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ADVISORY COMMISSION
ON
TAXATION AND FINANCE.

APPOINTED BY
The Mayor of The City of New York,
1905.

COMMITTEE ON
TAXATION AND REVENUE.

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REPORT
OF
MR. PURDY
ON
THE PERSONAL PROPERTY TAX.

Submitted at Meeting of June 6, 1905.

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TAXATION AND FINANCE.

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REPORT OF LAWSON PURDY

ON

THE PERSONAL PROPERTY TAX.

Committee on Taxation and Revenue:

GENTLEMEN—In accordance with your request I submit the following report upon two questions. First: Is it desirable to strengthen the provisions of the law for the collection of taxes upon the personal property of non-residents, and to subject to taxation additional personal property of non-residents? Second: Should the provisions with reference to the deduction of debts from personal assets be so changed that debts may only be deducted from credits?

The literature upon the subject of the general property tax as applied to the taxation of personal property is so voluminous that it seems unnecessary to add to it by any lengthy discussion of the subject as an original contribution. Tax Commissions have been appointed in many of the States to consider questions of this character, and numerous books and pamphlets have been written by students of the subject, which have added greatly to our general knowledge. The brief report which follows is made up almost entirely from quotations from these various treatises and reports. In presenting evidence with regard to the expediency of making any change in the law with reference to the deduction of debts, I have selected those States in which it is not permitted to deduct debts from personal assets other than credits.

The general property tax as applied to the taxation of personal property is so thoroughly discredited that any attempt to make it more effective can only serve to delay its inevitable downfall. The greatest difficulty in securing the repeal of any law imposing a tax is to be found in the amount of revenue which the tax pro-

duces. The smaller the revenue the easier it is to repeal the law. It is plain that our law might be changed so as to produce a larger revenue for a time, but in the light of all experience it seems that this would only increase the injustice of the law and render its repeal more difficult.

HISTORY OF THE GENERAL PROPERTY TAX.

* "*Historically*, the property tax was once well-nigh universal. Far from being an original idea which the American instinctively adopted, it is found in all early societies whose economic conditions were similar to those of the American colonies. It was the first crude attempt to attain a semblance of equity, and it at first roughly responded to the demands of democratic justice. In a community mainly agricultural, the property tax was not unsuited to the social conditions. But as soon as commercial and industrial considerations came to the foreground in national or municipal life, the property tax decayed, became a shadow of its former self and ultimately turned into a tax on real property, while professing to be a tax on all property. The disparity between facts and appearance, between practice and theory, everywhere became so evident and engendered such misery that the property tax was gradually relegated to a subordinate position in the fiscal system and was at last completely abolished. All attempts to stem the current and to prolong the tax by a more stringent administration had no effect but that of injurious reaction on the *morale* of the community. America is, to-day, the only great nation deaf to the warnings of history. But it is fast nearing the stage when it, too, will have to submit to the inevitable."

Mr. David A. Wells thus sums up the experience of other countries:

* "*Origin and History of the General Property Tax*—The idea that in order to tax equitably it is necessary to assess everything capable of resulting in the obtaining of revenue is not original with the American people. Its inception dates back to the dawn

* The General Property Tax, pp. 60 and 61, Edwin R. A. Seligman, 1890. Also in his *Essays in Taxation*.

* *Theory and Practice of Taxation*, pp. 432-437, David A. Wells, 1900.

of civilization, and its development may be regarded as in the nature of an economic evolution. In the incipient stages of society, as already pointed out, property consisted exclusively of things tangible and visible—lands, buildings, cattle, slaves, agricultural products, household effects and implements—and what was exacted by rulers or chiefs of their subjects was arbitrary proportions of such kinds of property or of personal service, and was not in any proper sense taxation, but tribute. For thousands of years there were no credits or material evidences of indebtedness, as there are none at the present time among barbarians or half-civilized people; for a knowledge of letters, of the art of writing, and a somewhat durable and portable material to write upon were essential prerequisites for their existence, the earliest evidence of the recognition of anything like a mortgage being the inscription on certain clay tablets excavated from the ruins of the ancient cities of Babylon and Assyria, which were evidently the highest results of long and slowly developing civilization. In fact, in the early stages of society there was no important form of capital other than landed property and the instrumentalities, including slaves, for its cultivation, and so far as the system for obtaining revenue for the rulers of state merited the name of taxation, it was practically a 'land' tax.

