reliance appears to be placed upon the returns of the companies themselves.[3] Legislation since 1912 has broadened the scope of the returns required of the corporations, and while the board has the power of making an examination of the books of any corporation, this has never been found necessary. The board is bound by the local assessment of the real estate and personalty in making the deductions for these classes of

[1] *Personal Letter from Mr. Z. W. Bliss, Chairman of the Board*, March 23, 1917.

[2] *Public Laws of Rhode Island*, 1915, ch. 1180. Board of Tax Commissioners, *Report*, 1916, p. 11.

[3] The following extract from a recent letter describes the board's methods of corporate valuation:

"All corporations liable to the corporate excess tax are required to file a trial balance as of the 31st of December and to show the amount of dividends paid during the year, the gross earnings and the amount of business transacted for the same period. If the stocks or bonds have a well defined market value, that value is used; if not, the stocks and bonds are appraised by the board, and in this appraisal all of the elements which may reasonably be considered as affecting the values are taken into consideration. The law requires the full and fair cash value which sometimes is different from the value indicated by sales or market value. The control of a corporation may depend on the possession of a few shares and the price of these shares consequently be very high, or a forced sale might indicate a very low price. Such sales are not considered as conclusively indicating the fair cash value by the commission." *Personal Letter from Z. W. Bliss, Chairman of the Board*, March 23, 1917.

property. The marked difference in the tax rate on corporate excess and those ordinarily levied on the property locally assessed presents a strong temptation to the corporations to secure an underassessment of the tangible property. Supervision of the local returns should be granted the board in the calculation of the corporate excess.

The plan provided in 1912 for the apportionment of the value of companies doing business outside the state has not proved entirely satisfactory. The board has no objection to its operation as to corporations doing business wholly without the state, those transacting exclusively an interstate mercantile business, and those doing an interstate manufacturing business with plants located in Rhode Island. In these cases the tangible assets appear to form a sufficiently equitable basis for the apportionment of the corporate valuation. But manufacturing corporations having no plant in Rhode Island and doing only a mercantile business in that state are not adequately taxed, since the rapid turnover means a relatively small stock of goods on hand, especially on the assessment date. In one case gross receipts of $500,000 were earned on a daily stock in trade of not above $20,000. The board recommends taxation of such companies on their gross receipts in the state instead of upon their corporate excess.[1]

The large number of domestic corporations doing no business whatever, or doing business wholly without the state, has led the board to recommend consistently that some means of taxation be devised, not only for revenue purposes but also as a means of simplifying the process of dissolution. In 1916 such a tax was imposed, at the rate of $2.50 for each $10,000 or fractional part thereof of authorized capital. This tax was also established as a minimum tax upon corporate excess. In the case of nonpayment of this tax for three years the attorney-general is to bring suit for dissolution in the superior court of Providence county. No great amount of revenue is expected from this tax, which is to serve principally as a check upon overcapitalization and to facilitate dissolution of corporations.[2]

[1] Board of Tax Commissioners, *Report*, 1913, p. 21.

[2] *Ibid.*, 1917, pp. 10–12. *Public Laws of Rhode Island*, 1916, ch. 1362.

The procedure for review of the board's assessment of corporate excess is unsatisfactory in theory, however it may actually work in Rhode Island. Any corporation may appeal from the board's assessment to the superior court of Providence and Bristol counties. The court may review the assessment, approve it if found correct, and make a new and binding assessment if the board's result is found to be incorrect. It has been pointed out above, in more than one connection, that a court is in no position to pass accurate judgment upon the board's findings of fact as to the value of the corporation, and that such a policy of judicial review may actually become very objectionable.

The tax on the corporate excess of banks is also very unsatisfactory. The act of 1912 was amended two years later to permit the deduction of the securities of corporations already taxed on corporate excess or upon gross earnings.[1] The natural effect of this amendment was greatly to reduce the amount of corporate excess taxable to banks without a compensating increase in their tax burden at another point. In 1916 the appraised value of bank shares in Rhode Island was $30,300,000, of which, the board estimated, $28,000,000 represented intangible value. The tax on corporate excess was $28,211, or roughly one-tenth per cent on the intangible value represented. But this negligible tax was not distributed uniformly. Instead it was collected from bank stocks appraised at about $15,000,000, leaving $13,000,000 of intangible value entirely untaxed. The board recommends repeal of this portion of the tax act of 1912, or amendment to secure more equitable taxation.[2]

The gross earnings tax on public service corporations has apparently operated satisfactorily, both from the standpoint of administration and of the financial returns. The results from the whole series of corporation taxes since 1912 may be presented together in the table on the following page.[3]

The growing financial needs of the state have finally raised the question whether the experiment of 1912, of taxing the corporate

[1] *Public Laws of Rhode Island*, 1914, ch. 1068.

[2] Board of Tax Commissioners, *Report*, 1917, pp. 12, 13.

[3] *Ibid.*, pp. 26, 27.

RECEIPTS FROM THE TAXATION OF CORPORATIONS UNDER THE TAX ACT OF 1912

Year	Manufacturing, mercantile, miscellaneous	Public service	Banks, trust companies, etc.	Per cent of total taxes on corporations to total state revenue
1912.....	$534,824	$200,548	$70,878	24.80
1913.....	549,743	213,223	69,710	24.03
1914.....	535,317	221,057	65,584	26.15
1915.....	535,567	225,285	35,549	23.83
1916.....	621,089[1]	231,173	27,726	24.06

excess of prosperous corporations at the same rate as other intangibles, can be allowed to continue. The figures just given show that the revenue derived from the corporation taxes has not made a striking increase, although it has maintained a fairly constant proportion of the total state income. In 1915 the governor requested the board to submit a report on possible increases of revenue, expressing the preference for new sources of income over increases in tax rates. The board proposed three new taxes in its report, published in 1916. All of these were immediately adopted. One of the three was the franchise and minimum tax on corporate excess, referred to above. Of the $96,537 assessed under this law, about $16,650 was paid. The second new source of revenue proposed by the board was a tax of $4.00 on each $1000 of savings and participation accounts in national banks.[2] Such a tax, collected from the banks with exemption to the depositors, had already been in operation against such deposits in state banks, trust companies, and savings institutions. In 1916 this tax yielded $24,025. The third and most important of the new taxes was an inheritance tax which brought in $134,379 in the first year.[3] The administration of this tax is in the charge of the board of tax commissioners and to the present no serious difficulties have been encountered. The provision that the tax shall be a lien on the property transferred renders necessary a very complete return of data regarding the property and for this purpose the board's clerical equipment has already proved inadequate.[4]

[1] Includes receipts from franchise and minimum tax in 1916.

[2] *Public Laws of Rhode Island*, 1916, ch. 1359.

[3] *Ibid.*, ch. 1339.

[4] Board of Tax Commissioners, *Report*, 1917, pp. 10–21.

The new sources of revenue proposed by the board produced in 1916 about 4.45 per cent of the total state revenue. Though the yield in the first year is hardly a fair test, it is clear that the subsequent returns cannot be sufficient to take care of the expanding state requirements for long. Soon the problem of additional sources of revenue must be faced again. The choice will probably lie between an increase in the direct tax on general property and a state income tax. In favor of the former is the well known attitude of the state toward the taxation of industry, an attitude which is seen in the moderate taxation of corporate excess; on the other hand, the success of modern state income taxes, and the recent adoption of such a tax in Massachusetts, will prove weighty considerations in favor of this tax.

It has already been noted that the tax act of 1912 provided for a reduction of the state tax rate on general property from $.18 to $.09 per $100. The joint special committee favored separation of the sources of revenue, and even anticipated the time when the state tax might be dispensed with entirely.[1] The strong preference for local autonomy on the part of the country towns proved the decisive factor in continuing the traditional absence of state equalization, though the special committee on taxation did advocate very strongly the extension of state supervision over the local assessments. The lack of both equalization and supervision has proved a serious matter, however, as undervaluation has continued notwithstanding the very low rate of state tax. In fact, local assessments of general property in Rhode Island appear to be in a chaotic condition, in many ways. There is no uniform assessment date, and each town establishes its own date of assessment. It is quite possible for the owners of certain forms of property to evade the assessor altogether by transferring this property from one tax district to another. There is no requirement of regular reassessment of property and in many cases the original valuations stand for years, the additional revenue being provided by increases in the rates. Without equalization, this distribution of the tax burden becomes very unequal. Finally, the board of tax commissioners has been compelled every year to take notice

[1] *Report of the Joint Special Committee on Taxation Laws*, 1909, p. 23.

of the local undervaluation, discrimination, and evasion. These conditions prevail not only with regard to real estate and tangible personalty, but as well with regard to intangibles. The low rate of taxation imposed upon the latter has not resulted in securing adequate returns, under local administration, however satisfactory the results may be as compared with former conditions. The experience of Minnesota is being repeated here, *viz.*, that strong and effective state supervision is required to make even such a tax successful. There is no reason to believe that local administration of a flat tax on intangibles will be ultimately more successful than were the locally administered state income taxes. Rhode Island needs, therefore, to introduce at once an adequate system of supervision over local assessments, and, especially if the rate of the state tax is to be increased as a part of the program of securing additional state revenues, to endow the board of tax commissioners with the requisite authority for the proper equalization of the local assessments over which this tax is to be distributed.

4. The Commissioner of State Taxes of Vermont [1]

The early difficulties in the decentralized administration of property taxes in Vermont have been referred to above.[2] It was there noted that a system of county and state equalization was provided in 1820 for the equalization of the triennial appraisal of real estate which was introduced at that time. The county board of equalization was composed of one lister from each town, with the power to adjust values among the towns. Equalization among the counties was performed by a state board composed of one assemblyman from each county. After various modifications in the tax system, the general property tax was introduced in 1841 [3] but with no changes in the administrative structure which had already been created. While this act introduced the principle of the uniform rule it was peculiar in that it required all taxable property to be put down in the grand list for taxation at one per

[1] For further historical material, cf. F. A. Wood, *History of Taxation in Vermont*, 1894; and *ibid.*, *The Finances of Vermont*, 1913.

[2] Cf. above, pp. 20, 21.

[3] *Laws of Vermont*, 1820, ch. 23; *ibid.*, 1841, no. 16.

cent of its full value. This singular provision has been retained to the present. It afforded the advantage in 1841 of avoiding too great a break with the level of valuations which had become familiar through the listing of various classes of property at low percentages of their value, but at the present it is of doubtful benefit.

The composition of the state board of equalization was changed in 1872 by substituting one member from each county convention for the legislators, and by making the secretary of state ex officio chairman. This board equalized only the assessments of real estate, which were to be made thereafter quadrennially.[1] Ten years later the whole machinery of equalization was abandoned in connection with the introduction of a new system of corporate taxation.[2]

This new system, which was a series of taxes on gross earnings, had been preceded by a number of experiments in corporate taxation. The earliest taxation policy with respect to railroads had been characterized by varying degrees of exemption according to provisions in the charters of individual companies. In 1874 the real estate used in operation was made taxable locally, and in 1880 a board of three commissioners appointed by the governor was provided to assess this real estate and certify the valuation to the local listers.[3] This beginning of ad valorem taxation was abandoned in the tax act of 1882 for a system of taxes on gross earnings which was applied to railroad, insurance, guarantee, express, telegraph, telephone, steamboat, car, and transportation companies.[4] The office of state tax commissioner was established to administer these taxes. The tax commissioner was to be appointed for a term of two years at a salary of $1000 and necessary travelling expenses. Any allowance for clerk hire, fuel, lights, or rent was specifically forbidden. In 1890 the salary was increased to $1100 and the legislature munificently authorized the appointment of a clerk at a salary of $300 "if the business of the office demands it." [5] The principal administrative duty of the

[1] *Laws of Vermont*, 1872, no. 15.
[2] *Ibid.*, 1882, no. 1.
[3] *Ibid.*, 1880, no. 80.
[4] *Ibid.*, 1882, no. 2.
[5] *Ibid.*, 1890, no. 3.

tax commissioner was to prepare and send out the blanks upon which the corporation officials were to make a sworn return as to their earnings. He was authorized to examine and correct these returns.

The taxes on gross earnings were held unconstitutional in 1890,[1] as an unlawful imposition upon interstate commerce. A system of ad valorem taxes on corporations was therefore substituted, and the commissioner of taxes was required to appraise the property and franchises of the companies subject to this act.[2] This assessment was to be taxed at seven-tenths per cent. The legislation of 1890 was clearly not meant to be taken seriously, for it contained provision for an alternative tax on gross earnings. The tax commissioner continued to make the appraisals as required by law, but the option of the tax on assessed value was chosen by only one or two of the smaller railroad companies. Various changes were made in the rates levied under both systems, and in 1912 the gross earnings plan was abandoned for a straightforward ad valorem system applicable to railroad, steamboat, car, and telephone companies.[3] The commissioner of state taxes was required to make the appraisal biennially on the basis of such information relative to the value of the property as he might be able to obtain. The published reports from his office contain no reference to the methods which have been used in making these appraisals.[4] It is significant, however, that as the result of the appeals which were taken by the state as well as the corporations, the aggregate railroad assessment was increased in 1912 from $39,201,000 to $43,862,000.[5] The appeal board provided for the review of these assessments consists of the lieutenant-governor, secretary, and auditor of state. No appeals were taken from the appraisals of 1914.

Central assessment of bank stock was begun under an act of 1914 by a board consisting of the treasurer, bank commissioner,

[1] 63 *Vermont*, 1.
[2] *Laws of Vermont*, 1890, no. 3.
[3] *Ibid.*, 1912, nos. 50 and 51.
[4] The problems involved in the assessment of telephone properties are described by the commissioner, C. A. Plumley, in "Valuation of Telephone Properties," *National Tax Bulletin*, i, pp. 69–72.
[5] State Tax Commissioner of Vermont, *Report*, 1914, p. 65.

and tax commissioner.[1] The local assessment of bank shares had become very unequal through the different towns of the state and the shares were to no small extent undervalued. The result of the first appraisal by the new board was the addition of $844,000 to the valuation.[2]

Various duties of minor fiscal importance have been added to the tasks of the tax commissioner. Among these have been the issuance of licenses to pedlers and traders, the apportionment of funds in aid of county agricultural work, joint service with the secretary of state as commissioner of foreign corporations, and registrar of partnerships doing business in the state. In some cases, at least, there is only incidental revenue derived, and for the proper administration of all of these lesser duties the present equipment and resources of the office appear to be inadequate.[3]

The mistake made in 1882 by discontinuing all provision for a state equalization is now generally recognized. A special report was made by the tax commissioner in 1902 on the subject of taxation in Vermont, and in this report, after a comparison of relative assessed values, tax rates, and quotas of state tax among the counties, the reëstablishment of a state board of equalization was recommended.[4] The special tax commission of 1908 proposed to give equalizing powers to the permanent tax commission which it suggested.[5]

The Vermont law of 1882 is an early example of the theory which later became quite popular, to the effect that such supervision as was exercised through the state equalization could be dispensed with upon the introduction of certain other changes, notably the separation of sources and a greater degree of responsibility upon the taxpayer for a complete return. The first of these, separation of the sources of state and local revenue, was contemplated in the new corporation taxes of 1882, but the

[1] *Laws of Vermont*, 1914, no. 31.

[2] State Tax Commissioner of Vermont, *Report*, 1916, p. 10.

[3] Cf. the discussion of these duties in the Tax Commissioner's *Report* for 1916, pp. 7–14.

[4] Commissioner of State Taxes, *Special Report relating to Taxation of Corporations and Individuals*, 1902, pp. 46, 47.

[5] *Report of the Commission on Taxation, State of Vermont*, 1908, pp. 30, 31.

revenue from these and other special taxes has not entirely sufficed for state purposes and a direct levy has at times been made.[1] Resort to such a levy could probably have been obviated by heavier special taxes for state uses, but even entire elimination of the direct state tax would not have rendered equalization of the local assessments unnecessary. It is perfectly clear, however, that reasonable equality of assessments could not have been secured by a state board of equalization with the composition and restricted authority of the earlier Vermont board.

The second innovation upon which reliance was placed for overcoming inequitable assessments was the sworn return of personal property. The board of equalization had never dealt with personalty, and by 1880 the returns of this general class of property had begun to display the universal tendency toward escape from the tax rolls. The total assessment of personal estate fell from $21,400,000 in 1866 to $15,000,000 in 1880.[2] The powers of inquisition and doomage which the listers had possessed had varied at different times, but in general this method of listing personal property had been employed. In 1880 listing by inquisition was replaced by a sworn return, quite similar to that which has recently been introduced in Ohio.[3] The taxpayer was to be furnished with a blank on which exceedingly detailed inquiries regarding taxable property were to be answered. These returns were to be sworn to before the listers, and in case of incorrectness or of failure to make returns, the latter were to assess by doomage and impose 100 per cent penalty. The special tax commission of 1908 sent out agents to examine the inventories then on file, and of the 113,000 inspected, only 3652 were found to be legal inventories. It was found also that the grand list books contained the names of thousands of individuals who had filed no inventory for 1907, and the commission estimated that less than 3 per cent of the resident taxpayers had filed legal inventories for that year. The inventories inspected were not merely technically defective — many were not sworn to, others were not even signed,

[1] Wood, *Taxation in Vermont*, p. 93, note. [2] *Ibid.*, p. 60.

[3] *Laws of Vermont*, 1880, no. 78. The title of the act is "An act to equalize Taxation." Cf. above, p. 504.

and numerous other evidences of deliberate evasion or undervaluation were abundant. The commission estimated that the aggregate penalties against listers for accepting improper returns in 1907 would have been $20,000,000. The establishment of a state tax commission, with strong powers of supervision over local assessments, was earnestly recommended.[1]

The only response, thus far, to the suggestions for a greater degree of central supervision has been an act of 1910 which conferred very mild supervisory powers upon the tax commissioner.[2] This act requires him to call annual meetings of the listers for the purpose of instructing the latter in their official duties. He is also to prepare printed instructions and directions, and he may inspect their returns. This supervision is purely advisory and while its exercise has proved beneficial, it cannot be regarded as sufficient for the needs of the case. Vermont stands in the same need of fundamental tax reform, both in the tax system itself and in the methods of administration, that many other states have found necessary. The special tax commission of 1908 presented a rather comprehensive program for the accomplishment of these ends, but its suggestions received scant attention.

5. The State Tax Commission of Maryland[3]

The act creating the tax commission of Maryland was passed in 1914.[4] It provided for a commission of three members, appointed by the governor for a term of six years, at a salary of $3000. The city of Baltimore was to add to these salaries $3000 for the chairman and $2000 for the other members, as additional compensation as employees of the municipal corporation of Baltimore.[5] Geographical considerations were observed to the extent of re-

[1] *Report of the Commission on Taxation, State of Vermont*, 1908, pp. 20, 21.

[2] *Laws of Vermont*, 1910, No. 38.

[3] H. S. Hanna, *A Financial History of Maryland, 1789–1848*, gives valuable historical material.

[4] *Laws of Maryland*, 1914, ch. 841.

[5] This device, which had been employed in other instances, was used for the purpose of evading the constitutional limitation on salaries paid to state officials. The case of *Thrift* v. *Laird*, 125 *Md.* 551, removed this difficulty and in 1916 the salaries of members of several state commissions were made payable out of the state treasury, *Laws of Maryland*, 1916, ch. 713.

quiring the governor to select one member from Baltimore and one from the counties on either side of Chesapeake Bay.

The tax commission law is very elaborate, as was perhaps necessary in view of the confused tax system which existed in Maryland. The commission is to exercise general supervision over the local tax officials, in the course of which it is empowered to investigate any assessment on its own initiative, to formulate standards for the assessment of property, and to prepare all blanks for assessors and collectors of taxes. A continuing method of assessment was ordered with a complete reappraisal of property at least as often as once in five years. The commission's supervisory powers are further strengthened by the authority to appoint a supervisor of assessments in each county and in Baltimore. These supervisors are to act as the local representatives of the commission, and keep in close touch with both the state and the local officials. Appeals to the courts from the commission's rulings are allowed on questions of law only. Finally, the entire administration of the corporation taxes was transferred to the tax commission, and the office of state tax commissioner was abolished.

The first point to be noted in this brief summary of the new tax law is the absence of clear provision for a general state equalization. This has been characteristic of the Maryland system, notwithstanding the use that has been made of a direct state tax. In fact, since the introduction of property taxation in Maryland, there has been very inadequate provision for the equalization of the assessments, whether for the distribution of the state or the local tax burdens. Property taxation first became prominent in Maryland during the years 1777 to 1786, and at this time, singularly enough, there was a completely centralized administration of the tax. A board of " commissioners of the tax," or " levy court," as they were variously called, was appointed for each county by state officials, and these county boards in turn appointed the local assessing officials. Property taxation declined after 1786, and when such taxes again reappeared as important sources of revenue the development of local administration had been completed and the tax system was thoroughly

decentralized.[1] The two centrally appointed county boards had merged into the board of county commissioners, a locally elected body which has since been prominent in the administration of local taxation.[2]

The direct state tax has been imposed more or less continuously since 1812, and always upon an assessment of property made especially for this purpose. Unfortunately these assessments were not made at regular intervals, as in other states. Instead, the reassessment acts were passed at most irregular intervals, and usually only in response to extreme popular pressure.[3] Under these circumstances the political aspect of such legislation became of paramount importance. With no provision for state or local equalization of such reappraisals and with no uniform method of assessment in the different counties, it is readily seen that the equitable distribution of the state tax was impossible. Add to this the fact that a separate assessment was made for county and municipal purposes and the confusion becomes chaos. Property in cities was found in 1913 to be assessed for the state tax at $150 per front foot and for city purposes at $300. The grossest inequalities existed also between counties, and among individuals and classes of taxpayers.[4]

In view of such conditions, the existence of which had been clearly recognized for a long time, the omission of provision for a general state assessment and equalization, upon which all taxes were to be levied, is difficult to understand. The reasons probably lie in the hidden depths of state politics. Certainly the special tax commission of 1913 had made clear enough in its report the need for such action.[5] Furthermore, the law of 1914 did not give the tax commission sufficiently clear and definite powers of supervision to compensate for the absence of equalizing powers. This body decided, properly enough, that the situation

[1] Cf. Hanna, *op. cit.*, pp. 12, 13. The general property tax was introduced by *Laws of Maryland*, 1841, ch. 23.

[2] T. S. Adams, *Taxation in Maryland*, p. 29.

[3] *Report of the Maryland Tax Commission*, 1888, pp. 9, 10.

[4] *Report of the Tax Commission of Maryland*, 1913, p. 9. This commission did not, however, press for state equalization as a function of the tax commission which it was recommending.

[5] *Ibid.*, pp. 56 ff.

demanded a general reappraisal immediately. But in the absence of provision for uniform machinery of assessment which the order of the tax commission could set in motion it was necessary to ask the county boards to vote funds to cover the cost of the assessment. Half of the counties refused, or took no action, and the proceedings halted.[1]

This fundamental administrative defect was treated quite inadequately in the first biennial report, which was signed by two members only. A very able separate report on the whole subject of state equalization was presented by the third member, Judge Leser of Baltimore.[2] His minority recommendation for the establishment of a state board of equalization, by giving the tax commission authority to exercise this function, and the introduction of state-wide equalization for the purpose of securing more equitable distribution of tax burden, is the soundest proposal for administrative improvement that has yet come from the Maryland commission.

Although Judge Leser's recommendation has not yet been adopted, the deadlock has been broken by an act of 1916, whereby the commission was authorized to initiate the reassessment proceedings necessary for compliance with the law of 1914.[3]

The confusion and defectiveness of the tax law of 1914 on the subject of general assessment and equalization are counterbalanced by relatively greater clearness and consistency on the subject of corporate taxation. For the one there had been no precedent at all in the state, and outside experience had apparently been given small consideration; for the other there had been ample local experience, and the existing tendencies in the administration of corporate taxation were carried forward, though with some marked changes in the details of that system.

It is unnecessary to say more of the early system of taxing corporations than to note that the tendency, especially marked after 1840, of levying taxes on capital stock, became an important feature of the later corporation taxes. The assessment of these

[1] Maryland Tax Commission, *Report*, 1915, p. 10.
[2] Maryland Tax Commission, *Separate Report by Oscar Leser*, 1916.
[3] *Laws of Maryland*, 1916, ch. 629.

stocks was a local function until 1878. An act of this year, amended in 1880, codified the existing legislation on the subject and provided a state tax commissioner who was placed in general charge of such taxes.[1] He was to be appointed by the governor, treasurer, and comptroller, or a majority of these, for a term of four years at a salary of $2500.

The provision of a state tax commissioner marked the beginning of the attempt to tax the corporate excess of Maryland corporations. The commissioner's powers were never extensive and his findings were subject to review by the treasurer and comptroller of state. His principal duty was the assessment, for state and local taxation, of all corporation stocks liable to taxation for such purposes. No method of assessment was established by law beyond the provision that the corporations subject to the measure were to send to the tax commissioner such information concerning their respective businesses as he might require; and the establishment of a minimum valuation for the shares at the full value of the real estate and personal property.[2] Different deductions, other than locally assessed value of real estate, were allowed in determining the assessment of the stock for state and local purposes. The tax commissioner was obliged to accept the corporations' returns as to the value of their personal property, while a court decision of 1906 required that corporate real estate be assessed for municipal purposes at the same rate as for state purposes.[3] This frequently meant a rank discrimination in favor of the corporation as compared with the individual real estate owner. The absence of an adequate system of state registration of corporations previous to 1908 meant that many domestic companies were not taxed at all. In general, because of the defects of the law and the ineffective methods of administration employed, the taxation of corporations in Maryland from 1878 to 1915 was far from satisfactory.[4]

[1] *Laws of Maryland*, 1878, ch. 178; *ibid.*, 1880, ch. 20.

[2] *Ibid.*, 1902, ch. 468.

[3] The case is cited in Maryland Tax Commission, *Report*, 1915, p. 270.

[4] Much of the report of the special commission of 1888 is occupied with the question of corporation taxation. Cf. also *Report of the Maryland Tax Commission*, 1913, pp. 265–310.

The special tax commission of 1913 had condemned both the theory and the practice of corporate excess taxation, as applied in Maryland, and had recommended the substitution of an assessment of the corporate assets by the proposed state tax commission.[1] The general intent of this recommendation was observed in the corporation tax amendments of 1914, which replaced the state assessment of shares by a state assessment of the personal property, except securities, with apportionment of the assessed valuation according to the residence of the owners of the stock. The proportion represented by foreign held shares was to be assigned to the locality containing the principal place of business.[2] These changes applied to "Ordinary Business Corporations," a new classification created by the act and composed of all corporations except public utilities and financial companies of every sort.

The first report of the Maryland tax commission contains little reference to the administrative problems which were here thrust upon it, although these were undoubtedly numerous and important. More attention was given to the defects of the tax law, but these did not pass beyond the suggestion of changes required in order to improve the existing measure.[3] The fact appears to be that the defects of this law for the taxation of private business corporations are such as will render it permanently unsatisfactory. The legislative classification is confused; some corporations appear to be subject to taxation under this and also under other tax laws. The administration of the act is weakened by leaving the assessment of securities in the local jurisdiction. And finally, though these defects were to be corrected, the principle of property taxation here introduced does not appear to offer the most certain and equitable access to corporate taxable capacity.

The freedom from rigid constitutional limitations on the form of the tax system which Maryland has always enjoyed permitted the early introduction of an experiment in the classification of

[1] *Report of the Tax Commission of Maryland*, 1913, pp. 265 ff.

[2] *Laws of Maryland*, 1914, ch. 324. This act introduced also an annual graduated franchise tax on the capital stock actually issued by ordinary business corporations.

[3] Maryland Tax Commission, *Report*, 1915, pp. 23 ff.

property which has been given extensive publicity. In 1896 certain intangibles were set aside to be taxed at the rate of three mills on the dollar for local purposes, plus the rate of the state tax for state purposes.[1] The property thus taxed includes bonds of corporations, shares of stock of foreign corporations, and all certificates of indebtedness held by residents of Maryland. This law, over which the state tax commissioner had general charge, was effectively administered only in Baltimore city and county. The total assessment in these districts in 1914 was $241,762,000, of which $191,970,000 were returned from the city of Baltimore. The total assessment for the state in 1914 was $253,387,000.[2] The administration of this tax was given to the new tax commission, and in 1915 the assessment of Baltimore city and county was increased by $17,891,000 and of the remainder of the state by $13,640,000. While the results in Baltimore have often been cited as a demonstration of the advantage of the low flat rate, there is good reason for believing that even these figures represent only a fraction of the total of such property held in the state. In 1908 the Advisory Commission on Taxation of Baltimore reported that eight corporations returned 35.7 per cent of the total, 1011 trust companies returned 18.3 per cent, and 2281 individuals returned 46 per cent. This commission concluded that these figures could mean only that a very large number of persons were successfully evading even this low tax rate. And if this condition existed in Baltimore with its efficient assessment organization, in how much greater degree must it have been true of the remainder of the state?[3] The experience of Minnesota clearly shows the need of strong and alert central administration of the low flat rate tax on intangibles if such degree of taxation is to be reasonably successful.[4]

[1] *Laws of Maryland*, 1896, ch. 120.

[2] The total varies according to the state or local assessment. In 1915 the state assessment was less by $63,880,000, on account of differences in the return from Baltimore city and Cecil county. Maryland Tax Commission, *Report*, 1915, pp. 88, 89.

[3] *Report of the Advisory Committee on Taxation and Revenue*, 1907, p. 146.

[4] Cf. above, pp. 420, 421.

No significant opportunities have yet arisen for the exercise of the supervisory powers conferred upon the Maryland tax commission. Some of the defects of the new law on this point have already been noted. The most valuable improvement, perhaps, was the provision for a county supervisor of assessments to be appointed by the tax commission. He is to have no power of original assessment, but he may object to the action of local assessors in any new assessment, any abatement, or any failure to make correction in the rolls, by taking an appeal to the tax commission. Considering all of the circumstances, and especially the fact that the commission is required to appoint the supervisor from a list submitted by the county commissioners, the work of these assistants has been satisfactory; but there is much room for improvement as the machinery and point of view of central administration become more familiar throughout the state. The commission's principal contribution thus far has been that of familiarizing the people with the new method of administration. The legislation of 1914 was revolutionary for Maryland in many respects, and had been preceded by so little of educational propaganda, that the attainment of a high degree of effectiveness and leadership in tax administration must necessarily be a work of time. Progress toward both of these ends has undoubtedly been made since the commission was created, and it should continue as this body perfects, through experience, the law it was created to administer.[1]

[1] The first biennial report, though very poorly organized and quite inadequate in its treatment of certain subjects, contains numerous suggestions for the further amendment of the law or its administrative features.

APPENDIX TO CHAPTER XVI

TABLE I. — ANALYSIS OF THE ASSESSMENTS OF PERSONAL PROPERTY IN NEW HAMPSHIRE, 1911–16 (MILLIONS OF DOLLARS)

YEAR	1911	1912	1913	1914	1915	1916
I. Tangibles						
Live stock	9.2	....	11.6	12.4	12.5	12.3
Vehicles	2.1	....	3.3	3.9	4.5	5.1
Stock in trade	20.7	....	32.0	32.9	33.4	33.5
Mills, factories, machinery	26.1	....	44.2	44.3	44.5	48.3
Other tangibles	2.2	....	3.7	6.4	6.5	5.9
Total tangibles	60.3	....	94.8	99.9	101.4	105.1
II. Intangibles						
Money	3.4	....	15.0	8.9	9.2	8.7
Public bonds corporation	1.9	....	3.6	3.4	3.1	3.0
Stock, including banks	3.6	....	3.4	3.3	3.3	3.3
Total	8.9	....	22.0	15.6	15.6	15.0
Grand total	69.2	....	116.8	115.5	117.0	120.1

NOTE: The schedule of items has not been uniform. The item above, "other tangibles," contains a varying list of classes of property. The only corporation stock listed after 1914 has been national bank stock. The figures for 1912 have not been available to the writer.

TABLE II. — ASSESSMENT OF REAL ESTATE AND CORPORATE PROPERTY IN NEW HAMPSHIRE 1911–16 (MILLIONS OF DOLLARS)

YEAR	1911	1912	1913	1914	1915	1916
Real estate	178.9	....	265.6	271.4	277.2	281.9
Railroads	34.4	....	48.1	37.8	38.8	39.8
Street railways	1.3	2.5	3.1	3.2	3.1	3.2
Telephone companies	1.9	3.3	3.6	3.9	4.1	4.4
Telegraph "	.1	.2	.2	.2	.2	.2
Express "	.3	.5	.5	.3	.3	.4
Car "	.07	.4	.4	.3	.3	.3
Total corporations	38.07	....	55.9	45.9	46.8	48.3

NOTE: The statistics published by the New Hampshire Tax Commission are not entirely clear, at least to the outsider. The assessed valuation of railroads is given in two places, and in the earlier reports, especially 1911, these figures did not agree. The lesser amount is given above, as being more in harmony with subsequent figures.

CHAPTER XVII

STATE TAX COMMISSIONS IN THE SOUTHERN STATES

THE STATE TAX COMMISSION OF ALABAMA [1]

THE centralizing movement in tax administration appeared in Alabama in 1885 with the creation of a state board of assessment for certain classes of corporations.[2] State assessment of corporations was followed by central control over local assessments, in 1897, and in recent years there has been some tendency to increase the effectiveness of the latter though these efforts have been obstructed by a fitful and inconsistent legislative policy. State equalization, which has usually been the first stage of administrative centralization, did not appear until 1915, although the condition of assessments would have warranted its introduction much earlier.

The state board of assessors was composed of the governor, auditor, secretary, and treasurer of state, with the attorney-general as an advisory member authorized to cast the deciding vote in the event of tie. This board was required to value the operating property of railroads, telegraph, and telephone companies, using for this purpose the average market value of the stocks and bonds during the preceding twelve months, together with the corporate statements as to the amounts invested in the properties, and the information returned by these companies to the railroad commission for rate-making purposes.[3] The results of corporate assessment by the state board of assessors have not

[1] By the *Laws of Alabama*, 1915, No. 464, the state tax commission was replaced by a state board of equalization. This board was given somewhat greater powers than the tax commission had enjoyed but there was little break in the continuity of central tax administration. The account which follows is confined to the work of the state tax commission, with a summary of the new law. Cf. below, p. 561.

[2] *Laws of Alabama*, 1885, No. 2.

[3] *Revenue Code of Alabama*, 1908, p. 53.

been available to the writer and no judgment can be passed upon them.

The second stage of administrative centralization began in 1897, with the establishment of the office of state tax commissioner.[1] The new official was given supervision over the county tax commissioners who were also provided by the act. This administrative machinery was designed especially to check the enormous evasion of taxes, the county tax commissioners being in reality back tax investigators and collectors who were paid a percentage of the taxes recovered. They might ferret out sequestered property and list it for five years' back taxes, or they could advance the assessment of any property after the close of the regular assessment season. Their jurisdiction extended also to delinquent license taxes. The state tax commissioner was authorized to appoint, with the consent of the governor, a county tax commissioner in each county; but the power of removal was vested in the governor to be exercised at his discretion. The state tax commissioner and his appointees in the various counties were in reality state agents or detectives for the better collection of taxes rather than administrative officials actually supervising the work of local assessment; they were gleaners rather than reapers of the harvest. In fact, the state tax commissioner had no supervisory authority over the original assessment of property under the act of 1897.

The opportunity for a greater measure of state supervision over local assessments was opened in 1907 by a law which substituted for the state tax commissioner a commission of three members, appointed by the governor for four years, at a salary of $3000 for the chairman and $2400 for each of the associate members.[2] Upon this body was conferred general supervision over the whole tax system, including the drastic recourse of ordering reassessments. This supervisory control was considerably strengthened, in theory, by the provision that the valuations of the commission in reassessment proceedings could not be lowered later except with the commission's consent, as long as the property remained in substantially the same condition. The practical value of this

[1] *Laws of Alabama*, 1897, No. 204. [2] *Ibid.*, 1907, No. 337.

check against competitive undervaluation was greatly diminished by various forces which operated against the exercise, by the commission, of the right of reassessment.

The supervision of local assessments included visits to the counties for the purpose of instructing the assessors and inspecting their work and the direction of all litigation for the enforcement of tax laws. In recent years almost every county was visited, and a written report made upon the condition of affairs. Synopses of these reports were published annually after 1912, and they reflect the difficulties to which any advisory supervision is exposed. In many cases the investigator reported that the assessor seemed competent and that his books were in good condition; but in numerous other counties it was reported that tax matters were "managed very irregularly and not according to law in many respects. . . ." In Covington county in 1912 the work of the assessor was badly behind — "this was a political year." In Henry county the assessor refused to coöperate with the commission's agent unless the increases were made through the county tax commissioner. Jackson county was reported in bad shape and no efforts or persuasion could influence the taxing officials to make an increase in values, though they admitted that property would stand an increase. These conditions were found to prevail in a surprising number of instances. In general, it was found that the county tax commissioners were more of a hindrance than a help.

The results of the commission's efforts, in so far as they were reflected in the assessment of property, may be presented here:

ASSESSED VALUATION OF REAL ESTATE, 1909–14[1] (MILLIONS)

Year	Lands and improvements	Lots	Total
1909	$147.9	$132.6	$285.5
1911	162.6	158.3	320.9
1913	179.4	177.9	357.3
1914	197.2	190.5	387.7

During this period the aggregate valuation was increased, roughly speaking, by about $100,000,000, nearly three-fifths of which was made upon city lots. In 1911 the standard of assess-

[1] From the reports of the Commission.

ment was changed from 100 per cent to 60 per cent of full value, but the aggregate assessment of real estate has continued to advance notwithstanding this reduction of the legal standard.[1]

The returns of personal property do not permit a satisfactory classification of the tangible property, and no attempt will be made to compare this class with the intangible property. The real test of the efficiency of the tax system is to be found in the results of the assessment of the latter and the figures for this class will be given:

ASSESSED VALUATION OF INTANGIBLE PROPERTY IN ALABAMA, 1909–14[2]
(MILLIONS)

Class	1909	1910	1911	1912	1913	1914
Money on hand or on deposit....	$1.9	$2.1	$2.0	$1.2	$0.958	$0.893
Credits.....	2.9	2.5	3.0	2.8	3.8	19.1
Bank shares.....	12.7	12.9	13.4	14.7	14.9	15.7
Shares of corp'ns except banks...	8.8	8.4	6.5	7.8	10.9	13.7
Taxable bonds.....	...	.3	1.1	.12	.236	.205
Totals.....	26.3	26.2	26.0	26.6	30.8	49.6

These figures require little comment. The result occasions no surprise for it simply adds another link to the long chain of evidence that has been forged about the general property tax as applied to intangible property. The presence in most of the counties of a "tax ferret," for the county tax commissioner was virtually such, was not sufficient to prevent stagnation of the assessment of intangibles. The case of bonds is amusing. The total seems ridiculously small even in 1911, but in this year the abnormal increase was due to the return of over $800,000 from one county. No bonds had been returned from this county in 1910 and the amount listed in 1912 dropped to $8000.[3] On the other hand, among the items of tangible property which do not consist of unrelated totals, the universal tendency toward relative overassessment of farm animals and unproductive consumers' goods

[1] *Laws of Alabama*, 1911, No. 216.
[2] From the annual reports of the tax commission.
[3] Alabama Tax Commission, *Report*, 1912, p. 116.

has been in operation. Goods, wares, and merchandise have been decreasing. The significant increase of credits in 1914 was due to the sudden resolve on the part of the tax commission to enforce the law at this point. A decision of 1906 had nullified the law of that day providing for the taxation of credits.[1] The commission awakened in 1914 to the fact that the tax law had been changed. Its validity was established in test cases, and the commission proceeded to make a considerable increase in the assessment of this class of property. The proper return was estimated at about $50,000,000 annually, and it was hoped that this figure would be reached in a few years.[2] This effort will not be made for credits were exempted in 1915.[3]

The personal property figures do not, however, present the supervisory activity of the Alabama tax commission in its most favorable aspect. It was able to secure, year by year, substantial increase in the total volume of assessments, in part through the exercise of its right of reassessment, but for the greater portion through the work of the county tax commissioners. The former state tax commissioner had added only a few thousands of dollars each year in this way, but after 1907 the tax commission regularly added from $10,000,000 to more than $20,000,000 annually. The amounts varied widely at different times with some tendency toward a decline in recent years. The principal cause for this fluctuation was probably the varying responsiveness of the county tax commissioners to the appeals and suggestions of the tax commission. Though these officials were appointed by the tax commission they were not always loyal supporters of its policies; and state supervision of local assessments really consisted of a struggle, or better, a game between the taxpayer, aided and abetted by the local assessor and the county tax commissioner, and the state tax commission. Revision of the local assessment roll might be undertaken by the county tax commissioner, who was privileged to add the back taxes for five years and to increase the valuation of underassessed property. The tax commission might also revise local assessments by conducting reassessments

[1] Alabama Tax Commission, *Report*, 1914, p. 8.
[2] *Ibid.*, 1914, pp. 7–9. [3] *Laws of Alabama*, 1915, No. 58.

either through the county tax commissioners or through its own special agents.

These peculiarities of the Alabama system made it exceedingly difficult to hold up the standards of the local assessors. The practice of paying the county tax commissioner a percentage of the taxes recovered gave that official a decided preference for undervaluation and evasion in the original assessments. The tax commission was unable to overcome this attitude of the county officers because of the control of these officials by the governor, who might remove them at will. On the other hand, the commission's efforts to conduct reassessments through its own special agents were blocked by those who were interested in allowing the county tax commissioners to glean the assessors' harvest.[1] The governor's power over the whole administrative machinery was made absolute in 1911 by an amendment authorizing him to remove any or all of the members of the tax commission at any time without cause.[2] This opposition of interests has prevented the Alabama commission from achieving results in local supervision commensurate with its powers of supervisory direction. In 1910 it proposed the transfer of the control over the county tax commissioners into its own hands, but the bill was defeated and the penalty for this piece of temerity was the jeopardizing of the commission's position by the amendment of 1911.

Effective tax administration has been hindered in Alabama by this division of authority over the assessment process, a policy which was introduced as well into the assessment of corporations. The first step in this direction was the retention of the state board of assessors for the assessment of corporations, after the creation of the tax commission. The transfer of this function to the tax commission would have been more logical, and in better accord with the modern practice;[3] but since this was not done, logic as well as efficiency demanded that the whole assessment of corporations be centralized with one state board. Instead of pursuing the logical course, however, the Alabama legislature copied

[1] *Interview with W. R. Lloyd, Secretary to the Commission*, September, 1911.

[2] *Laws of Alabama*, 1911, No. 216.

[3] The Commission recommended this in 1914, *Report*, p. 11.

the Texas law for the taxation of franchises and intangible assets of public service companies.[1] The tax applied also to some classes of corporations that were not assessed by the board of assessors; but in so far as the same corporations were subject to the state assessment and to the franchise tax, a most absurd anomaly arose. The intangible assets law provided that the tax commission should take the total market value of the stocks and bonds as the true cash value of the property, tangible and intangible; and the taxable value of the franchise and intangible property was to be the difference between the valuation of the entire property as determined by the tax commission and the assessed valuation of the tangible property as fixed by the board of assessors. But the chief criterion of the value of the tangible property was also to be the market value of the stocks and bonds, as this was ascertained by the latter board.[2] In other words, the tax commission was expected to deduct the valuation of the tangible property of the railroads, as obtained from the market value of the stocks and bonds, from the total value of all railroad property, also obtained from the market value of the stocks and bonds, and obtain a residue which should be called the value of the franchise and intangible assets.

The most significant recent extension of the Alabama commission's activities was the establishment of a branch office at Birmingham. This office was designed primarily for the collection of data relative to mines and mineral resources, which are still taxable locally. The work of mapping, listing, and classifying these resources was begun although no such systematic and comprehensive survey was undertaken as those of Minnesota and Michigan. The Birmingham office rendered valuable aid in other ways, especially in its pioneer attempts at statistical analysis and interpretation of the state's financial condition.[3]

The act of 1915 changes the title of the state tax board to "State Board of Equalization," which, it provides, shall consist of three persons known to be possessed of skill and knowledge in

[1] *Laws of Alabama*, 1907, No. 284.

[2] *Code of Alabama*, 1907, i, § 2141.

[3] Alabama Tax Commission, *Report*, 1914, pp. 47–57, with diagrams.

matters pertaining to taxation.[1] These members are to be appointed by the governor for a term of six years, at a salary of $3000. They are to exercise general supervision over the tax system, to equalize by comparing the county totals and ordering the county boards to reëqualize in accordance with percentages fixed by the state board, to assess the tangible property and the intangible assets of all public utilities. The pernicious provision from the Georgia statute relating to arbitration [2] was introduced by authorizing the county boards to demand an arbitration in case they were displeased with the state board's decision. The arbitrators may not extend their session beyond five days, and must reach a decision in twenty days. This rule makes it possible for the local boards to block every progressive action taken by the central board, and it is highly unfortunate that such a practice was made possible. It is a very incongruous feature of a tax law purporting to improve the administration of the revenue system.

The State Tax Board of Texas [3]

Centralized tax administration has made but little progress in Texas and such development as has occurred has been piecemeal and fragmentary. The constitution of 1876 contained a new article which authorized the legislature to provide for the equalization of assessed valuations.[4] No general equalization board was ever established under this provision, but in 1879 the machinery of county equalization was set up.[5] For unorganized counties this task was to be performed by the governor, attorney-general, and secretary of state.

The local undervaluation and evasion which had compelled the establishment of these boards were not checked by them. Throughout the history of the state, the use of a direct state tax has led to local competitive undervaluation and evasion. As in several other states, the administration of the school fund has distinctly encouraged these demoralizing practices. In 1914 the

[1] *Laws of Alabama*, 1915, No. 464.
[2] Cf. below, p. 583.
[3] Cf. E. T. Miller, *A Financial History of Texas*, for valuable historical material.
[4] *Constitution of Texas*, 1876, Article 8, § 18. Cf. Miller, *op. cit.*, p. 210.
[5] *Laws of Texas*, 1879, ch. 47.

school funds available for local distribution included about $3,000,000 of interest from invested funds and income from leased lands, and about $5,000,000 from taxes. But in this year seventy-five counties did not receive a single dollar of the income from the permanent school fund of the state, because their school taxes exceeded their total allotment from both sources of revenue for school purposes.[1] The tax commissioner has several times submitted data to show that this condition is a result of the lack of a proper state equalization, and he has recommended a state board of equalization and a state tax commission with proper powers of correction and supervision.[2] As yet no attention has been paid to these suggestions.

After the establishment of county equalization in 1879, the only other administrative change until the creation of the state tax board in 1905 was the introduction of the office of state revenue agent in 1891. This office was established for the purpose of "securing a better enforcement of the revenue laws of the state," but in actual fact the state revenue agent has given his attention principally to the enforcement of certain taxes on business, notably the occupation taxes.[3]

The special tax commission which reported in 1899 had proposed the taxation of the intangible assets of certain classes of corporations, but because of its belief that a state board for the purpose would be unconstitutional it recommended the exceedingly clumsy device of a stock and bond valuation by the various county assessors.[4] Just how this method would have resulted in more uniform railroad assessments the authors of the scheme failed to demonstrate. The local assessment of corporate excess was plainly absurd, and in 1905 a state tax board was established for this purpose.[5] This board was composed of the comptroller and the secretary of state, and a state tax commissioner, the latter being appointed by the governor for a term of two years at a salary of $2000. The ex officio members have been the same

[1] State Tax Commissioner of Texas, *Report*, 1914, pp. 46–51, 95–98.
[2] *Ibid.*, 1912, p. 13; *ibid.*, 1914, pp. 51, 52.
[3] *Laws of Texas*, 1891, ch. 69. Cf. Miller, *op. cit.*, p. 266.
[4] *Report of the Tax Commission of Texas*, 1899, pp. 47, 175, 176.
[5] *Laws of Texas*, 1905, ch. 146.

sort of useless adjunct in Texas that they have proved to be elsewhere. In 1914 the tax commissioner stated that the other two members had been crowded for sufficient time even to examine the data which he had collected for the assessment of corporate excess.[1]

The new method of reaching corporate taxable capacity was applied at the outset to practically every sort of public utility company, and it was made an alternative tax with the taxes on gross receipts which these companies had been paying. The corporations were virtually given an option, and practically all of them except the railroads chose the tax on gross receipts. Because of this fact and the difficulty of determining the intangible value of many of the corporations originally subjected to this law, an amendment of 1907 withdrew the tax on intangible assets from all corporations but the railroads, ferry, bridge, turnpike, and toll companies.[2]

The act of 1905 apparently favored the stock and bond valuation as a means of ascertaining the total value of the corporation, but the board was left free to adopt any other method which might be regarded as superior to that suggested in the statute. The statutory suggestions have been followed, however, and the blanks used by the board in collecting the data call only for such information as would be required for a stock and bond valuation, together with the facts necessary for apportioning the assessments among the counties. The suggestion was advanced very briefly and rather indirectly, in 1916, that net earnings have been regarded as a significant, though not the only factor, in the assessment of the intangible assets. The decline in railroad net earnings in Texas since the war began, and especially of those with Houston, Galveston, or Mexico as objective points, has been reflected in the reduced assessments.[3]

Under the circumstances, the stock and bond valuation is perhaps the most serviceable method that could be used by the Texas board. As compared with other methods of valuation, the respon-

[1] State Tax Commissioner of Texas, *Report*, 1914, p. 52.
[2] *Laws of Texas*, 1907, ch. 171.
[3] State Tax Commissioner of Texas, *Report*, 1916, pp. 15–17.

sibility of the administrative officers is reduced to the minimum in using this method. Especially is this true when, as is the case in Texas, chief reliance must be placed upon the returns of the corporations themselves concerning the market values of stocks and bonds. The appropriations for the tax board have been too small to permit any extensive compilation of data upon which to form an independent estimate of the value of corporate securities, if such a check were desired.

This system of taxing the corporate excess differs in important respects from that employed in several other states. The chief point of difference, perhaps, is in the method of determining the amount of excess, or of intangible assets. The usual practice is to deduct from the total valuation, as ascertained by a state official, the locally assessed valuation of certain classes of property. In Texas the state tax board determines both the total valuation and the value of the tangible property which is to be deducted therefrom in the process of calculating the intangible excess. Judging from the blank forms used by the Texas board, the only data available in the determination of the value of the tangible property are the locally assessed valuations and the companies' estimates of true value. The proximity of the board's appropriation to the vanishing point prevents any other collection of material, and its final results are necessarily in the nature of a compromise between these returns from two independent sources. The board is apparently not bound to deduct simply the assessed value of tangible property from the total valuation, and to the extent that it can be influenced to accept a higher valuation than that of the local assessors the corporations are benefited, since the intangible assets are distributed locally on the basis of mileage in the case of railroads, and on the basis of receipts in the case of the other corporations. The corporations are therefore under the temptation of overvaluing the physical property in their returns and their efforts in this direction appear to have been somewhat rewarded.[1]

Considerable variations have occurred between the valuation of the tangible property of the railroads by the railroad com-

[1] State Tax Commissioner of Texas, *Report*, 1908, p. 18.

mission for rate-making purposes and the state tax board for purposes of taxation. There is no necessity of agreement between these two valuations, as the generally accepted principle now appears to be that any valuation is meaningless except for specific purposes. While the figures of the two boards are not strictly comparable because of differences in the mileage included and some differences in the amount of property considered, yet the results seem to indicate that the tax board has used a somewhat higher basis of valuation. In 1908 the latter's valuation of the tangible property exceeded that of the railroad commission by $27,297,873.[1]

The results of the introduction of the new method of taxation may best be seen from the railroad assessments. In 1906 the total valuation of railroad property, tangible and intangible, was $131,753,766, or an average value of $10,418 per mile. In 1907 this total was advanced to $280,584,110, or $20,924 per mile. In 1916 the total value of the railroads was put at $481,621,875, of which $156,367,966 was assessed as intangible values. The high point in the assessment of intangible assets was reached in 1910, with a total of $174,847,000. The diminishing margin of earnings since that time is reflected in the decline in values.[2]

At one point the Texas statute appears to give the board a limited supervisory authority over local assessments. Section four of the act of 1905 provides, among other things, that the board shall have authority to examine books, papers, and accounts, and to interrogate witnesses under oath "for the purpose of obtaining or acquiring any and all information that may in any manner aid in securing a compliance with any tax law or revenue law of this state. . . ."

Whatever the intent of this provision, it has been practically a dead letter because of the lack of funds. The tax commissioner has compiled certain data from the state records concerning the stock and bond values of the local public utilities and submitted them to the local assessors. There has been, of course, no power to compel consideration of such material. The exceedingly

[1] State Tax Commissioner of Texas, *Report*, 1908, p. 19.

[2] Cf. the figures published in the various annual *Reports*.

limited scope of the board's authority is seen from the treatment of its first certifications of intangible assets. Out of the aggregate assessments of such assets in 1906 amounting to $161,237,000, only $31,499,000 were extended upon the tax rolls by the local assessors.[1] This difficulty was met by the amendment of 1907 which required the local officials to extend upon the tax rolls without change the valuations as certified to them by the state board.

This amendment introduced another difficulty, however, which throws the inadequate corrective and supervisory powers of the Texas tax board into quite as strong relief as before. The intangible assets were listed at approximately full value while the property locally assessed was heavily undervalued. In the first case brought to test the equity of this practice the court sustained it and denied relief to the appellants.[2] The principal ground for this decision was that intangible assets have no situs in any county and are not therefore to be considered in applying the constitutional rule that all property must be assessed in the county where situated. It is easy to see that such a rule might cause embarrassment if applied to the intangibles owned by individuals. The court was inclined also to insist upon that most baseless of fictions, the assumption that the local officials had obeyed the law and assessed all property in their jurisdictions at full value. In subsequent cases judicial cognizance was taken of the local undervaluation of property; and while intangible assets were held not to have a situs in any county, the equalization of the assessment of such assets to the same basis of full value as that used for other property was admitted to be a proper, and under the circumstances the most feasible, interpretation of the constitutional rule of uniform taxation.[3]

In rendering this verdict, so in accord with sound principles, there appeared to be no realization of the administrative diffi-

[1] State Tax Commissioner of Texas, *Report*, 1908, p. 5.

[2] *Missouri Kansas and Texas Railway Company* v. *O. K. Shannon, et. al.*, 100 *Texas*, 379.

[3] *Lively* v. *Missouri Kansas and Texas Railway Company*, 102 *Texas*, 549; *Missouri Kansas and Texas Railway Company* v. *Kone*, 122 *S. W. Rep.* 424; *Missouri Kansas and Texas Railway Company* v. *Hassell*, 57 *Texas Civil Appeals*, 522.

culties which its proper enforcement would involve. In all of the cases brought to test the question, certain percentages of true value were freely referred to, as if they were common knowledge and perfectly well established. Thus, Dallas county was said to be assessed at 66⅔ per cent, Grayson county at 75 per cent. But those who have had most to do with the task of equalization know best that the true percentage of full value which the assessor has used is not ascertained so easily, and that as a rule about the most worthless testimony on the subject is that of the assessor himself. The court has really saddled the state tax board with a duty for the adequate performance of which it is wholly unprepared. It can be properly performed only by bringing the whole tax system under such degree of uniform central administration as will permit of an equitable equalization or adjustment of the common tax burden upon the whole group of taxpayers, corporate and individual.

The tax commissioner has frequently recommended such an extension of the administrative organization of the Texas tax system. The legislature has not only ignored these recommendations; it has been exceedingly niggardly with the present tax board and has been unwilling to vote a sufficient sum to insure the proper performance of such duties as this board has been required to perform. The tax commissioner has paid the expense of a visit to a few counties from a small contingent fund, and expressed the belief that a proper compliance with this provision from section four (quoted above) would result in the addition of millions of valuation to the duplicate of the state. This appeal was disregarded, and in 1912 the commissioner reported that no money was available to pay express charges upon copies of the laws of other states, notwithstanding the requirement that he study the tax systems of other states and recommend changes in the Texas laws.[1] For the years 1909–11, inclusive, no annual reports were published because of insufficient funds. The extreme depths of penuriousness have been sounded in the matter of office equipment, as the following description of his plight by the tax commissioner in 1908 shows:[2]

[1] Texas Tax Commissioner, *Report*, 1912, p. 18. [2] *Ibid.*, 1908, p. 26.

When the present Tax Commissioner assumed the chairmanship of the State Tax Board he found a department of the State government which was clothed with far-reaching authority but absolutely unequipped for the discharge of its duties. A discarded office desk was borrowed from the Attorney-general, an old typewriter and unused type-writer's desk was kindly furnished by the Secretary of State, chairs were secured from the Superintendent of Buildings and Ground under promise to return them when called for, one filing case was generously loaned by the Chief Executive of the State while another was constructed out of pine boards at the expense of the Tax Commissioner and an adding machine was placed at the disposal of the Board by a kindly disposed San Antonio firm. With these equipments the State Tax Board proceeded with its duties, and in 1908 added to the State and county available revenues more than a million and a half dollars.

There has been no change in this closefisted policy. In 1914 the tax commissioner visited three counties and spent $45.45 in travelling expenses. The total appropriation, in addition to salary, for 1914 was $1972.[1]

The State Tax Commission of North Carolina

The first phase of central tax administration to receive attention in North Carolina was that of corporate taxation. The earliest special method of taxing corporations in this state had been by means of excise or license taxes on gross earnings.[2] The administration of these taxes was usually entrusted to the state treasurer, to whom were made the returns upon which the tax was calculated and by whom the tax was collected. The taxes on gross earnings were abandoned in 1889 for an ad valorem system, and a state board of railroad commissioners was created to make the valuation of corporate property. Practically all of the public utility corporations were included under this act.[3] A decade later the board of railroad commissioners was replaced by a state corporation commission, to which the function of corporate assessment also passed.[4]

Central assessment of corporations was followed, in 1901, by the introduction of central supervision of the local assessments.

[1] Texas Tax Commissioner, *Report*, 1914, p. 57.

[2] *E. g.*, *Laws of North Carolina*, 1876–77, ch. 156.

[3] *Ibid.*, 1889, ch. 218.

[4] *Ibid.*, 1899, ch. 164. The members of the corporation commission are elected for a six-year term by popular vote.

The corporation commission was designated a state board of tax commissioners, and its members were each allowed $500 additional salary for performing the duties of the second office.[1] The tax commission was to exercise general supervision over the tax system by advising and instructing assessors, by hearing complaints, by visiting the counties, and correcting the tax lists. In its discretion it might order a general review of the tax rolls. No further provision for equalization was made at this time; but in 1907 a state board of equalization was established, consisting of the elective state officers.[2] This board was to equalize the quadrennial assessment of real estate, but it was not authorized to reduce the local aggregate nor could it order more than a 10 per cent increase in that total. This unwise division of the tax administrative forces was corrected in 1911 by transferring the function of state equalization to the state tax commission.[3]

The explanation for this administrative development is to be found in the defective operation of that basic feature of the North Carolina tax system, the general property tax. While it has perhaps been true that in general the southern states did not develop the property tax as early or in the same degree as did many northern states, yet in North Carolina the general property tax has been for many years of steadily increasing fiscal importance. By the end of the nineteenth century, over two-thirds of the state revenue, more than one-half of the school funds, and the larger part of county and municipal receipts were derived from this source.[4] Naturally, with a system of locally administered property taxes, the defects characteristic of such a system might be expected to appear. All of the available evidence indicates this result. In its first report the commission advocated separation of the sources of revenue in order to encourage more complete listing by reducing the rates on property.[5] After five years of supervision it made the following admission in 1906:[6]

[1] *Laws of North Carolina*, 1901, ch. 7.
[2] *Ibid.*, 1907, ch. 261.
[3] *Ibid.*, 1911, ch. 50.
[4] G. E. Barnett, *Taxation in North Carolina*, p. 88.
[5] Tax Commission of North Carolina, *Report*, 1902, pp. 11–14.
[6] *Ibid.*, 1906, p. vi.

> We believe that there is more equal assessment of property and that less property escaped taxation than heretofore; still it must be confessed that there is still great inequality in assessments in different counties and even in different townships of the same county.

The published reports of the tax commission, practically the only source of information available to the writer, contain very little material that would enlighten the outsider regarding either the commission's methods or its results in the performance of its various duties. Such information as these reports contain, however, may be briefly summarized.

The problem of equalization was very frankly avoided in 1911 for lack of sufficient funds to make an adequate independent review of the assessors' results. Upon the situation in this year the commission commented as follows:[1]

> With no more data than is furnished us under the present statute we have not felt that we could enter upon the difficult duty of equalization between the counties with any confidence of making improvements substantial enough to justify the changes, or arriving at an equalization the justice of which would be satisfactory to ourselves.

Continuing, the commission urged a sufficient appropriation to enable it to collect data of sales and other evidence that would reveal with some accuracy the true value of lands in the different counties. With proper facilities for making a fair and equitable equalization, one of the obstacles to a higher level of valuation would be removed. The commission holds that competitive undervaluation is still practiced in self-protection, but that the average taxpayer would prefer the defense and protection afforded by an efficient state equalization of assessments.

Four years later more vigorous action was taken in response to popular demand, but with no greatly increased facilities for compiling accurate data by means of which the assessors' work could be tested. Increases of 5 per cent to 30 per cent were ordered in seventy-six counties, twenty other counties were left unchanged, and one reduction of 5 per cent was made. These orders resulted in a net increase of $32,118,000. Numerous county boards were reconvened, and a large number of appeals were heard. In the

[1] Tax Commission of North Carolina, *Report*, 1912, p. v.

consideration of these appeals the commission made use of a small amount of data on values, especially in the counties from which the appeals were brought, but no systematic compilations of material were undertaken.[1] In general the equalization of 1915 promoted equality of real estate assessments, but the commission felt that no great gain had been made in the basis of valuation. The principal standard which was followed in determining the amount of increase to be made was that which would yield sufficient state revenue to meet the legislative appropriations. The assembly had anticipated an increase of 10 per cent while the assessors averaged 6.6 per cent. The commission's aim in equalization, therefore, was greater equality of burden with provision for moderate increase of public revenue.[2]

The commission's supervisory activity has been confined to the preparation of a pamphlet of instructions, some visits to the counties, and the adjustment of a limited number of appeals, brought chiefly in connection with the revaluation of real estate. The results of this work have been small. It is doubtful if real estate assessments have increased as rapidly as real values. For example in 1900 the total assessment upon 27,515,000 acres of land was $115,736,000. The acreage of land as returned by the twelfth census was 22,749,000 upon which, exclusive of buildings, the census enumerators placed a valuation of $141,955,000. The assessors' lists included lands not devoted to agriculture, with the improvements thereon. The two sets of figures are only roughly comparable, therefore, but when it is recalled that the local assessment in 1900 was wholly unsupervised, the discrepancy between the two valuations does not appear excessive. In 1910 the assessors and the census enumerators returned valuations for lands of $178,780,000 and $343,164,000, respectively. If it may be assumed in 1910 also that the bulk of the local assessment was upon farm lands, it is clear that the actual values of this class of property have risen much more rapidly than the assessed valuations during a decade in which the tax commission was nominally exercising supervision over the local assessment. The local

[1] Tax Commission of North Carolina, *Report*, 1915, pp. xii–xv.
[2] *Ibid.*, p. vi.

assessors in 1900, without supervision, attained more nearly the full value of farm lands than they were able to do in 1910, after ten years of state oversight.

A similar conclusion must be drawn from a consideration of the personal property returns.[1] The census valuation of domestic animals on farms increased from $28,500,000 in 1900 to $60,050,000 in 1910; the assessors returned in 1900, $19,100,000, or 67 per cent of the census valuation, and in 1910, $42,300,000, representing 70 per cent of the census figures. In both cases the assessed valuation included all animals not on farms as well. Ten years of central supervision had scarcely increased the effectiveness of the live stock assessment. Relatively, most classes of tangibles have shown satisfactory rates of increase, but no independent tests can be made of the basis of assessment in the case of the other groups. Because of the general tendency elsewhere to assess live stock on as high a basis of valuation as other tangibles, it seems unlikely that in North Carolina a better standard of performance had been reached in assessing other tangibles than in the case of live stock.

The assessment of intangibles has been unsatisfactory for the most part also. The one exception has been a quite surprising return of credits, which has exceeded the assessment of live stock throughout the period. This disparity, occurring in a state that is still so predominantly agricultural in interest as is North Carolina, suggests the degree of evasion that must be occurring in many states possessing greater resources and a larger accumulation of wealth than exists in North Carolina.

From this brief survey of the North Carolina commission's results it appears that its administration of the tax laws has been lacking in vigor and effectiveness. The reasons for this weakness are not far to seek — they are to be found in part in the composition of the tax commission itself and in part in the defects of the tax law.

In the first place, it was unfortunate that the duties of a state tax commission were imposed upon a board already charged with important duties and responsibilities. The additional salary

[1] Cf. below, p. 592.

allowance fairly measures the relative outlay of energy by the commissioners upon the tax duties as well as the state's return upon its investment in a tax commission. Adequate supervision of the revenue system in any state demands the undivided attention and energy of those in charge, and compliance with this condition must be the first step to be taken in North Carolina, if better results are to be achieved than have been obtained thus far. Such a reform has recently been urged by a close student of the tax system of the state and his indictment of the administrative system may be quoted:[1]

> The thing we need in North Carolina, along with an amendment to our constitution, is a thorough-going revision of our machinery of assessment. The corporation commission has since 1901 served as a state tax commission and for a time also as a state bank commission. Its work as a corporation commission has, I think, been comparatively successful, and also as a bank commission; and this is all one can reasonably ask of it. Its task as a state tax commission has not been performed with any important success. The fact is clear that under it many kinds of inefficiency and injustice have continued from year to year. There has been practically no county equalization of assessment, and no equalization between the counties — the specific duty of the state corporation commission acting as a state board of equalization. The state corporation commission has had for the most part no control over the actual list-taking and assessing. The county commissioners have most of the time controlled this work; they have appointed, oftentimes without care in selection, the assessor for the township; they have offered him the insignificant pay of $2.00 to $3.00 a day for only a few days in the year.

The defects of the tax law would probably hinder a much more vigorous tax commission from accomplishing significant results. Leaving aside the fundamental defect of the uniform rule, which could not be remedied without a constitutional amendment, the tax commission has been greatly handicapped by numerous deficiencies in the tax law, among which the following have been the more prominent.

First of all has been the inconsistency between the full value provision and the practice of establishing abnormally high tax levies. The tax rates are voted biennially before the assessments are made; they are, in consequence, rates high enough to produce

[1] C. L. Raper, "Our Taxation Problem," reprinted from the *South Atlantic Quarterly*, April, 1913, p. 15.

the anticipated revenue on the old basis of valuation. The taxpayer wisely objects to putting his head in such a noose. The commission has urged for years a policy of tax rate limitation which would make possible a reasonably effective campaign for higher valuations. Under the circumstances such a tax limit as that contained in the original Ohio act, which the commission favors, would probably be the wisest beginning of tax reform legislation.

Next to full value assessment, the most important agency of equitable assessment is an effective system of equalization. It has been seen that the state equalization is of necessity quite ineffective. There is no township equalization, and the county board, consisting of the county commissioners and the county assessor,

> . . . meets mostly as a matter of form, has nothing before it but the returns of the assessors, except that a few alert citizens may appear to make complaint of assessments. They remain in session a few hours, change half a dozen or more individual assessments, accept the returns as filed and go home; such an equalization amounts to nothing.[1]

The introduction of township equalization, with full publicity of assessments and ample opportunity for each taxpayer to scrutinize the township assessment roll, is a fundamental requisite to satisfactory local assessments. It cannot be supposed that the system of choosing the assessors in North Carolina is a sufficiently adequate safeguard against undervaluation and evasion to sanction omission of the local equalization.[2] The district assessor is appointed by the county commissioners or by the aldermen of cities. He is not so directly responsible to his constituents as when elected by those whom he assesses, but the type of official chosen under this system is no higher than in those states which use the elective principle.

Other details which would greatly promote equitable assessments are the separation of lands and improvements, with provision for land maps in each district, the extension of the commission's power to include the ordering of reassessments and

[1] Tax Commission of North Carolina, *Report*, 1914, p. ix.

[2] Barnett, *op. cit.*, p. 90.

removal of negligent or incompetent local assessors, and a readjustment of the time schedule to permit more time for appeals and review of assessments. The correction of all of these points of weakness, which in reality would constitute a fairly comprehensive program of tax legislation, would enable the North Carolina tax commission to secure as effective results as now appear to be possible under the general property tax.[1]

The State Tax Commission of Florida

Taxation problems in Florida reached an acute stage during the trying years in which the losses and ravages of the Civil War were being repaired and the disorderly and inefficient government that emerged after the return of peace was being reconstructed on a more stable basis. Governor Reed proposed a state board of equalization and state-appointed assessors in 1869.[2] The board of equalization was established in 1871 but its actions aroused such violent opposition that the board was presently abolished.[3] No further administrative development occurred until 1887, in which year a state railroad assessment board was provided.[4]

The dissatisfaction with the tax system did not find further formal expression after the close of the Reconstruction Period until a few years ago. In 1911, upon the urgent recommendation of the governor, a special commission was provided for with instructions to report such changes as in its judgment were required to correct the existing inequalities and evasions in the assessment of property. The character of the commission's recommendations was predetermined by the personnel of the commission, for the controlling member was at the time one of the

[1] Cf. W. V. Brown, "The Asheville Board of Trade's Plan for the General Property Tax," *Proceedings of the National Tax Conference*, 1916, pp. 347–361. This plan would limit the revenue from the property tax to that secured from a low rate levied upon such valuation as the administrative forces could uncover. In case more revenue were needed, other sources must be developed. What these sources are, how reliable they would prove and whether the modern government's requirements could be financed in that way, are not discussed.

[2] W. W. Davis, *The Civil War and Reconstruction in Florida*, pp. 674, 675.

[3] *Laws of Florida*, 1871, ch. 1841.

[4] *Ibid.*, 1887, ch. 3681.

strong local advocates of a system of tax reform then more popular than at present. This was the separation of the sources of revenue, and the commission's report advocates separation as the principal remedy for the undervaluation and evasion then so alarmingly prevalent. So whole-heartedly did the commission give its support to this idea that few administrative reforms were suggested. It was stated, for example, in apparent good faith, that were separation adopted, no necessity of state-wide equalization would occur.[1]

The special commission's report was apparently of little influence either in affecting subsequent legislation or in arousing public opinion upon the subject of taxation. The legislature of 1913 established a state tax commission of three members, to be appointed by the governor for a term of four years at a salary of $3000.[2] The appointees were to be persons known to possess knowledge of taxation and skill in matters pertaining thereto. But the law establishing the commission in itself furnishes evidence of the undeveloped thought on the subject of taxation in Florida, a condition which the special tax commission did little to dispel. This law failed absolutely to centralize and integrate properly the state tax administrative structure. The tax commission has certain advisory powers only; no state equalization was provided for, and the ex officio state board of assessors was left in charge of the assessment of corporations.

These omissions will prove to be a very serious handicap to the Florida tax commission. The thesis has been advanced above that supervision of the local assessments has been the distinctive function of the state tax commission. This is true, historically, but it does not mean that a commission which exercises only this function would be a very useful institution for the administration of the ordinary state tax system of the present time. Supervision comes at the end of the period of administrative development, and for its greatest effectiveness the supervisory head must possess control over the other important functions of equalization and corporate assessment. Even the supervisory authority

[1] *Report of the Tax Commission of Florida*, 1912, pp. 14–17.

[2] *Laws of Florida*, 1913, ch. 6500.

conveyed in the Florida act of 1913 is relatively weak, for the commission has no power to order reassessments, to remove local assessors, or even to receive and pass upon appeals from individual taxpayers.

With these limitations, the Florida tax commission has been able to accomplish but little, and much of this small achievement is necessarily of an intangible character. It has found expression chiefly through the agreements of the assessors, reluctantly entered into, to adopt a uniform basis of assessment at 50 per cent of full value. The law ordains an assessment at full value; but in Florida, as elsewhere, a greatly depreciated basis of assessment had long been accepted without question in tax levies and in other matters. One of the first acts of the new commission was an investigation into assessed values which revealed the grossest inequalities among individuals and assessment districts. A convention of assessors was called but these officials refused at first to adopt any uniform basis of assessment. The commission then issued instructions in 1914 for an assessment at full value, and the discussion evoked by this order apparently clarified the atmosphere for the assessors. A second conference, called before the assessment of 1914, voted to adopt a 50 per cent basis. The members of the commission visited the counties during this assessment period, and the conclusion is expressed that many classes of property are now assessed more uniformly than was the case in 1913.[1] To the extent that the commission is successful in securing such uniformity in the original assessment, every purpose of a state equalization is served. But in 1914 and again in 1916 numerous instances were found of failure to comply with the instructions given, and the commission's corrective and coercive powers were insufficient to obtain the necessary changes.[2]

It is unnecessary to support the conclusion as to the defective character of the Florida tax commission act by extended statistical evidence, but it will be of interest to notice some of the practices which the commission has been unable to correct with its present powers.

[1] Florida Tax Commission, *Report*, 1914, pp. 12–14.
[2] *Ibid.*, 1914, p. 24; *ibid.*, 1916, pp. 25, 26.

The first example is taken from the figures on live stock assessment. The following figures present a comparison of the returns of the state census of live stock as of July 1, 1915 and the assessments of live stock in 1915 and 1916:

NUMBER AND TOTAL VALUATION OF LIVE STOCK AS RETURNED BY THE STATE CENSUS OF JULY 1, 1915, AND IN THE ASSESSMENTS OF 1915 AND 1916[1]

	Horses, asses and mules	Sheep and goats	Swine and dogs	Cattle	Total number	Total value all animals
State census, 1915.....	100,687	150,238	982,966	1,014,916	2,248,807	$29,779,842
Assessment of 1915.....	72,175	77,026	192,645	422,048	763,894	7,425,081
Assessment of 1916.....	70,088	79,050	210,285	551,724	911,147	7,217,145

These figures indicate the sore need of additional powers of supervision and correction of the local returns. Live stock is one of the most easily assessed classes of property, and the escape of so large a proportion of this property is evidence of neglect of duty, or plain disregard of the assessors' agreements and the commission's instructions. Notwithstanding the increase in the numbers of cattle and sheep listed in 1916 the aggregate assessed valuation was less than in 1915.

A second illustration of the same sort is found in the assessment of banks. The commission advised the assessors to take as the assessed value of banks the total of capital, surplus, and undivided profits, less real estate locally assessed. The 50 per cent basis was to be used in listing this valuation. In 1915 the average assessment was at 41.8 per cent and in 1916 at 37.1 per cent. About 60 per cent of the banks were listed on a 40 per cent to 50 per cent basis, while the other 40 per cent were assessed on a 25 per cent to 30 per cent basis. In individual instances the figures ranged as low as 15.4 per cent, and 24.8 per cent for county averages. In 1915 the banks of one county obtained reductions from the county board which gave them an assessment at 10 per cent of the proper amount.[2] Another instance was the

[1] Florida Tax Commission, *Report*, 1916, pp. 164, 192. The grouping is that used in the report. There is nothing to indicate the relative proportion of hogs and dogs and hence no way of knowing which the assessors omitted.

[2] *Ibid.*, pp. 86, 87.

reduction of the Flagler estate, probated at $32,000,000 and assessed at $16,000,000, to $5,000,000. This estate had previously been assessed at $75,000.[1]

All of these instances are cases of flagrant tax dodging, often accomplished with the connivance or consent of the local equalizing board. The tax commission is powerless to prevent such practices without greater control over the entire tax system than it now possesses.

Perhaps the commission's most useful service, to the present, has been the educational campaign which it has conducted. This pioneer work is proceeding slowly, and as yet the concrete recommendations for more power have failed of passage in the legislature. Meantime the conferences of assessors, the contact of the commissioners with officials and taxpayers, wise publicity of the tax situation in the state and of the administrative developments elsewhere, and the general discussion which has been provoked, are all forces which have been at work preparing the way for a larger sphere of usefulness.

The State Tax Commissioner of Georgia

The first step toward centralization of tax administration in Georgia, the state assessment of corporations, was taken in 1874 in requiring the comptroller general to assess certain corporations.[2] No further significant administrative developments occurred until 1913, in which year the office of state tax commissioner was established.[3] This official was to be appointed by the governor, with the approval of the senate, for six years at an annual salary of $2500. The title of the office is misleading for the act in question did not give the tax commissioner the general supervisory authority over the tax system which has come to be associated with this title. Instead, the Georgia tax commissioner is really an equalization commissioner, and his principal duty is the equalization of local assessments. He possesses no supervisory powers of the sort now generally exercised by state tax commissions.[4]

[1] Florida Tax Commission, *Report*, 1916, pp. 84–86.

[2] *Laws of Georgia*, 1874, No. 104. [3] *Ibid.*, 1913, Act, No. 102.

[4] Cf. the outline of the administrative system in 12th Census, *Wealth, Debt, and*

The act of 1913 introduced also the machinery of county equalization. The county commissioners are to appoint a county board of tax assessors for a six-year term. These county boards are to review the assessment lists, to add omitted property, and "see that all taxable property within the county is assessed and returned at its just valuation, and that valuations are fairly and justly equalized so that each taxpayer shall pay as nearly as may be only his proportionate share of taxes." The sessions of the county boards for this purpose are limited to two months, after which the assessment lists are submitted to the tax commissioner for examination and approval. The latter compares the tax digests of the several counties, and authority is given to perform a state equalization among the counties by raising or lowering the valuation of any class of property in any county.

Three brief annual reports have been published to date by the Georgia tax commissioner. From these reports it appears that certain benefits have followed the introduction of even so slight a degree of central administration as was provided by the act of 1913. But it is equally clear that a further advance must be made if the constitutional ideal of uniformity in taxation is to be realized. That is to say, the provision of county and state equalization in Georgia has been made in response to the pressure of the same forces the operation of which in other states has been described;[1] but state equalization alone will not solve the problem of equitable tax administration, although some advantage is certain to follow its provision in the states which had before lacked such rudimentary administrative centralization. Some of the gains which have been made in Georgia will be briefly noticed.

The first result was an increase in the total state duplicate from $867,973,000 in 1913 to $953,542,000 in 1914, or nearly 10 per cent. This increase in taxable values made possible a reduction of the state tax rate from five to four and one-half mills, and an aggregate saving to taxpayers of about $500,000. In the course of equalization the tax commissioner made a considerable number

Taxation, p. 681. This outline explains the somewhat different use of terms in Georgia.

[1] Schmeckebier, *Taxation in Georgia*, especially pp. 225–237.

of changes in the local returns and it may be presumed that these furthered the equitable distribution of the tax burden.

The direct effect of this saving to taxpayers was to put the whole state in a more receptive mood toward central tax administration. The tax commissioner has been occupied with a campaign of educational work, conducted to no small extent from the stump, in preparing the way for further development of his department. The growth of state expenditures and the slow increase of the tax duplicate since 1913 have necessitated a subsequent advance of the state tax rate to five mills, but the earlier experience has been an excellent object lesson.[1]

On the other hand, the experience of other states indicates very clearly the points of weakness in the Georgia plan. In the first place, it has been proved absolutely that equalization alone does not suffice. Equalization was unquestionably necessary in Georgia, but it was only a part of the whole problem, and even this part is but imperfectly exercised today. The act of 1913 empowered the tax commissioner to equalize among classes of property in the different counties, but with no greater facilities than could be provided out of a total expenditure, including the commissioner's salary, of less than $5000, it is not to be expected that the data requisite to an adequate equalization could be compiled. Remarks in the report for 1915 show that the tax commissioner has really passed this problem on to the local boards. His action in equalization is consequently of small significance. In 1916 changes were ordered in ten counties, but in nine of these counties the advance was made on "improved lands," and in the other case the "wild lands" were increased. In addition, bank stock was increased in three counties and merchandise in two counties. The practice of reposing confidence in the results of the local equalization is not confined to Georgia; but in this instance there is less probability than usual that an adequate local equalization will be made.

A further obstruction to efficient administration is the peculiar provision of the Georgia system for the procedure in appeals against either the local or the state equalization. Any taxpayer

[1] State Tax Commissioner of Georgia, *Report*, 1915, p. 3.

who feels dissatisfied with the action of the county board in equalizing local assessments may demand an arbitration, and he is allowed to name his arbitrator.[1] The board names its arbitrator and the two choose a third. The majority action of this arbitration board is final, except as affected by the action of the tax commissioner. Likewise, any board of county assessors may challenge the decisions of the tax commissioner and force a similar farcical settlement of the dispute. The county arbitration board must consist of freeholders of the county while the representative of the tax commissioner and the third arbitrator in any appeal against the state official's decision must not be citizens or property owners of the county affected. The appeal of questions of fact from a qualified administrative board to a court is bad enough, but infinitely to be preferred to the submission of such matters to a board composed of two strong partisans and a third member whose qualifications and impartiality are entirely unknown factors.

The further defects in the Georgia law may be seen from an examination of the details of the tax duplicate since 1913. Reference to these figures shows that almost no further increase in the total assessment has been made since 1914.[2] The tax commissioner explains this by reference to the shrinkage in values since the outbreak of the war.[3] Southern agriculture did suffer from the break in the cotton market, but this explanation is hardly sufficient. There has been not only a fairly complete recovery from the early agricultural paralysis; industry and general business have experienced a stimulus that has gone far toward offsetting such temporary depression as was at first prevalent. The shrinkages in values are always more prompt in disappearing than the increases are in getting upon the tax list.

[1] *Laws of Georgia*, 1913, Act, No. 102, §§ 6, 14. Provision for an arbitration of such differences is a very old feature of the Georgia law. It is found at least as far back as 1858, *Laws*, No. 104, and it probably is much older than this date. Since it has been so long in operation, the people may have become accustomed to it, but this does not render it the less anomalous in the modern centralized administrative system. Texas had a similar provision in operation from 1873 to 1876. Miller, *op. cit.*, p. 210.

[2] Cf. below, p. 592. [3] State Tax Commissioner of Georgia, *Report*, 1916, p. 5.

It will be seen from the table below that the principal sources of the initial increases in the duplicate were lands and corporations. The latter are still subject to assessment by the comptroller general. The assessed valuation of real estate, especially city lots, has continued to rise slowly. The aggregate acreage of improved lands was increased by 736,000 acres in 1914, and 200,000 acres have since been added to the tax rolls. Some part of this increase appears to have been due to a reclassification, but the escape of such quantities of land is indicative of the loose methods of local assessment.

The returns of personal property, both tangibles and intangibles, show an increase in the first year. Moderate as the gain was, it could not be held, and at various points the process of withdrawal from the tax rolls has been uninterrupted.

These figures indicate clearly the need of two fundamental reforms in the Georgia tax system. The first of these is the abandonment of the uniform rule. Universal experience compels the conclusion that an adequate listing of intangibles, to be taxed at ordinary tax rates, is impossible and should not be attempted. The second conclusion is that a stronger degree of control over the local assessment is necessary. The remarkable industrial expansion which the southern states are enjoying should not find them hampered with unsound tax systems and inadequate tax administrative structures.

The State Tax Commission of South Carolina

The act for the establishment of a state tax commission in South Carolina, passed in 1915,[1] is perhaps the most comprehensive of its kind yet adopted by any southern state. This act creates a tax commission of three members, to be appointed by the governor for a term of six years. The chairman is to give his entire time to the work, and is to receive a salary of $2500. The two associate members receive a compensation of $5.00 per day, and necessary expenses for the time actually spent in the service of the state. This plan of organizing the commission may prove a weakness, for it has usually been true that the full time of three

[1] *Laws of South Carolina*, 1915, No. 99.

members has been required in the proper exercise of all of the powers and duties devolving upon the commission. In South Carolina these duties embrace the state equalization, the assessment of certain classes of corporations, and general supervision of the tax system. The former state board of equalization and the state board of assessors were discontinued, and their general powers and privileges were transferred to the new tax commission. The supervisory authority includes the right to hear appeals from taxpayers, and to order the reassessment of property in any district on its own motion, as well as the lesser but distinctly valuable phases of supervision, such as the prescription of blanks, calling of witnesses, visiting the counties, and securing the prosecution of delinquent officials before the proper courts.

The South Carolina tax commission has not yet been in existence long enough to render its experience of much value to any one but its own members. Some of the difficulties which have been encountered thus far will be briefly noticed as they may shed light upon the typical tax administrative problems that are yet to be worked out in many southern states.

There has been no opportunity up to the present to deal with the problem of real estate assessment, as the last quadrennial assessment occurred in 1914. The commission has been making certain studies, however, in anticipation of the reassessment in 1918, and with a view to obtaining some basis for the equalization of other property. The most disturbing discovery thus far made is the serious disorder in the local assessment of real estate due to the antiquated land survey and the absence of tax maps. No survey of the state has been made since 1825, and the present township and school district lines are not shown. No estimate has been made of the total quantity of land and buildings that have not been listed for taxation; but surveys of certain blocks in Charleston have shown that from one-half to two-thirds of the land, and about one-half of the buildings, have regularly escaped assessment entirely.[1] The tax commission has made urgent recommendations for a new survey of the state, and the provision

[1] South Carolina Tax Commission, *Report*, 1915, pp. 22–26.

of tax maps for every tax district. There can be little doubt that the expenses incurred would soon be recovered from the additions to the real estate duplicate.

The commission's brief investigations of the present condition of general property assessments have revealed the further fact of the existence of very wide differences in the basis of valuation used in different counties. In some cases the county boards have adopted exceedingly diverse schedules of minimum values per acre for land; in other cases percentages of full value were adopted, but with little assurance that they would be observed. Horses and mules were assessed in 1915 at county averages ranging from $28.70 to $86.48 per head. Little effort has been made thus far by the commission to correct these inequalities through equalization.[1] The principal excuses for this reluctance appear to be, first, the feeling that this is the task of the local boards of equalization; and second, the unwillingness to increase the tax duplicate materially while the tax levies remain established at the customary levels. The law requires an assessment and equalization at full value, and the commission has evidently taken the position that any effort at equalization of the local assessments necessarily involves marked advances in the aggregate. Neglect of this function is less embarrassing than open violation of law by equalization on any percentage basis, and probably no more unjust than the extravagance that would follow the levy of the customary tax rates upon higher assessed valuations.

A further reason for the comparative inattention paid to the local assessments is found in the greater emphasis which the commission has placed upon the tasks of corporate assessment and equalization. The act of 1913 made no changes in the system of corporate taxation except to require the tax commission to equalize the assessments of banks as returned by the county auditors. The practice has been to ascertain as accurately as possible the average percentage of full value at which the banks, textile mills, and other classes of property required to be equalized by it have been assessed over the state, and then adjust the individual assessments on this basis. The principal difficulty that has been

[1] South Carolina Tax Commission, *Report*, 1916, p. 7.

encountered has been the opposition of the corporations themselves. The banks brought heavy pressure upon the commission to prevent modification of the returns which they had made to the county auditors. Various corporations directly assessed by the tax commission have brought suits to prevent collection of the taxes, and at the end of 1916 the total amount of taxes involved in these suits was $248,000.[1]

It is the practice, in a large number of the states having tax commissions, to constitute these bodies a board of appeal and revision, to pass upon their own assessments. In a few cases the appeals for revision of assessment go to the courts of justice. In Georgia such appeals are submitted to arbitration. The South Carolina act of 1913 established a tax board of review, to which appeals from the action or the findings of the tax commission might be taken. This board is to consist of a chairman and six other members, the latter being chosen from the respective congressional districts by the governor with the consent of the senate. There are no qualifications required by the act itself, and the distinctly political character of this board is seen in the provision that while the chairman is appointed for a four-year term, the six members are to retire from office with the governor who appointed them, providing that their successors are duly qualified at this time. No governor-elect is to be deprived of the opportunity to hand out offices to worthy supporters, by any such consideration as the public service.

This unique provision for review of the tax commission's actions presents dangerous possibilities. The law requires the chairman of the board of review to familiarize himself with the tax law and with the practice of the tax commission; but this is a very frail safeguard against the ignorance of these subjects on the part of the other members. In the first two years the board sustained the commission in almost all of the appeals brought;[2] but special interests are very skillful in finding the joints in such armor as would be worn by appointees of this type. One of the appeals for

[1] South Carolina Tax Commission, *Report*, 1916, p. 18.

[2] The South Carolina Tax Board of Review, *Report*, 1916. Published with the *Report* of the Tax Commission, pp. 120–131.

reduction of assessment which was sustained was that of a holding company. The tax commission had held that the law required taxation of this corporation as a separate legal entity, without regard to the character of its possessions; but the board of review assumed the responsibility of mitigating the rigors of double taxation in this case.

The South Carolina commission is not made responsible in any way for the administration of the state income tax. The data on this subject published in its reports make possible an interesting comparison of the results of local administration of state income taxes with those of central administration of such taxes, as in Wisconsin and Massachusetts. No tax was received from four counties in 1916, while in eight others the total tax collected was less than $100 in each case. The total income tax receipts for the state in 1916 were $27,690.[1]

The principal changes in the tax system which have been proposed by the tax commission have been the removal of the restrictive constitutional provisions, the introduction of separation of sources, and the levy of an inheritance tax. The constitution imposes the uniform rule, or in other words, the general property tax; it also contains the provision of a three mill tax for school purposes. The commission regards the latter as a distinct barrier to higher valuations, and it doubtless is, especially in the absence of a sufficiently definite educational program to insure wise expenditure of the additional funds. The principle of the constitutional levy is wrong in any case and should be abandoned. The commission relies upon the now generally discredited notion of the influence of separation in promoting equality and uniformity of local assessments. A much more efficient way of promoting equality of assessments would be to extend the commission's powers of equalization and supervision, and to provide sufficient funds for the development of an adequate technique in testing the assessors' returns. The constitutional changes suggested are of course very important. No development of administrative control has yet been able to secure a complete listing of intangibles; but with such changes in the income tax as might be

[1] South Carolina Tax Commission, *Report*, 1915, pp. 27–32.

required to permit modern methods of administration, a suitable offset to this defective assessment of such property might be found.

The Arkansas Tax Commission

The tax commission of Arkansas was created in 1909.[1] It was to be composed of three members appointed by the governor with the consent of the senate, for a regular six-year term at a salary of $2400. The law creating the commission expires by limitation in 1927. The commission was given general supervisory authority over the assessment and collection of taxes and over the local tax officials. This supervision is to be exercised by providing proper blanks and forms for returns, by regular visits of inspection to the different counties, and by the exercise of such powers as the calling of witnesses, the direction of prosecution for infraction of the tax laws, the investigation of other tax systems, and the recommendation of measures for the improvement of the Arkansas tax system. The tax commission was also to meet annually as a state board of equalization, and to assume all of the duties of the state board of railroad commissioners, created by an act of 1899.[2]

Because of insufficient funds no report has been published since 1912. In view of the space limitations it does not appear wise to dwell upon the commission's work during the first three years of its existence, 1909–12,[3] while the opportunity is lacking to bring the account to the present and form a fairer estimate of the commission's achievements.

The State Tax Commission of Kentucky

The state tax commission of Kentucky was established in 1917, upon the recommendation of a special commission which had reported in 1916. The increasing dissatisfaction with the tax system of the state has been registered by the three special tax commissions which had been created since 1908. The report of the second of these, published in 1914, contained numerous suggestions for improvement, including a strong recommendation for

[1] *Laws of Arkansas*, 1909, No. 257. [2] *Ibid.*, 1899, No. 53.
[3] Two reports have been published, in 1910 and 1912.

a permanent tax commission. This body was to be given control over the assessment process similar to that possessed by the Ohio tax commission under the Warnes law of 1913.[1] No action was taken upon this proposal and the third special commission, that of 1916, presented a bill for a permanent tax commission which was adopted without substantial change.[2] The principal features of this act are the following:

The tax commission is to act as a state board of equalization, but in this capacity it is to deal only with the county totals, except in the event of reassessment by the tax commission. It replaces the various ex officio boards which had been established for the assessment of corporate property, and it is given fairly extensive supervisory powers over the original assessment of property by the local assessors. These powers are to be exercised by means of visits to the counties, conventions of the county assessors, the advising and instructing of assessors, and the reassessment of property in case of the failure of the county boards to observe the commission's orders as a state board of equalization. The tax commission act specifically continues the revenue agents and the "supervisors of revenue agents," as the "tax ferrets" of Kentucky are euphoniously termed. The special commission of 1914 condemned the work of these persons and recommended the repeal of the laws under which they had been appointed.[3] They have nowhere been a desirable addition to the administrative organization and they would probably handicap any serious effort of the Kentucky tax commission to put all property on the duplicate at its full value.

The State Tax Commission of Missouri

The principal powers and duties of the Missouri tax commission, which was established in 1917, are the following:[4]

1. The preparation of a statement of the value of the taxable property in each county in the state, for the use of the state board

[1] *Report of the Special Tax Commission of Kentucky*, 1914, p. 48.

[2] *Report of the Kentucky Tax Commission*, 1916, pp. 11 ff. *Laws of Kentucky, Extraordinary Session*, 1917, ch. 1.

[3] *Report of the Special Tax Commission of Kentucky*, 1914, pp. 10, 20.

[4] *Laws of Missouri*, 1917, p. 542.

of equalization. At the request of this board the commission is to meet with it in the state equalization.

2. Exclusive power of original assessment over all public utilities formerly assessed by the state board of equalization.

3. Certain supervisory responsibilities, such as conferring with and advising the local assessors, visiting the counties regularly, receiving and investigating complaints as to improper assessments, prescribing blank forms and ordering reassessment of property upon its own motion. The commission is expressly forbidden to undertake any regulation or restriction of local freedom in the determination of the tax levies.

APPENDIX TO CHAPTER XVII

ASSESSED VALUATION OF PERSONAL PROPERTY IN NORTH CAROLINA 1900–14[1] (MILLIONS OF DOLLARS)

	1900	1902	1904	1906	1908	1910	1912	1914
I. Tangibles								
1. Live stock	19.1	22.1	28.6	34.4	35.8	42.3	47.1	49.7
2. Farm utensils and mechanics' tools	2.2	2.3	2.6	2.9	3.1	3.8	4.2	13.1
3. Household and kitchen furniture	6.1	7.4	8.5	9.4	10.1	12.6	12.3	....
4. Provisions	2.3	2.3	3.6	3.3	3.0	3.7	6.3	24.3
5. Musical instruments	1.0	1.3	1.7	2.2	2.6	3.1	....	....
6. Plate, watches, jewelry	.8	1.1	1.3	1.5	1.6	1.7	....	....
7. Goods, merchandise	....	12.3	16.3	20.5	21.9	24.3	31.1	23.0
8. Farm products	4.5	5.0	10.2	11.2	10.1	12.6	23.4	15.2
Total	36.0	53.8	69.7	85.4	88.8	103.0	124.4	130.0
II. Intangibles								
1. Moneys	4.8	4.2	5.6	6.8	6.3	6.9	7.6	7.6
2. Credits	22.3	28.5	32.3	40.1	43.9	48.1	53.2	60.7
3. Stocks, etc.	6.4	4.2	3.6	2.8	2.6	2.6	4.5	....
4. Private bankers	....	.6	4.8	.9	1.1	.8	....	....
Total	33.5	37.5	46.3	50.7	53.9	58.4	65.3	68.3
All other	23.7	17.9	17.3	23.8	29.8	31.2	25.8	11.1
Grand total	93.2	109.2	133.3	159.9	172.5	192.6	215.5	209.4

The classification is quite erratic, especially in later years, and the disposition of certain minor items of tangible property is very uncertain. The figures are sufficiently accurate to indicate the general course of the assessments.

THE TAX DUPLICATE OF GEORGIA, 1913–16[1] (MILLIONS OF DOLLARS)

	1913	1914	1915	1916
I. Real Estate				
Lands	201.6	242.1	244.1	247.3
Lots	250.0	272.8	279.6	282.1
Total real estate	451.6	514.9	523.7	529.4
II. Personal Property				
(*a*) Tangibles				
Live stock	41.4	44.0	40.9	41.3
Vehicles, machinery	13.0	14.0	14.1	15.0
Merchandise	41.0	43.3	42.0	40.4
Manufactures	40.1	42.6	41.2	43.8
Household goods	27.9	29.5	29.2	29.1
Other tangibles	2.7	1.8	3.1	3.0
Total tangibles	166.1	175.2	170.5	172.6
(*b*) Intangibles				
Moneys, credits	50.1	56.4	53.6	50.7
Bank stock	41.8	44.2	40.4	39.6
Stocks and bonds	3.3	2.6	2.6	1.7
Building and loan	.4	.6	.7	.4
Total intangibles	95.6	103.4	97.3	92.4
III. All Other Property	9.7	9.3	9.1	7.1
Grand total	867.9	953.5	951.9	954.1

[1] State Tax Commissioner of Georgia, *Report*, 1916, p. 6.

CHAPTER XVIII

STATE TAX COMMISSIONS IN THE WESTERN STATES

The State Tax Commissioner of Wyoming

The comparatively undeveloped resources, undiversified pursuits, and sparse population of Wyoming have prevented the fiscal problems of the state from attaining the proportions that similar problems have elsewhere assumed. They have not, however, prevented the repetition on a smaller scale of the developments which have been so characteristic of the recent history of tax administration.

A state board of equalization was created in the territorial period,[1] and was perpetuated by a constitutional provision when that instrument was framed.[2] The organic law also provided that the state board of equalization was to equalize among counties, to fix a valuation each year for the assessment of live stock, and to assess at actual value the franchise, roadbed, rails, and rolling stock of all railroads. This valuation was to be apportioned among the counties for taxation at the local rates. The duty of corporate assessment was broadened in 1891 to include the telegraph and telephone companies,[3] and in 1901 the various classes of car companies.[4] Two years later the board was required to ascertain and assess the gross output of mines,[5] and to certify to the state treasurer, upon the basis of returns made by the express companies, the taxes due at 5 per cent upon the gross receipts on business done within the state.[6]

The office of state tax commissioner was created in 1909.[7] There is no record of the forces which led to the establishment of this office, although the fact that the board of equalization is an ex

[1] *Revised Statutes of Wyoming*, 1887, § 3804.
[2] *Constitution of Wyoming*, 1889, Article XV, § 9.
[3] *Laws of Wyoming*, 1891, ch. 99.
[4] *Ibid.*, 1901, ch. 81.
[5] *Ibid.*, 1903, ch. 81.
[6] *Ibid.*, ch. 111.
[7] *Ibid.*, 1909, ch. 66.

officio body is doubtless significant. The tax commissioner was to be appointed by the governor for a term of four years at a salary of $2500. No person was to be appointed to the office unless he was "known to possess knowledge of, and training in the subject of taxation, and skilled in matters pertaining thereto." To this official was transferred as much of the function of corporate assessment as was consistent with the constitution. The tax commissioner was required to make the actual appraisal of the property of corporations and submit his results to the state board of equalization, by whom his figures might presumably be reviewed and corrected, and possibly garbled. The formal assessment of this property was of course left with the state board. The act of 1909 continued the process of administrative evolution by conferring upon the state tax commissioner general supervision over the tax system. This supervision was authorized in terms similar, in general, to those employed in many other statutes. The tax commissioner was to confer with, advise, and direct assessors; to direct proceedings and prosecutions to be instituted to secure proper observance of tax laws; to require proper returns from officials and taxpayers; to visit the several counties; to investigate the tax laws of other states and recommend desirable improvements; to receive complaints; to order omitted property to be added to the tax rolls; and last, though not least, to order reassessment of any property whenever such action was judged necessary in order to attain the legal standard of full value assessment.

There are no data available as to the methods employed in the discharge of the various duties imposed upon the tax commissioner and the state board of equalization. The whole procedure has remained of a comparatively simple type, with an equally undeveloped technique, as may be seen from the fact that the contingent expenses of the office for 1916 amounted to $3429.[1] The state board of equalization continues to dominate tax administration in the state, and in 1916 it was still indulging in the practices which have made such boards so very ineffective. The values which it certified to the assessors for the assessment of live

[1] State Tax Commissioner of Wyoming, *Report*, 1916, p. 8.

stock were about 60 per cent to 70 per cent of full value.[1] The tax commissioner implied that a similar standard was observed in assessing the corporate property under its jurisdiction; but there is nothing to indicate the amount by which the commissioner's own figures were reduced thereby. It is not to be expected that such an example would stimulate the local assessors to a very strict observance of the law.

A similar inactivity has marked the work of the state board in its equalization of the local returns. In 1915 its authority in equalization was broadened to include property of every sort.[2] This amendment presents the opportunity of exercising a certain influence over the local assessment, as there is complete freedom of revision in the equalizing process. But an ex officio body, without the time, energy, and equipment for collecting the data upon which such a revision necessarily rests, cannot be expected to seize the opportunity thus opened to it.

The tax commissioner has apparently been disposed in recent years to shift the responsibility for making such corrections to the board of equalization and to neglect his own power of ordering reassessments.[3] The latter policy was followed in the first assessments made under the new administrative reform, and with very significant results. The total assessment of property for 1908 was $67,580,000. In 1909, the first year of central administration, it was $186,157,000. Use was made of the authority to order reassessments, especially in securing a better listing of mortgages.[4] Such property had been returned from only two or three counties previous to 1909, and the total of all moneys and credits in 1908 was only $555,341. The next year a total of $5,688,000 was returned. Mortgages were exempted from taxation in 1911, and under cover of this provision practically all moneys and other credits have been withdrawn from the tax roll. The commissioner urges complete legal exemption for such property.[5]

[1] State Tax Commissioner of Wyoming, *Report*, 1916, pp. 7, 8.

[2] *Laws of Wyoming*, 1915, ch. 119.

[3] State Tax Commissioner of Wyoming, *Report*, 1916, p. 8.

[4] *Ibid.*, 1910, pp. 8, 9.

[5] *Ibid.*, 1912, p. 7. In 1914 the total of moneys and credits returned was only $190,000.

In conclusion, it is evident that the central administration of the tax system has not been vigorous in Wyoming. There is room for an aggressive and efficient department of this sort, even in a state presenting the relatively simple and undiversified conditions found in Wyoming. Until the constitutional provision requiring an ex officio board of equalization can be cleared away, the best plan for the attainment of this organization appears to be that adopted in Colorado. The Wyoming law has already undertaken the transfer of most of this board's statutory authority to the tax commissioner, but that department at present lacks virility. A commission of three members, with a much enlarged appropriation for the development of the necessary technique of a corporate valuation and local supervision, would have a far better chance of counteracting the influence of the state board of equalization than the present tax commissioner has, with his very restricted appropriation and primitive office organization.

The State Tax Commission of Colorado[1]

The establishment of the Colorado tax commission in 1911 was practically the first step in tax reform that had been taken in the state since the adoption of the constitution in 1876. During this period the basis of the state revenue system had been the general property tax. The administrative structure of this tax, as laid down by the constitution, included a county assessor elected locally for a two-year term, and county and state boards of equalization. The last named board was to consist of the state officers acting ex officio.

This administrative structure, characteristic in its essentials of the general property tax everywhere, was of course powerless to prevent the appearance of the customary defects of this system. The state board of equalization had indeed attempted, in a feeble way, to make a more effective equalization, but in every instance it was checked by the courts.[2] After the last rebuff, in 1900, the

[1] The work of the Colorado commission has recently been described by Dr. R. M. Haig, in a report prepared for the Survey Committee of State Affairs.

[2] Cf. Colorado Tax Commission, *Report*, 1915, pp. 8, 9. In 1877 the court held that the board had no power to increase the aggregate of the local assessments.

board made no further efforts at equalization, and the local assessment practices flourished unchecked.

In 1911 the legislature passed a law establishing a state tax commission of three members. The governor and treasurer together were to appoint these members for a regular term of six years at an annual salary of $3600.[1] The commission was given general supervision over the tax system, including the right to order a reassessment of any property in any subdivision; to make the original assessment after June 15, 1911, of all corporations previously assessed by the state board of equalization; and to prepare a statement regarding the equalization of assessments for the use of the state board. The latter could not be deposed except by constitutional amendment, and the legislature went as far as it could in making the tax commission the real equalizing body, by requiring the commission to determine the true value of the property in the state and certify its findings to the board of equalization. An amendment to abolish the latter was submitted in the election of 1912 but was rejected, though on grounds that did not touch the question of the relative merits of the two boards.[2]

Equalization. — The relation of the Colorado tax commission to the task of equalization has been that of a compiler of materials, a position similar to that occupied by the Michigan Board of State Tax Commissioners. This position has not been an easy one in either Colorado or Michigan, and much of the subsequent opposition to the tax commission in the former state has arisen because of the commission's fearless and vigorous treatment of the local assessors' returns in equalization.

Because of the delay in organizing the commission, it did not begin to play an active part in the state equalization until 1913.

3 *Colo.* 428. In 1899 a change in the assessed valuation of certain classes of property was held to be unconstitutional. 27 *Colo.* 346.

[1] *Laws of Colorado*, 1911, ch. 216. Cf. above, p. 140. Haig, *op. cit.*, p. 19, gives another explanation for this unusual provision. The State Board of Equalization, *Report*, 1911, p. 3, also explains it. Chiefly for political reasons, the appointments were delayed until May 16, 1912, and were only made then because the supreme court held that the board of equalization had no power to assess the utilities.

[2] Cf. Haig, *op. cit.*, p. 8, and note, for a summary of the reasons for the failure of this amendment.

The assessors had been urged by letter in 1912 to accept 33⅓ per cent as the uniform basis of valuation, but they gave little attention to the suggestion and the commission attempted no equalization of the returns.[1] The general results of its subsequent efforts to determine the true cash value of the property in the state may be presented in the following form:[2]

NET RESULTS OF THE STATE EQUALIZATION IN COLORADO, 1913–16

Year	Increase recommended by the tax commission	Number of counties in which increases were made	Action of the state board of equalization
1913.....	$186,551,000	58	No change
1914.....	135,054,000	24	"
1915.....	59,228,000	12	"
1916.....	2,542,000	5	$406,000 dec.

In 1913 all but five of the counties in the state were advanced by the tax commission as the result of its investigations into the condition of the local assessments. As the law then stood these increases were of necessity horizontal advances on all classes of property instead of particular increases on certain classes. Of the aggregate increase in 1913, $101,902,000, or 54.6 per cent of the total advance, was made by levying a 40 per cent increase on property in the city of Denver. Similarly, $90,377,000, or 66.9 per cent of the total increase of 1914, was made on the property of this city. This apparent discrimination against the largest city of the state aroused violent but largely unfounded opposition against the commission, opposition which culminated in the unsuccessful effort to abolish it in 1916.[3] The increase of 1914 was also made horizontally because of the unwillingness of the county boards of equalization to equalize by specific additions to certain classes of property. The state supreme court had decided (January 12, 1914)[4] that the tax commission, under its power of original assessment, could increase the assessment of any class of property, and that the state board of equalization was empowered

[1] Colorado Tax Commission, *Report*, 1912, pp. 6, 7.

[2] Data compiled from the annual reports of the tax commission.

[3] The investigation conducted by Dr. Haig was published in time to be of material assistance in preventing the overthrow of the commission.

[4] 56 *Colorado*, 343.

to consider the commission's recommendations as a part of the local returns. It was possible, therefore, to equalize in 1914 by making additions to certain classes of property.

The figures above indicate that there has been a steady improvement in the work of the local assessors. The commission has been able to enlist practically all of the assessors in the coöperative task of a proper assessment, and as the local officials have responded to the commission's suggestions fewer corrections have been required to secure an approximately equitable valuation of the classes of property that are ordinarily subjected to assessment. The returns of intangibles are recognized to be very imperfect,[1] and no attempt has been made to deal with these forms of property in the equalization.

The limitation upon the freedom of the state board of equalization was removed by a constitutional amendment adopted in 1914. It is exceedingly unfortunate that the people preferred — or at least voted — to retain the ex officio board and extend its powers instead of transferring its authority to the tax commission, the only body in the state competent to perform this function. The amendment of 1914, which removed the restriction against increasing the aggregate local valuation, may give the ex officio board too free rein. This difficulty has not yet become apparent in the equalization of property assessed under general laws, for the board has made practically no changes in the commission's recommendations. On the other hand, it has begun to entertain appeals from corporations against the assessments established by the tax commission, and even in the two years since the amendment was passed it has displayed an increasing tendency to allow reductions on appeal. In 1915 $1,700,000 was allowed to three companies, while in 1916 nine companies were granted an aggregate deduction of $12,039,000.[2] Should this privilege be exercised upon a very much larger scale, it may result in demoralization of the assessment of corporate property by the commission.

The constitutional amendment of 1914 referred also to the powers of the county boards of equalization in a way that may

[1] Cf. below, p. 625.

[2] Colorado Tax Commission, *Report*, 1915, p. 12; *ibid.*, 1916, p. 7.

prove detrimental to the tax commission. The amendment provided that these county boards were to "adjust, equalize and raise or lower" the valuation of property in their respective counties, subject to "revision, change, and amendment" by the state board of equalization. The corporations promptly contended that the county boards were thereby authorized to equalize the assessments of corporate property made by the tax commission, and the Railway and Light Company of Denver secured a reduction of $7,731,000 from the commission's assessment in 1915.[1] The state board of equalization cancelled this reduction, but under pressure from the corporation rescinded its action. This situation presents serious possibilities for crippling the commission's efficiency in assessing corporate property. Judicial construction may restrict the activity of the county boards, but the only safe remedy is the abolition of the state board of equalization and the transfer of its functions to the tax commission. The latter recommended this in 1916, but the actual change is probably still a long way off.

In the meantime, progress is clearly being made toward a more satisfactory basis of valuation. It is impossible to say how nearly this basis approaches full value; but it is fairly clear that greater uniformity is steadily being attained. This is shown in the declining number of changes in local assessments which the tax commission has felt obliged to recommend. The principal weakness at this point continues to be the lack of adequate facilities for making an effective independent investigation of the local assessments. Special investigators of the commission have worked in nearly every county, and some use has been made of the sales method.[2] The very inadequate appropriations have prevented a fuller development of these and other methods of investigation. In 1913 the commission was supplied with data on values compiled by some of the public utilities subject to central assessment. While these materials were given such independent tests as were

[1] Colorado Tax Commission, *Report*, 1915, p. 13.

[2] The Somers system had been used to value the real estate in the business district of Denver. The "optimistic" results obtained in this valuation may have influenced the commission's recommendations somewhat. *Letter from Commissioner J. B. Phillips*, October 29, 1914.

possible, the suspicion of corporate interest could not be avoided, and in making some use of them the commission added fuel to the fire of opposition to its methods.[1]

The Assessment of Corporations. — The development of central assessment of corporations began in 1877, in which year the state board of equalization was required to assess the railroads.[2] Telegraph, telephone, and car companies were added in 1885, and express companies in 1902.[3] The work of the state board of equalization was very unsatisfactory. The aggregate valuation of the property assessed by it in 1888 was $30,411,000; ten years later it was $30,431,000. In 1901 an effort was made to break with the past by creating a state board of assessors. This board was to be composed of thirteen county assessors, elected from their number by all of the county assessors assembled in conference at Denver for the purpose.[4] Suit was promptly brought against this board, and the law creating it was held invalid. Legislation in 1902 legalized the corporate assessment made for 1901 by the state board of equalization after the statutory period for such assessment had passed.[5] The total corporate valuation for 1901 was $124,985,000, of which $120,356,000 was railroad property. These figures did not stand, and the railroads settled for taxes on about the same basis as in 1900.[6] In 1902 the total assessment of corporate property dropped to $53,233,000. In this respect the experiment of 1901 was measurably successful, as the valuations never got back to the old level. Under the state board it never got far beyond this new level for in 1911 the total assessment was $60,449,000.

The results of central corporate assessment since 1912 are summarized in a table given as an appendix to this chapter.[7] The tax commission was appointed too late in the year 1912 to begin an effective appraisal of the corporations subject to central assessment and in consequence figures approximating those of the state board of equalization for the preceding year were adopted. The

[1] Haig, *op. cit.*, pp. 30, 31.
[2] *Laws of Colorado*, 1977, ch. 87.
[3] *Ibid.*, 1885, p. 321; 1902, ch. 3.
[4] *Ibid.*, 1901, ch. 94.
[5] *Ibid.*, 1902, ch. 2.
[6] Colorado State Board of Equalization, *Report*, 1911, p. 108, and note.
[7] Cf. below, p. 624.

more vigorous policy initiated in 1913 produced an additional assessment of about $140,000,000. From the high point reached in 1914 the aggregate valuation declined about $20,000,000 in the next two years. The responsibility for this decline rests in part upon variations in the factors of value considered by the commission, especially earnings, and in part upon the state board of equalization which allowed deductions in 1916 amounting to $12,039,000. Of this amount, $7,656,000 was allowed to the utilities of Denver.

The methods of the commission in assessing corporations are principally the capitalization of earnings and the stock and bond valuation. The results obtained from these calculations are averaged, and then modified in individual cases as circumstances may make necessary.[1] The operation of the tax on private car lines is quite as unsatisfactory in Colorado as elsewhere. The aggregate valuation is small, and the distribution of this sum among the tax districts on the basis of the car mileage in each district produces such an absurdly small amount in many cases that the collectors do not take the trouble of collecting it. The obvious remedy is to divert the entire tax into the state treasury.

The commission has been able to secure a certain measure of coöperation with the local assessors in the valuation of private companies. This whole class of concerns, regardless of volume of business or extent of plant, is still locally assessed. In 1916 the commission secured increases in assessment amounting to $5,468,000 upon six of the larger manufacturing companies. The state board of equalization sustained these increases, but rejected others totalling $406,000 upon two companies. At the average rate of sixteen mills, the estimated revenue from this additional valuation, on which no taxes had ever been paid, was about $87,000, or more than enough to cover the entire cost of the commission for four years.[2] The foolish and shortsighted opponents of the commission have permitted such facts to be entirely obscured by their petty opposition to its work.

[1] *Letter from Commissioner J. B. Phillips*, October 29, 1914.

[2] Colorado Tax Commission, *Report*, 1916, p. 5.

The Supervision of Local Assessments. — The language of the Colorado statute of 1911 was quite sweeping in the supervisory powers which it conferred upon the commission. All of the customary provisions relating to the prescription of blanks, the summoning of witnesses, visiting the counties, the direction of local assessors to produce desired information, are found. The most significant authority conferred is clearly that of ordering reassessments, an action which the commission may undertake upon its own motion. From the standpoint of the tax act the Colorado tax commission is very well equipped with supervisory authority.

But the commission has not been entirely successful in exercising this authority. The county assessors are locally appointed biennially. This comparatively short term means that the average county assessor in Colorado is a fairly active politician; as such, they reflected, and in a few cases undertook to lead, the local opposition to the commission's energetic revision of local assessments in 1913 and 1914. The friction which has been engendered has been very detrimental to this phase of the commission's work. Of the assessor of Denver county it has been said that the commission met him more frequently in court rooms than anywhere else.[1] The assessor of Weld county based his opposition to the commission largely upon the mistaken belief that the latter had been subservient to corporate interests. These views can only be dispelled by more constant contact between the local and the state officials. The annual conference of assessors has been very useful, but it has been only feebly supplemented by the scanty and irregular visits to the counties. In other states, notably Indiana, a similar situation has been found to exist. The Colorado tax commission regarded other duties as more important than the round of visits to the counties, and in consequence the latter has been somewhat neglected.

Notwithstanding this neglect the number of counties in which the assessors and boards of equalization have been willing to comply substantially with the commission's standards of local assessment has steadily increased, an indication of lessening

[1] Haig, *op. cit.*, p. 27.

friction between the large majority of county tax officials and the commission. The defeat of the bill to abolish the commission in 1916 will doubtless mark a turning point in the latter's history, and if the commissioners possess the necessary tact and patience they should be able now to restore their organization to its rightful place as the leader in the fiscal affairs of the state.

An equally fundamental requirement in this transformation, however, must be a considerable improvement in the tax system itself. The present tax law should be codified and many of the inconsistent or conflicting provisions removed. The authority to order reassessments has never been exercised, chiefly because of the physical impossibility of examining the assessors' returns during the short period between the date on which these are legally due (September 7) and the last day on which the commission may order changes in the assessment (October 1). In these same weeks the corporate appeals must also be heard.[1]

It is only natural, in view of the stormy career of the Colorado commission, to find that little headway has been made in securing better listing of intangibles. Appended to this chapter is a table showing the details of the personal property assessment since 1912.[2] It will be seen from this table that about three-fourths of the total increase in personalty assessment since 1912 has been contributed by tangibles, notably live stock and merchandise. In view of the nominal return of bank deposits and credits under the old regime, the actual amounts of these classes added under the influence of the tax commission are quite surprising, though these figures represent only a very small part of the total of such property owned in the state. The total bank deposits in the state in 1916 were $171,400,000. In this year seventeen counties returned no bank deposits for taxation, while in twelve counties there were no citizens possessing taxable unsecured debts, and in thirty-two counties none possessed secured debts subject to taxation. There is little difference between a nominal return and no return at all, and such gaps in the local tax duplicate certainly indicate widespread evasion of the law. The responsibility is shared by the legislature, which has

[1] *Laws of Colorado*, 1911, ch. 216, §§ 30, 31.

[2] Cf. below, p. 625.

always hampered the commission by failing to codify the law and to appropriate sufficient funds for its use; and by the system itself, which is quite as unworkable in Colorado as in Massachusetts. The commissioners have possibly committed some errors of judgment, as in failing to establish closer personal contacts with the local officials, but on the whole their achievements have been quite noteworthy in view of the circumstances under which they have had to work.

The Arizona Tax Commission

Among the first measures adopted by the legislature of Arizona upon admission to statehood was a bill providing for the creation of a permanent state tax commission.[1] The first members were to be appointed by the governor for terms of two, four, and six years, respectively, and at the expiration of these terms the vacancies were to be filled by election, the names of candidates appearing on the regular ballots without partizan designation. The regular term was to be six years, and the salary $3000 per year.

The bill creating the tax commission made that body a part of the state board of equalization, and gave it original jurisdiction over the assessment of mines, and of railroad, express, sleeping car, and private car companies. It was also to exercise general advisory supervision over the local assessors. Almost the commission's first task was to secure certain constitutional changes and a revision of the tax laws. The constitutional amendment cleared away the former state board of equalization, an ex officio body with membership prescribed by the constitution, and left the legislature a free hand in dealing with the tax system. The tax law was revised in 1913, and the tax commission was given very extensive authority in equalization and in the supervision of local officials.[2]

The assessment of 1912 was almost completed when the tax commissioners took office, and they decided to equalize for that year on a 50 per cent basis. Instructions to this effect were

[1] The state was admitted on February 14, 1912. The act, *Laws of Arizona*, 1912, ch. 23, was approved May 9, 1912.

[2] *Laws of Arizona*, 1913, ch. 71.

issued to local boards of equalization but they were not always observed. The county boards of equalization were a law unto themselves, under the former regime, and the commission found them favoring the dominant interests of their respective counties. Competition to avoid the state tax was also very common.[1]

For the purpose of the state equalization the commission has undertaken to secure from several sources the data which would serve as an independent check upon the local assessors' results. The principal source has been the annual conferences to which all assessors have been summoned. These are personal conferences between assessors and tax commissioners, the detailed reports of which average well above three hundred pages of closely printed matter. The commissioners quiz each assessor vigorously and intensively concerning every item in his report that is any way suspicious, and the assessors themselves do some very frank comparing of assessed values. Out of the direct testimony and the mutual criticism the commissioners derive certain impressions and data which are drawn upon in the state equalization. The conferences are attended by many citizens, and a very beneficial result of this broader contact has been to clear away the accumulated prejudices and misunderstandings of past years.

A second source of information, though not as extensive in its scope as the conferences, has been the use of expert appraisers in the valuation of real estate. In 1914 the Somers method of land valuation was applied in certain districts.[2] A special schedule of building values was prepared for Nogales in 1916.[3] Such surveys have been valuable in placing the areas covered upon a more accurate basis of valuation, but they have naturally afforded no data for testing the quality of the real estate assessments in other portions of the state. They have not greatly furthered the general state equalization, therefore, although in many other respects the effect of these surveys has been very salutary.

Progress has been made, also, in classifying and grading the lands, especially those in the various land grants, and in compiling more accurate returns of live stock. The commission, acting as

[1] Arizona Tax Commission, *Report*, 1914, p. 16.
[2] *Ibid.*, p. 20.
[3] *Ibid.*, 1916, pp. 36–43.

the state board of equalization, has gone about the task of equalization with great vigor, and has fearlessly probed into the results of the local assessment. The usual procedure has been for the board of equalization to vote that the state tax commission and the local assessors have not adjusted valuations with reasonable uniformity, and then proceed to substitute its own amended schedule.[1]

While the resolution with which the state board of equalization always prefaces its own work regularly states, and justly so, that the local valuations are not uniform, the board's own action has usually been confined to a few classes of property, as is shown both by the number of changes and by the aggregate volume of changes in the local returns. The extensive powers of control which the Arizona commission enjoys over the original local assessment permits of a close correlation of the state equalization with the local assessment, and the former serves as an additional check upon the work of the assessors. The adjustments in the property valuations determined by the commission are made principally upon appeals from the corporations affected. The commission wisely enough refrains from attempting to include intangibles in the equalization, though recognizing the inadequacy of the local assessment of such property. The progress in this correlation of assessment and equalization is well described in the following extract from a personal letter:[2]

> The Commission also checks the work of the assessors during the time of assessment by visiting the counties. As the work of the Commission goes forward, greater classification is being brought about and special methods applied, so that the work of checking is becoming more simplified and therefore more comprehensive. As for instance, the idea of the Somers System of valuing real estate, a certain price on different makes of automobiles, the method of calculating range cattle, stocks of merchandise under the inventory, and the book cost of all mining machinery and reduction works. Money and credits are not now taxed, though payable under the law. The Commission has recommended and will recommend a small mill tax on this class of personalty. All other intangibles are taxed, or will be taxed. Instances of some of the escaping intangibles are meat markets, packing companies and moving picture shows. They all do a large business on small physical property and are as yet assessed only on their physical property.

[1] Cf. Arizona Tax Commission, *Report*, 1913, p. 5; *ibid.*, 1914, p. 11.

[2] *Personal Letter from Commissioner C. M. Zander*, November 27, 1914.

The corporate property assessed by the tax commission is valued on a combination of capitalized earnings and stock and bond valuation. The state corporation commission has been valuing various companies for rate purposes, and as this is done the tax commission adopts the same valuation for taxation purposes.[1] This practice has not been followed consistently for in 1916 the tax commission was apparently using the capitalized net earnings as the assessed value for all productive railroads. The net earnings over a period of years, ascertained for each year by deducting from gross earnings the operating expenses plus taxes, insurance, hire of equipment, and a reasonable amount for excess terminal facilities, were capitalized at 8 per cent. Railroads not showing net earnings equal to 8 per cent were assessed on the physical reconstruction basis.[2]

The telegraph and telephone companies have been assessed by the same methods as those used in the case of railroads. Private car lines are said to be assessed by taking into consideration the mileage within the state as well as the gross and net earnings.[3] This is a rather vague statement which does not make clear the commission's exact procedure. The taxation of this class of corporations is everywhere unsatisfactory, and it is doubtful if the Arizona commission has entirely solved the problem. Express companies are taxed on their gross earnings, though the commission has consistently recommended the extension of the ad valorem system to them.

The taxation of mines has caused much more difficulty in Arizona than any other duty imposed upon the commission. The metalliferous mines were evidently greatly undertaxed by the former methods and administration. Indeed, there appear to be sharp differences of opinion in the state as to the proper method of taxing these mines, a difference which has been much in evidence in the discussions of the tax commission itself.[4] The principal point of disagreement has been over the ad valorem assessment versus some form of specific taxation. A majority of the com-

[1] Arizona Tax Commission, *Report*, 1914, p. 15.

[2] *Ibid.*, 1916, p. 18. [3] *Ibid.*, pp. 19, 20.

[4] Cf. Arizona Tax Commission, *Report*, 1914, pp. 33–78, for majority and minority reports on mine taxation.

mission has advocated a valuation of mining property and a survey of the existing ore resources by the commission itself, following in general the methods of Michigan and Minnesota.

In response to this clash of interests the legislature has changed the system of mine taxation several times in recent years. In 1907 the so-called "bullion tax law" called for an assessment for taxation equal to 25 per cent of the annual gross output.[1] Under that law the aggregate mine valuation was about $20,000,000. In 1913 the legislature enacted a law providing for an annual assessment at four times the net plus 12½ per cent of the gross output.[2] Under this method the assessed valuation was increased to $110,000,000. The issue of mine taxation has figured large in the whole policy of the commission, and it has even led to attempts to abolish the board. A bill to this effect passed the senate in 1914 but did not come to a vote in the house. One or more members of the commission has based his campaign for election upon the mine tax issue. For the first time in its history, the legislature adjourned in 1914 without a new mine tax law, and the commission was given a free rein. A system of assessment on the basis of capitalized net earnings was promptly adopted.[3]

The principal features of this new system of mine taxation were the classification of the mines into eight classes, the basis of division being the nature of the ore mined and the future prospects of the individual mine, and the determination of rates of capitalization for each class. No allowances were made for mine depletion, interest, new construction, as these items were considered in establishing the rates of capitalization. The average annual net earnings for a three-year period were capitalized at rates ranging from 15 per cent to 33⅓ per cent. From this valuation was deducted the assessed value of the property assessed locally. In 1916 the aggregate mine assessment was $172,000,000, exclusive of mining machinery, smelters, and improvements on mining property aggregating nearly $39,000,000.[4]

[1] *Laws of Arizona*, 1907, ch. 20.

[2] *Ibid., Third Special Session*, 1913, ch. 71.

[3] Arizona Tax Commission, *Report*, 1916, pp. 7–17. The net earnings method was chosen because of the short time remaining to make the 1915 assessment.

[4] Arizona Tax Commission, *Report*, 1916, p. 8.

Supervision of the Local Assessments. — As revised in 1913, the law gave the tax commission plenary powers over the local assessors, including the power to order the reassessment of property on its own motion. Removal proceedings must follow the usual legal channels, but the chairman of the commission writes that it has been entirely unnecessary to resort to such means of influencing the local assessments.[1] The members of the commission have regularly visited the counties and by means of visits, correspondence, and public hearings, they have maintained the contact with officials and taxpayers that all tax commissions now seek to establish. One of the most interesting events of the assessor's year must be the annual conference to which all assessors are called. In this conference standards of valuation and methods of procedure are agreed upon under the guidance of the tax commission, and if the assessor's later returns do not indicate substantial compliance with these standards he is promptly required to show cause for the variation. The commission is gradually perfecting its independent checks upon the assessor's work, and in the annual conferences it steadily insists upon an explanation of any changes that may be reported from any county with regard to any class of property.

The Arizona tax duplicate has evidently not yet been expanded to include a long list of items, devised in the hope of stimulating the memory of taxpayer and assessor, and in the faith that this stimulus to memory will serve as an efficient safeguard against evasion. It is not possible, therefore, to discuss in detail the operation of the general property tax, especially with regard to the assessment of intangibles. The commission has freely admitted its failure at this point, however, and has steadily recommended a flat tax on moneys and credits.[2] This recommendation has received no particular emphasis in the reports, and because of the relative unimportance of these classes of property it has never attained the prominence that has been accorded other tax problems, notably the taxation of mines. The commission's silence and comparative inaction on this matter can be readily under-

[1] *Personal Letter from Commissioner C. M. Zander*, November 29, 1914.

[2] Arizona Tax Commission, *Report*, 1914, p. 80; *ibid.*, 1916, p. 23.

stood. Property taxation under the uniform rule, in Arizona as elsewhere, is substantially the taxation of tangibles. The general property tax is operating to no better advantage in this sparsely populated western state than it is in the wealthier and more populous states farther east.

In conclusion it must be said that the Arizona tax commission, and especially its vigorous former chairman, have been very successful in stirring up thought on matters of taxation. The issues have probably not always been cleared by the stirring, but they have certainly been brought to public attention. Referring to the turbulent scenes that followed the higher valuations, the former chairman remarked in 1914 that geology teaches that Arizona is a land of extinct volcanoes, but the recent campaign for higher assessments revealed that geology was wrong.[1]

Thus far popular sentiment has apparently been with the commission, and has sustained its efforts for more equitable taxation. But one reason for this attitude may have been in the fact that the commission has been increasing the taxes of mine owners and of other corporate interests, all of which have undoubtedly deserved a higher assessment. But when these properties have been raised to full value and when they in turn demand a leveling up elsewhere, one weakness of the Arizona law will come out. The people will then find tax reform coming closer home, and there may be the same sort of revulsion of popular feeling that so hampered the Michigan commission in 1905. This possible change of attitude may have peculiarly disastrous effects in Arizona because of the fact that the office of tax commissioner is elective. The recent campaign of Mr. C. M. Zander, fought successfully on the issue of mine taxation, shows the possibility for appealing to popular feeling or advantage. Such echoes of this campaign as reached the writer indicated that it was very hotly contested. The office of tax commissioner involves too serious administrative responsibilities to permit of such methods of selection. The writer believes that in the election in question the people chose wisely; but it need signify no deep distrust of democratic institutions to suggest that the electorate is hardly qualified

[1] Arizona Tax Commission, *Report*, 1914, pp. 10, 11.

to select, at long range, the person best fitted to assume the duties of a tax commissioner, and that its future choices may not always be as wise as was that of 1914.

The State Tax Commission of South Dakota[1]

The general property tax developed in South Dakota during the territorial period, and was perpetuated by the constitution adopted in 1889.[2] The characteristic administrative organization had been provided before statehood was attained, including locally chosen assessors and county boards of equalization and an ex officio territorial board of equalization. It is unnecessary to state that the results obtained by this administrative organization were not satisfactory, even during the territorial period. The auditor recommended in 1889 that a better system of assessment and equalization be adopted.[3]

The first general revenue act of the new state was passed in 1891 but an ex officio state board of equalization was established in 1890.[4] This board was empowered to raise or lower assessments among the counties, and to assess the property of the railroad, telegraph, telphone, express, and sleeping car companies. The career of the South Dakota board of equalization has been one of almost unrelieved failure, both with respect to the equalization of assessments and the valuation of corporate property. In addition to the composition of the board and the inherent difficulties of the general property tax, there have been certain local factors which have made the board's failure more complete.

In the first place, the legislature has omitted the necessary appropriations from a number of laws designed to make better administration possible. In fact, so regular did this practice become that it could hardly have been mere oversight. For example, a special tax commission was provided in 1897 to report

[1] I am indebted to the secretary of the South Dakota Tax Commission for a valuable collection of extracts from the public documents. The historical material thus obtained has been very useful.

[2] *Constitution of South Dakota*, 1889, Article XI, § 2.

[3] Territorial Auditor, *Report*, 1889, pp. 150, 151.

[4] *Laws of South Dakota*, 1891, ch. 14; *ibid.*, 1890, ch. 20.

a better revenue system, but for lack of funds nothing was done.[1] Two laws of 1905, providing respectively for annual conferences of the county auditors with the state board of equalization and for investigation and inspection by the latter of the local assessments, have proved of little practical advantage because of the omission of the necessary appropriations.[2]

A second factor illustrates very well the weakness of the lack of supervisory and corrective authority. In common with the majority of such boards, the South Dakota board of equalization has had no authority to list omitted property even in those cases in which it was perfectly clear that evasion was being practiced. It has been compelled to witness the withdrawal of moneys, credits, merchandise, and even land from the tax roll, and to make good this shrinkage by raising the valuation of the property which remained, regardless of the injury done thereby to individual taxpayers. Thus Douglas county returned 247,935 acres of land in 1895 and only 183,408 acres in 1896, although a considerable amount of land had been "proved up" in this county during the year in question.[3]

The peculiar provisions of the state constitution supply a third local factor which has hindered the state board of equalization in its work. These provisions require that the property of corporations be assessed in the same manner as the property of individuals. In 1910 the court held that this excluded consideration of gross

[1] State Auditor, *Report*, 1900, pp. ix–xii.

[2] *Laws of South Dakota*, 1905, chs. 40 and 42. Cf. *Exaugural Message of Governor Crawford*, January 5, 1909. *H. J.* 1909, pp. 35–40.

[3] It would be difficult to match the following bit of chicanery from the local annals of any state. In 1896 Union county returned bank assessments as follows: "Moneys of banks, $9,416; credits of banks, $9,780; bank stock, none." Since the banks of this county had considerable capital, the state board raised the "credits of banks" in Union county 300 per cent, and certified this action to the county board. In the following September the latter adopted the resolution below:

"It appearing to the satisfaction of the board that the assessment for 1896 of the Union County Bank and the Citizens' Bank were erroneously entered in the assessor's book under the head of 'credits' when the same should have been entered as 'moneys of banks,' therefore the auditor is directed to strike out such assessment under the head of 'credits' and to enter the same under the head of 'moneys of banks' at the same respective valuations as returned by the assessor under the head of 'credits.'" Quoted in *Letter of Transmittal of Report of State Auditor*, 1896.

earnings, and the appellant company (The Wells Fargo Express Company) received in consequence a reduction of taxes from $8116 to $517.[1]

There is no intention to exonerate wholly the state board of equalization by this brief recital of the local obstructions to better administration. Being an ex officio board, and having to deal with the locally administered general property tax, it would in all probability have failed without them. They do make the failure more complete than it would otherwise have been. Various state officials have realized the situation, and have occasionally suggested a certain degree of central supervisory control. Thus, Governor Mellette said, in 1893, that the only way to secure uniformity was through a state board with power to adopt and enforce regulations for the guidance of assessors.[2] Three years later the state auditor proposed a "tax statistician and adjuster" who should seek out and list omitted property and make other adjustments after the state equalization.[3] In 1905 Governor Herreid recommended the appointment by the state board of equalization of a "state tax commissioner" who should supervise the assessors, establish standard valuations for various classes of taxable property, and secure uniformity of action by the assessors.[4]

These suggestions are indicative of the slow but gradual evolution of opinion on the subject of central administration. The general problem was considered again, and more definite recommendations were advanced, by a special tax commission which reported in 1911.[5] This commission did not make an elaborate investigation of tax conditions in South Dakota, although even a superficial observation sufficed to establish the case against the tax system. Greater emphasis was laid, in its recommendations, however, upon the need of stronger central administrative control

[1] 214 *Fed. Rep.* 180.

[2] *Exaugural Message of Governor Mellette*, January 3, 1893. *H. J.* 1893, p. 13.

[3] State Auditor, *Report*, 1896, pp. vi–xi.

[4] *Exaugural Message of Governor Herreid*, January 3, 1905. *H. J.* 1905, pp. 29, 30.

[5] The report was not published. A manuscript copy is in the office of the state tax commission.

than upon the need of changing the tax system. The latter would require a constitutional amendment, while there was some prospect of relief through administrative reform without a revision of the organic law. In 1913 the proposals for the creation of a state tax commission were accepted by the legislature.[1]

The state tax commission of South Dakota was to consist of three members, appointed by the governor with the consent of the senate, for a regular term of six years at an annual salary of $2000. The governor was to select persons known to possess knowledge of the subject of taxation. The principal duties of the new commission were the state equalization, the assessment of certain classes of corporations (those formerly assessed by the state board of equalization), and the supervision of the local officials. In 1915 the inheritance tax law was revised, and the tax commission was placed in charge of its administration.[2]

The results which have been accomplished by the tax commission may be best appreciated by an examination of the figures showing the course of assessments of all property. These figures are given in the following table:[3]

ASSESSMENT OF ALL PROPERTY IN SOUTH DAKOTA, 1911–16 (MILLIONS)

Year	Farm lands and structures	Lots and improvements	Other lands	Personal property	Corporate property[4]	Total
1911	$214.9	$38.2	$3.7	$58.6	$34.2	$349.6
1912	220.0	40.3	3.9	55.9	34.2	354.3
1913	764.8	110.0	17.7	170.5	132.1	1,195.1
1914	782.6	106.0	25.8[5]	169.4	137.6	1,221.4
1915	818.4	108.1	26.2[5]	180.2	138.5	1,271.6
1916	832.7	109.9	27.4[5]	194.9	138.5	1,303.1

The most significant thing revealed by these figures is the immense increase in values in the first assessment made in 1913 under the supervision of the new tax commission. The new members had entered office filled with the determination to see all

[1] *Laws of South Dakota*, 1913, ch. 352. [2] *Ibid.*, 1915, ch. 217.
[3] Compiled from the reports of the Commission.
[4] Includes those corporations centrally assessed only.
[5] Includes unplatted lands in cities after 1914.

property placed in the duplicate at full value, and this table presents the results of their efforts. These efforts have included conferences with the assessors in most if not all counties, an extensive correspondence, and the use of improved forms for the assessment roll. In 1916 a brief but serviceable assessors' manual was issued.

In the second place, the total assessment of property has continued to grow, even after the initial increase. The tax commission has retained its aggressive temper, and has succeeded in keeping the aggregate assessed valuation moving upward.

But it will be observed that this subsequent increase has been made almost entirely by the two groups of farm lands and personal property. City lots and improvements thereon were assessed higher in 1913 than in any later year to 1916, and the corporate property assessed by the commission has remained practically constant in the last three years.

Finally, the table above furnishes a starting point for a brief discussion of certain aspects of the tax commission's work. The first of these is the function of equalization.

The power of the South Dakota commission in equalization is very comprehensive. It is expressly authorized to equalize among individuals and townships as well as among counties and among classes of property. The legislature evidently intended that the function of equalization should be a very important means by which inequalities in the local assessment were to be corrected. The commission nowhere refers to its method of equalization either of real estate or of personal property aside from one brief allusion to the treatment of the returns of automobiles. It is impossible, therefore, to judge the soundness and precision of the results. Furthermore, the discontinuance of the practice of publishing both the local and the equalized valuation of the various classes of property, with the change made by the commission in each county, makes it impossible to discover whether there is greater or less activity in equalization than in the first biennium.

The local returns were dealt with quite vigorously in this first biennial period, and changes were made in the assessment of farm lands in practically every county. The changes in the returns of

personal property were less extensive, although few classes escaped with no correction at all by the tax commission. These equalizing corrections were apparently confined to the county totals, and no attempt was made to check up the equity of the individual assessments or the intracounty equalization. In advocating the establishment of a county assessor in 1916, the commission advanced the argument that an adequate inspection of the work of the local assessors was impossible, and that nothing of this sort was undertaken except in appeal cases.[1] The work of the county boards of equalization was said to be equally unreliable, with the result that many local inequalities undoubtedly escape attention and correction under the process of equalization as now performed.

The tax commission has no set rule for the determination of corporate valuations, and consequently relies in a large measure upon the judgment of the members.[2] The board of railroad commissioners is required to prepare an estimate of the value of railroad property in the state for the use and guidance of the tax commission. In preparing this estimate the railroad commissioners are authorized to employ an expert if this seems desirable. Figures of this sort doubtless bulk large in the independent calculations of the tax commissioners. No data are available as to the relative weight given to the various factors called for in the reports required of the different classes of corporations. While it is true, as Professor Adams says, that an ad valorem assessment of corporate property is ultimately and at bottom a matter of judgment, it is highly important that the judgment be aided and guided by the most thorough and careful consideration possible of all the available data bearing on the value of the property. A sound technique in handling these materials is an essential requisite to the exercise of proper judgment in their modification for the purpose of establishing a proper valuation for taxation.

The table above reveals a rather striking increase in the assessment of personal property, not only in the first year of central

[1] South Dakota Tax Commission, *Report*, 1916, pp. 7–15.

[2] *Interview with H. B. Chapman, Secretary to the Commission*, August 30, 1916.

supervision but also in the last two years covered by these figures. It will be of interest to analyze these figures further since the details of the personal property schedule will shed light upon one of the most important questions in American taxation — the operation of the general property tax under centralized administration. This analysis is presented as an appendix to the chapter.[1]

The details of the personal property assessment before 1913 are not available but the experience of South Dakota during the past four years establishes conclusively the breakdown of the general property tax in that state. It is the familiar story of the failure to secure an adequate return of intangibles, the essential inequality of uniform taxation. The increase in the total of personalty, when seen in detail, proves to have been an increase primarily in a few classes of tangibles, notably live stock and vehicles. The strict provisions for forcing a return of intangible property have been useless legislation. One of these, the penalty for failure to declare property, has recently been sustained by the court.[2] Though the penalty for the omission was collected in this case, it will have no appreciable effect in stimulating fuller returns of such property. The commission recognizes the futility of the present situation and in 1916 was sponsor for a number of constitutional amendments, among them one providing for the classification of property for taxation. This amendment was defeated.[3]

Other proposals, not resting upon constitutional changes, include the establishment of the county assessor system, less frequent assessment of real estate, the adoption of a state budget system and numerous other minor suggestions.[4] The commission admitted its inability to supervise adequately the host of district assessors, and asserted that because of this condition serious inequality, evasion, and undervaluation still existed. A limited number of reassessments have been ordered, but the total addition to the tax duplicate in this way has been inconsiderable.

[1] See below, p. 626.

[2] Reported in the *Bulletin of the National Tax Association*, ii, pp. 115, 116, January, 1917.

[3] *National Tax Bulletin*, ii, p. 47, November, 1916. This was the third defeat for such a proposition since 1908. Nevertheless, the same program is before the people again at the next general election. *Ibid.*, p. 202, April, 1917.

[4] South Dakota Tax Commission, *Report*, 1916, p. 6.

The State Tax Commission of Nevada

In the task of reforming the administration of the tax system, the citizens of Nevada encountered a situation which differed from that of most western states on account of the peculiar economic conditions that have prevailed and because of certain features of the revenue system. The population is small, though the land area of the state is large. Much of the land is arid desert, and a considerable proportion of the arable and pasture land is held by the large ranch owners and devoted chiefly to stock raising. Agriculture is conducted as an auxiliary industry to stock raising. The other leading industry is mining. The census returns for 1910 show that about 10 per cent of the 26,600 homes in Nevada are located in country districts. This small minority, however, together with the banks which finance their agricultural pursuits, are in control in the state. They are opposed to land subdivision and an increase of the rural population, with its substitution of intensive farming for stock raising. They are also naturally interested in paying as small a share of the common tax burden as possible.

The basis of the state revenue system is of course the general property tax. The state's own revenues are derived principally from a direct tax, levied as a rated instead of as an apportioned tax, upon the locally assessed valuations. Under the constitution, the legislature must fix this rate of levy for two years in advance, using the appropriations and the estimated assessed value in determining it. Without central supervision of the local assessment it has been an easy matter for the assessors to reduce their local duplicates until the previously established state levies would not yield sufficient revenue to meet the state expenses. Fortunately for all concerned the constitutional limit on the state debt was only $300,000, so that a policy of deficit financiering by borrowing to pay current expenses could be of short duration. The aggregate deficit for the years 1909–12 inclusive was $481,769.[1] By the end of this period the bond limit had been reached and the impending revenue crisis forced some action to relieve the state treasury.

[1] Nevada Tax Commission, *Report*, 1914, p. 5.

The outcome of the preliminary discussion was the creation of a Citizens' Committee on Economy and Taxation. This committee did not make an elaborate investigation, but its researches were sufficient to disclose the fundamental weaknesses of the existing tax system.[1] The tax reform program suggested as the result of this brief study included the repeal of all constitutional provisions requiring uniformity of assessment and taxation; the abolition of the state tax and bullion agent, and the establishment of a state tax commission.[2] Of these recommendations the only one acted upon was that for the creation of the state tax commission, which was provided in 1913.[3] It was to consist of three members, two of whom were to be appointed by the governor for a term of four years at a salary of $3000. The third member was to be the first associate commissioner of the state railroad commission, ex officio. He was to act as chairman, and without additional compensation for his services on the tax commission. The commission was to make the state equalization, assess certain classes of corporations and exercise general supervision over the tax system.

State equalization by an ex officio board had been introduced in 1891, but the results did not meet with popular approval and the board was abolished in 1903.[4] In 1901 the county assessors were constituted a state board of assessors, which was required to meet annually at Carson City and assess certain classes of property.[5] With the aid of the railroad commission the assessed values of railroads were increased, but the board soon became the tool of the railroad interests. Reference has been made to the tactics employed in 1906.[6]

It was but natural that, under the conditions existing in Nevada, serious inequalities should develop in the actual basis of assessment. As a result of its investigations the commission estimated that the following variations in the ratio of assessed to true value were typical:[7]

[1] *Report of the Citizens' Committee on Economy and Taxation*, pp. 99–101.
[2] *Ibid.*, pp. 99–101.
[3] *Laws of Nevada*, 1913, ch. 134.
[4] *Ibid.*, 1891, ch. 51; *ibid.*, 1903, ch. 69.
[5] *Ibid.*, 1901, ch. 50.
[6] Cf. above, pp. 36, 37.
[7] *Letter from J. F. Shaughnessy to Professor C. J. Bullock*, March 11, 1915.

Property	Assessed at
Railroads	50 per cent
Public utilities	20– 30 " "
Mining and milling	20– 30 " "
Live stock	20 " "
Agricultural and grazing land (privately owned)	20– 30 " "
Town property	40–100 " "

It was decided to bring all property to a 60 per cent basis in the equalization of 1914, and to that end the assessors were instructed to make such increases as would be required to accomplish this result. The assessment of town property was not disturbed because of depleted resources, but the net result was the addition of $33,717,000 to the tax duplicate for 1914.[1]

This drastic action, with its promise of more to follow, aroused the opposition of those who had been profiting from the old regime, and in 1915 the original tax commission act was replaced by a substitute which reduced the commission's powers in certain important respects.[2] This act reorganized the tax commission by enlarging it to five members, three of whom were to be the state railroad commissioners acting ex officio, and one of whom was to be a practical land and live-stock man. The governor was to be ex officio chairman, which left but one member to be appointed. This appointee, chosen for a two-year term, was also to serve as secretary of the commission. The powers of corporate assessment and general supervision were not disturbed. The principal change made by the amendment of 1915 was the restoration of the county assessors to power by requiring them to sit with the new tax commission as the state board of equalization. Should this new board fail to make such corrections in equalization as would yield the necessary state revenue, the tax commission was authorized to insure the state against a deficit by a further equalization. The influence of the dominant economic class — the stock raisers — is seen in the provision that live stock is to be equalized at the values established by the state board of equalization, a body controlled by the locally chosen and controlled county assessors.

[1] *Letter from J. F. Shaughnessy to Professor C. J. Bullock*, March 11, 1915.

[2] *Laws of Nevada*, 1915, ch. 153.

The new commission has not published sufficiently detailed statistics to permit of a close examination of its results. The aggregate duplicate has been rising steadily, from $106,000,000 in April, 1913 to $175,734,000 in 1916. The only reported class of property which has not shared in this increase has been privately owned lands which in the last two years have fallen below the assessment of 1914. The assessed valuation of live stock has risen from less than $6,000,000 in 1913 to $15,000,000 in 1916, but according to the data compiled, showing the true number and value of live stock, a considerable quantity of the different live-stock groups is still entirely unassessed. The commission estimates that about 10 per cent of the intangibles are listed. In recognition of the impossibility of securing an adequate return of this property, the commission has been recommending the abolition of the uniform rule and the classification of property.

The principal reforms that appear now to be needed in Nevada are first, the elimination of the constitutional provisions which limit and restrict the legislature and tax administrative bodies; second, the abandonment of uniform property taxation, and third, the restoration of the tax commission of 1913 to full supervisory authority over the tax system. The commission is advocating all of these reforms, but there remains yet a considerable amount of prejudice and open opposition from those interests whose tax burdens would be increased — and justly so — by the change.

The State Tax Commission of New Mexico[1]

The principal functions of the New Mexico tax commission are the assessment of certain public utilities, banks, and live stock; the investigation of appeals brought against the action of the county boards of equalization and the correction of improper assessments when discovered through such investigations; and rather feeble advisory supervision over the local officials. On account of the narrow range of authority and the limited appropriations the New Mexico tax commission has been able to make

[1] Established by *Laws of New Mexico*, 1915, ch. 54.

but little headway thus far in correcting the abuses which had developed in the tax system.[1] The whole conception of the purposes and scope of the modern tax commission needs material broadening, in New Mexico, if these defects are to be dealt with at all satisfactorily.

[1] Cf. New Mexico Tax Commission, *Report*, 1916, pp. 10 ff.

APPENDIX A, CHAPTER XVIII

(*a*) THE ASSESSMENT OF CORPORATIONS IN COLORADO, 1912–16
(THOUSANDS OF DOLLARS)

Corporation	1912	1913	1914	1915	1916
Railroads	54,639	174,774	179,461	173,499	168,911
Telephones	3,791	10,842	10,842	10,559	12,742
Telegraph	940	1,507	1,496	1,478	1,608
Express	586	1,572	1,420	1,353	1,462
Sleeping car	456	1,108	1,101	1,101	1,101
Foreign car lines	486	852	762	676	632
Self-winding clock company	13	39	39	26	25
Local public utilities	....	59,540	66,898	64,993	55,969
Totals	60,912	260,242	262,019	253,686	242,451

APPENDIX A — *continued*

(*b*) THE ASSESSMENT OF PERSONAL PROPERTY IN COLORADO, 1912–16
(MILLIONS OF DOLLARS)

	1912	1913	1914	1915	1916
I. Tangibles					
Live stock	18.0	52.7	61.4	72.7	81.5
Vehicles	3.6	7.0	8.5	10.5	13.9
Musical instruments, clocks, etc.	2.7	4.2	4.6	4.7	5.1
Implements, machinery	....	3.1	6.6	7.4	7.6
Merchandise	16.7	39.0	39.3	40.7	41.7
Manufacturers' stocks	3.5	10.8	8.2	12.0	19.4
Household and personal	12.1	18.0	18.9	19.2	20.4
Furniture, fixtures	3.9	5.8	5.9	5.9	5.6
Totals	60.5	140.6	153.4	173.1	195.2
II. Intangibles					
Bank deposits	.7	2.0	12.6	11.2	13.7
Unsecured credits	3.2	17.7	15.1	15.6	16.3
Secured credits	.2	.6	4.9	5.0	5.2
Bank shares	7.8	23.1	22.8	21.7	20.9
Corporation stocks	.1	....	.3	.9	.1
Totals	12.0	43.4	55.7	54.4	56.2
III. All Other Property	4.9	3.1	3.4	2.3	2.6
Grand totals	77.4	187.1	212.5	229.8	245.0
Deduct exemptions	16.4	31.8	45.9	43.5	47.7
Total taxable	61.0	155.3	166.6	186.3	206.3

NOTE: The published figures for 1912 show an item of special privileges, franchises, etc., with a total assessment of $11,900,000. The highest figure for this item since 1901 had been $959,000 in 1903. The sudden increase was made in Denver county, and apparently represents the local assessment of the public utilities, though no return had been made under this item from Denver county since 1908. The amount reported under this head drops to a negligible figure after 1912, and is omitted from the table. The assessment of public utilities by the tax commission is shown in table (*a*) above. Cf. Colorado Tax Commission, *Report*, 1912, p. 23.

APPENDIX B, CHAPTER XVIII

THE ASSESSMENT OF PERSONAL PROPERTY IN SOUTH DAKOTA, 1913–16[1]
(MILLIONS OF DOLLARS)

Classification	1913	1914	1915	1916
I. Tangibles				
Live stock	87.9	86.8	95.7	104.8
Vehicles	7.6	10.7	12.3	15.4
Musical instruments	2.8	2.9	3.0	3.1
Household and personal	5.7	4.5	4.7	4.8
Tools, implements, machinery	10.1	7.9	8.1	8.5
Goods, wares, merchandise	23.8	22.8	22.5	2.27
Elevators, warehouses, and improvements on public lands	6.7	5.3	5.1	5.0
Other tangibles	3.3	4.1	4.5	3.9
II. Intangibles				
Moneys	5.5	4.4	4.2	3.9
Credits	2.7	3.9	3.8	3.9
Bank stock	11.9	12.3	12.6	13.4
Other bonds and stocks	.3	.1	.2	.1
Stocks of domestic insurance companies	.6	.7	.7	.7
Total intangibles	21.1	21.4	21.5	22.0
Street Railways, etc.	1.1	2.7	2.8	2.9
Grand totals	170.2	169.1	180.2	191.6

[1] Compiled from the reports of the commission.

CHAPTER XIX

CONCLUSION

No attempt will be made in this final chapter to summarize in detail the material covered in the preceding chapters, nor will it be possible to review the conclusions reached upon every point raised. The principal conclusions which may be drawn from a study of the recent administrative tendencies in American taxation will, however, be given.

With regard to the organization of the tax departments, it seems clear that the most satisfactory results will be obtained by establishing a fairly long term, providing stability of tenure, salaries large enough to attract able men, and securing the tax commissioners against the distracting influences of partizan politics, both in their appointment and in the fulfillment of their duties of office. Circumstances may require variation in the size of the board, but it appears probable that the best results will generally be secured from a commission of three members as against the single commissioner or the board of five or more members. In any case, the experience with ex officio members yields a perfectly clear conclusion — no commission should be hampered with members so chosen. Further, it is equally clear that the state loses by burdening its tax department with miscellaneous minor duties which are in no way connected with the subject of fiscal administration, or at most but remotely related to that problem. The North Carolina corporation commission is evidently expected to give its spare time to tax administration. In Massachusetts and West Virginia the tax commissioner is required to act as commissioner of corporations, and in Washington the commission acts as an excise board, supervising the issue of liquor licenses for the state. The system of license taxes in West Virginia involves duties the burden of which is quite in excess of the financial return to the state, since the problem is so largely regula-

tive in character. This tendency is unfortunate for the development of the most efficient administration of the central problem of equitable taxation.

Turning to the positive accomplishments of the state tax departments, the first point to be noted is the gain that has been made in the assessment and equalization of real estate, over the conditions which had been universal before the advent of the tax commission. The primary cause of this improvement was the novelty of the new boards and of central supervision in any degree. The local assessors were awed by the mere existence of supervising boards, the scope and significance of whose authority was but vaguely understood. The first results in Indiana, Wisconsin, and Michigan are to be attributed in no small degree to this fact. As the novelty wore off, however, closer supervision over the local officials was found to be necessary, and where the authority requisite for this oversight did not exist the local standards gradually declined.

But the improvement in state equalization has not sufficed. The assessment of real estate is still a local affair, and even with a more effective state organization a sufficient incentive to competitive undervaluation has been found in the possibility of evading county and other local taxes apportioned over more than one tax district. Moreover, investigations in many states have shown that serious inequalities exist between individuals and classes of property in the same district. For these conditions the only remedy seems to be greater control over the original assessment and the development of a check upon the local assessors sufficiently powerful to detect and eliminate all attempts to derive advantage from competitive undervaluation or from downright evasion. Various writers have pointed out that the separation of sources of revenue means the withdrawal of state oversight of the local assessment and equalization, and that the truth seems to be that more oversight, and not less, is needed. While it may be argued that a good assessment is the best equalization, and of this there is no denial, yet it must be said that the state cannot shift or evade its responsibility for the oversight necessary to prevent injustice and inequality in local assessments. Prevention may be

better than cure, but the emphasis upon preventive ideals must not obscure our view of the practical curative agencies which may be necessary in the meantime. The functions of equalization and supervision are in a sense complementary.

A further gain made by the state tax commissions has been the development of improved technique in tax administration, especially in testing the local assessments and the assessment of corporate property. For obvious reasons none of the state boards, of the type common before the advent of the tax commission, could have made this development. Probably the most efficient method for correcting the errors in local real estate assessments, whether due to conscious attempt at undervaluation or to sheer ignorance of values, is the sales method of equalization. This plan appeared in various states, in New York, in Connecticut, and perhaps elsewhere. For its development into a highly efficient technical device, most credit is due the Wisconsin tax commission. Some form of the system is now in use in a number of states, but personal observation of the methods followed in the compilation of the sales ratios casts some doubt upon their entire accuracy, especially when used for the purpose of equalizing assessments of corporate property in different tax districts. Whether the sales ratios are accurate or not, their mere use in equalization will tend to check competitive undervaluation by negativing its results, since any uncalculable change in the local figures by a state board would operate in this way. But unless the ratios be thoroughly reliable there is no assurance that the state board's results guarantee justice among tax districts or classes of property. In some states a careful revision of the sales material and of the present methods of preparing the ratios seems necessary.

It should further be added, as an explanation of the greater relative success in the assessment of real estate, that land is of all property the most difficult to keep off the tax duplicate. The only guarantee against some evasion of real estate, however, is the use of tax maps upon which every parcel of land is shown and properly described. And since a proper assessment is furthered by a certain analytical treatment of the property to be assessed, classification of real estate and separate returns of land and

improvements are very essential. As yet these requisites of proper assessment are used in but few states though many commissions have begun to urge their introduction. In general the experience of the last decade in the assessment of real estate shows that still greater control over the assessment is necessary in order to attain the legal standard of full cash value.

The achievements of the new tax departments have been remarkable, also, in the assessment of corporate property, as compared with the results under the former state boards. Here the gains have not been due so much to the novelty of the change — for central assessment of corporations had been practiced for many years before 1891 — but rather in the performance of this function by more or less expert bodies giving their whole time and attention to the subject and using much more careful methods of procedure than had ever been known before. In these respects there was an element of novelty which was not without its effect. The chief improvement in methods developed by the state tax commission for the assessment of corporations has been the physical valuation. Originally used for taxation purposes by the New Jersey board of state assessors in the eighties, this method of arriving at an independent determination of value has spread to a number of states, though the emphasis upon it is still far from uniform and a temporary reaction appeared a few years ago in Michigan, the state which did most to popularize it. Nowhere, however, is the physical valuation taken as the taxable valuation without some modification. The earlier policy was to hold in strictest secrecy the essential methods of modifying the engineer's figures, but very complete descriptions have now been furnished to the courts and the public by the Wisconsin and other commissions. This willingness to publish the details of the system of valuation indicates the growth of scientific methods and of confidence in those methods. The principal reason, probably, for the secrecy of tax boards in earlier years was the realization that their procedure could and would be unfairly attacked. That is to say, the corporations were very eager to pick flaws and would have desired nothing better than to tie up the assessments in long legal proceedings. While the commissions' methods were tentative and

their confidence in the results was less complete, the policy of secrecy offered obvious strategic advantages. The corporations have now come to accept the central assessment rather willingly as the tax commissions have acquired greater skill and experience. This change is bringing full publicity that removes one of the weightiest objections which has been raised against the ad valorem system of corporate taxation, the private office valuation, with no opportunity for the corporation or the public to know the details of the process.

Comparing the results of ad valorem and gross earnings taxation, the honors seem fairly evenly divided, the former system being more flexible and the latter more simple. Since flexibility is so desirable in a revenue system, however, the balance of advantage appears to lie with the ad valorem system in those states in which the board is capable of developing a careful and scientific method of application. This involves an accurate physical inventory and in addition a thorough study of the conditions of the business from many points of view by a board the members of which are properly trained for the task. Where no intensive study of the problem is possible, either by reason of the board's personnel or a parsimonious financial policy toward the tax department, the simpler system would probably prove more satisfactory. This is especially true in those states in which the gross earnings have been used as the principal factor in determining valuation. Here it seems that the gross earnings system should be adopted outright. It is simpler, it is already the system *de facto*, and it is certainly more effective and accurate when applied directly than in such roundabout fashion, while the use of the more complex ad valorem method by unskillful or incompetent persons involves a considerable risk of unfair assessments.

In the case of certain transmission and transportation companies, however, the tangible plant of which is a relatively less important factor in their earning capacity, the propriety of the ad valorem system of taxation is more doubtful. The cost of assessment is relatively heavy and the receipts are comparatively small. This method here violates the fundamental principle of economy in tax administration, a principle which is further

violated by the distribution of the receipts over hundreds of tax districts. The state treasury is certainly the more logical recipient of these taxes and the gross earnings system the more economical method of determining them, since the possible losses through inflexibility are offset by the greater expense of the ad valorem method. In addition, the tax commission would gain time for more important work by using the gross earnings method for such companies.

The general tendency toward judicial review of the work of administrative bodies has manifested itself in a peculiarly unfortunate way in the assessment of corporations. It is highly illogical for the findings of fact of an expert administrative body to be subject to review by a court, whose capacity for thorough review of such findings is often inadequate. The interests of the corporate and other taxpayers should be properly safeguarded by providing a review before the assessing board itself, with the right to protect every legal interest by an appeal to the courts. But the review of questions of fact by the courts is anomalous, and very largely destroys the object of the board's existence for purposes of corporate assessment.

On the whole, however, the results of centralized administration in the taxation of real estate and corporate property have been favorable. Valuations have been increased, better methods of assessment have been developed, and some improvements effected in the equalization of tax burdens. These accomplishments are the bright side of the shield, the reverse of which is presented when attention is turned to the assessment of personal property under the uniform rule. The aggregate assessment of personal property has been increased, it is true, except in New York state where the swearing-off process has flourished luxuriantly; but an analysis of the personal property returns in those states in which the data permit such a study reveals the fact that the increase has been largely in the groups of tangible property. Furthermore, there has been in some cases a distinct tendency to penalize the relatively unproductive forms of property, such as household furniture and personal belongings. Live stock has also contributed heavily to these increases. On the other hand, the figures for intangible

personal property reveal most clearly the failure of the uniform rule, even under centralized administration. The total assessment of intangibles has usually stood still, or has increased but slowly, while many of the individual items have declined. The occasional exceptions, such as the assessment of mortgages in Kansas and the gains made in Ohio since 1910, are not sufficient demonstration of the adequacy of the uniform rule in view of the otherwise universal failure. It may be said that the powers of the tax commissions are not sufficiently inquisitorial at present to secure more general or complete listing of intangible property. The Ohio commission has contended that with more drastic control over the assessment a complete return of all property is possible. The two assessments made in Ohio under such conditions were of course inconclusive, but it is hardly conceivable that public opinion would long tolerate the degree of inquisition into private affairs needed to secure this end. The essential injustice of such taxation strengthens this view. A tax rate of 1 per cent, which is regarded by the conservatives as all that moderation could desire, amounts to an income tax of 20–25 per cent upon the return from many classes of investments. The experience with the income tax in Wisconsin has convinced that commission that the average taxpayer would rather be honest than not, unless confiscation is to be the result, but under the general property tax there is no assurance or safeguard against this outcome. The auditor of Cuyahoga county, Ohio, declared a few years ago that the existing tax rate of $1.55 per $100 could not be lowered, even with a resulting increase of the duplicate, without both city and county incurring grave danger of bankruptcy.[1] Prospects of this sort did not popularize the central assessment of all property in Ohio in 1914.

Many of the tax commissions recognize the failure at this point, and some have already begun to consider possible substitutes for the uniform personal property tax, though this rule has been actually abandoned in but few states. The two most prominent substitutes that have been proposed are a state income tax and some form of classification of property. The experience thus far

[1] *Cleveland Plain Dealer*, March 20, 1914. There has been no subsequent reduction in the tax rate of Cleveland.

with both of these proposed substitutes leads to the conclusion that success depends upon efficient state control. This is the judgment of the Wisconsin commission with regard to the income tax, and the experience of the Minnesota commission is equally clear concerning the administration of a classified personal property tax. Neither the separation of the sources of state and local revenue nor the perfection of the methods of equalization can wholly free the state from its responsibility for the supervision of local assessments. The striking success of the more recent Massachusetts income tax indicates the possibilities of a combined income and property tax.

The scope and limits of this supervision are, however, more debatable propositions. Whether the Wisconsin plan of close state supervision and thorough review of local assessment, supplemented by wide distribution of data of values, or the recent Ohio experiment of complete state performance of the local assessment will prove the superior, time alone will tell. Both of these plans suffered from the disadvantage of employing the actual assessors for a part of the year only. This inevitably meant that inferior men were frequently chosen, men without steady employment, the less capable men of the community. Few persons in either state could afford to be a candidate for the relatively unremunerative office of town assessor, if their time were worth much more in some other employment. The plan suggested by the Kansas commission obviates this difficulty. Under it the county assessor would be required to view and assess all of the property of his county, taking at least a year to the work. If deputies were needed, only such number should be employed as could be given steady employment in the work of assessment throughout the year. This plan would require an adjustment of the assessment periods so that these permanently employed persons could perform the entire work. Some of the states in which centralized administration has been in vogue for years need to recast their assessment schedule in order to allow more time for certain phases of the work.

The Wisconsin commission's judgment on the desirability of complete state control of all local assessments appears to be

shifting as the good results of the closer coöperation of state and local officials become more apparent. These results have been obtained by substituting the centrally controlled income tax assessor for the locally controlled county supervisor of assessments, by making greater efforts to instruct the local officials and to provide them with data on values, and by equipping the tax commission with ample powers of review and correction of the local results.

Whether the assessors be elected locally or appointed centrally, three conditions must be met if assessments are to be materially improved. The first of these is the establishment of an intermediate official between the tax commission and the local assessor. Many states have already created the office of county assessor, but his allegiance has generally been local rather than central. The county assessor should be centrally chosen, or at least removable by the state tax commission.

In the second place the tax commission should develop more adequate facilities for collecting and distributing data of values, especially sales data, and should be empowered to compel the use of these materials by the local assessors. This would require a revision of the systems now in use in some states for the collection and use of such material. Finally, there must be courageous and impartial exercise of adequate powers of revision of assessments, and the removal, if necessary, of the local officials.

This administrative organization would probably be satisfactory for the assessment of real estate, classified personal property, and personal incomes, and possibly of local public utilities. It is doubtful if it would prove entirely satisfactory for the taxation of the larger corporations, both public and private, a task which can hardly be adequately performed except by the state tax commission itself. Thus far, only the public service corporations have been centrally assessed, but the question may well be asked whether the local assessor is any better able to value the plant of a large manufacturing company than he is to value the property of a railroad company. The suggestions of the Michigan Commission of Inquiry of 1911 on this point have apparently met with little response. There is certainly great need of reform here, how-

ever, for the efforts of the local assessors are wholly inadequate and but few states make any attempt to supplement the local valuation of tangible property with a state valuation of the corporate excess or other compensatory taxes on private corporations. Reform of the methods of taxing private corporations must speedily engage the attention of tax commissions and legislatures.

Among the most significant of the achievements of the state tax commissions has been the introduction of systems of uniform accounting and auditing for public offices and more careful attention to budgetary questions. The development of a scientific and standardized system of public accounting lies at the very basis of any accurate study of public expenditures, and thus is an essential of budget reform. There is no evidence as yet of the control of budget estimates by the tax commissions, except in Ohio where the commission may veto the tax levies fixed by the county budget commissions. It is indeed doubtful if their functions should be extended so far, but their control of public accounting will make possible a much more dependable calculation of expenditures by the proper officials, and the introduction of precision at this point will stimulate greater accuracy in actual budget making. There is no doubt, also, that this greater precision in public accounts will contribute to economy of public expenditures by directing more general attention to the subject and providing more accurate information thereon. Economy in public expenditures will also be achieved by saving the state the considerable sums that are now improperly diverted from the public treasury, a species of embezzlement which is made possible by the loose systems of accounting in vogue. The tax commissioner of West Virginia has recovered thousands of dollars since state control of public accounting was instituted.

The possibilities of molding and developing public opinion through the reports issued and recommendations advanced have only begun to be realized. Some commissions endeavor to make their periodical reports genuinely valuable documents, the perusal of which over the state is of the highest value as an educational influence. Others have apparently striven for the elimination of all analysis and discussion of their problems and for the publica-

tion of as barren and uninviting documents as possible. One is led to conjecture that the publication of such a report is an indication that very little analysis of the problem has been going on and that the commissioners have no vital message for the people. Whether this condition is a result of dry rot or overwork, it is equally serious for efficient administration.

The course of development of the present systems of fiscal administration which has been outlined in this work reveals a steady progression toward greater state control. Beginning with virtually complete freedom of local assessment, there has been developed a steadily stronger and stronger control over the process of local listing and valuation of property, until eventually the state has assumed in several instances large powers of control. The Ohio experiment of complete state administration of the assessment marked, in this respect, a new departure in tax administration, the consequences of which really extend far beyond the present subject. The tendency which has been described in this work is that of greater *state* control of *local* administrative processes with state assumption of those processes, like corporate assessment, which had clearly ceased to be local functions. This supervision by the state has been referred to above either as state control or as state administration of the local officials. On the other hand the Ohio plan meant that state administration, in the sense of responsibility for performance, had actually been substituted for local administration, and that the latter had ceased to exist. The general conclusion which has been reached from this study has been that *state* control of *local* administration has been beneficial, and should be extended in some directions even further than at present, in order to permit the correction of certain defects still existing. Complete state assumption of the functions of local administration is, however, quite another matter and it is doubtful if this extension of state activities can be justified. For the sake of local self-government, and even of democracy itself, can the state afford to deprive the local units of all responsibility in a field so important for the whole people as that of taxation? The problem is a serious one. It involves the loss of much that is vital in local government and the

extension at the same time of state activity in the interests of general welfare. The present movement toward central control, or central administration in that sense, cannot stop where it is. Certain means of a more efficient state oversight have been provided and are being exercised. The financial system which encouraged local negligence and cunning, while it penalized honesty and administrative efficiency, is being slowly but surely abandoned. A most difficult but not impossible part of the task lies yet ahead, the development of a sense of local responsibility which can be trusted with the proper performance of certain functions, such as the assessment of real estate, the establishment of local tax levies, and the local equalization of assessments, which are after all local rather than central in character. There has been a beginning of this development in such states as Wisconsin, Kansas, Massachusetts, and Connecticut, though even in these states the task of awakening the spirit of local responsibility has been a heavy one. The tax commissions must realize, and bring the people in general to realize, the dangers which lurk in excessive bureaucratic centralization of the responsibilities of democracy. Not until this has been achieved can it be said that their mission is fully accomplished.

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BIBLIOGRAPHY

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For brevity and the avoidance of repetitions certain abbreviations have been used in indicating the publishing agent. For example, the "Columbia University Studies in History, Economics and Public Law" have been referred to as the "Columbia Studies"; similarly, the "Johns Hopkins University Studies in the Social Sciences" have been referred to as the "Johns Hopkins University Studies," and the "Addresses and Proceedings of the National Tax Conference held under the Auspices of the National Tax Association" have been shortened to "Proceedings of the National Tax Conference" of the appropriate year.

For similar reasons an abbreviated title has been used in the citation of certain works or documents, instead of the complete title. In such cases the abbreviated title appears here in parenthesis.

The material has been arranged in four main groups. The first includes general works on taxation and other aspects of public finance, or special parts of the field; the second includes special articles and addresses and some public documents, as the publications of the Census Bureau; the third includes the reports of the special and permanent tax commissions in the various states; and the fourth contains some references of a miscellaneous character.

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