"As civilization advanced slavery gradually broke down; trade or traffic between individuals or adjacent communities extended and became commerce; free labor appeared; capital developed and multiplied the forms of visible, tangible property. Then the system of obtaining revenue began to have the characteristics of a general property tax; and as the coincidence of great value with small bulk in some forms of tangible, visible property favored concealment, some methods of obtaining revenue from property other than mere inspection became necessary, and were obtained by the Romans in the latter days of their empire by endowing their assessors and taxgatherers (as before shown) with the power to administer torture to unwilling taxpayers, a method that was followed and perpetuated until within a very recent period by the rulers of most Asiatic countries; and in later days, when credits came into existence and extensive use, and titles to property and evidences of indebtedness were regarded

as property, although intangible and invisible, a method of discovering and assessing the same, as approximate to actual torture as a higher civilization would sanction, was everywhere adopted.

* * * * *

"After the dissolution of the Roman Empire and the subsequent reconstruction, as it were, of government and society in Europe during the early feudal period, and when land was practically the only form of wealth, the payments exacted for the support of the governing powers—kings, barons, knights, etc.—were essentially and almost exclusively in the nature of land taxes; and the terms '*danegeld*,' a charge on lands at so much per hide, or an area of about one hundred acres; '*scutage*,' a charge on tenants in lieu of military service; '*carucage*,' a charge on 'plough lands'; '*tallage*' (from the French *tailler*, to cut off), a charge on the tenants of royal manors, and the like were designations of the different forms of such assessments at different periods. As civilization advanced and was accompanied, as at a more primitive period, with an increase in the forms of personal property, a combination of taxes on land and movables, or a general property tax system, developed and was adopted by all the nations of western Europe with all the despotic adjuncts which seemed necessary to make its enforcement successful. The ultimate result of such a system was what might have been anticipated. From a very early period it occasioned great popular dissatisfaction. In Milan, Italy, as early as 1208, it was enforced with such severity 'that the assessment book was known as the *libro del dolore*.' In Florence it became so honeycombed with abuses and the load of taxation fell with such crushing force on the small owners of property that imminent popular revolution and disorder compelled its essential modification. As wealth increased, evasions of the tax increased in a greater proportion in every community, leaving the burden of the system, as now in the United States, on that class of the population—mainly agricultural—that are least able to bear it. Sir Robert Cecil stated in 1592 that there were not five men in London assessed on their goods at two hundred pounds (one thousand dollars); and Sir Walter Raleigh stated in 1601 that 'the poor man' (in England) 'pays as much as the rich.' In Florence in 1495 only fifty-two persons

paid the tax on trade capital, although the amount of such capital must have been immense. Marshal Vauban, of France, who wrote on taxation about 1700, stated that the *taille personnelle* was assessed only on the poorest classes. The result has been that as the difficulty of assessing visible personal property and the impossibility of reaching invisible and intangible personalty became apparent, the tax was gradually modified, and finally abolished in all European countries, except, possibly, Switzerland and Holland, where its nature has very little of its original and typical character. One of the first acts of the French National Assembly in 1789 was to abolish it entirely. [In England] a provision for taxing personal property under a nominal land tax continued to exist on the statute book until 1833, when, through constant exemptions and systematic evasions, the annual revenue accruing from the same had run down to the sum of eight hundred and twenty-three pounds (four thousand one hundred and fifteen dollars). It is also interesting to note that the people of Europe have been so long exempted from a general property tax that their leading writers on economic or fiscal subjects rarely discuss it or even seem to have any knowledge of its characteristics or historical experience."

"*The Use and Value of Oaths as an Adjunct of Taxation.*—Consideration is properly asked in this connection to the use and value of oaths, an increase in the number and stringency of which is often regarded as essential to effective and equal taxation. It is the all but unanimous opinion of officials who of late have had extensive experience in the administration of both the national and State revenue laws that oaths, as a matter of restraint or as a guarantee of truth in respect to official statements, have in a great measure ceased to be effectual; or, in other words, that perjury, direct or constructive, has become so common as to almost cease to occasion notice. In fact, there has come to be a feeling in the community that an oath in respect to matters in which the Government is a party is a mere matter of form, of mechanical procedure, and that its violation, especially with a mental reservation, and when the interest of other individuals is not specifically affected, does not in itself constitute a crime. The fact that the assessors of almost every State every year make oath that they

have valued all property at its actual value, when they know they have not, constitutes one proof of the truth of this assertion. The everyday entry of goods at the custom-house at undervaluation constitutes another; the enormous frauds committed in recent years under the internal revenue laws of the United States, which in the case of distilled spirits entailed a loss in a single year of over \$130,000,000, and in which the taking of false oaths was at every step an essential feature, constitutes a third; while of individual examples, which every assessor of experience can detail, the record would be almost interminable.

"During the past few years the low tone of commercial morality in the United States has been a fact generally recognized and much commented upon; but it has not, that we are aware, been made a subject of inquiry by those to whom the guardianship of public morals is particularly intrusted. How far the existing system of laws relating to taxation—national and State—are justly chargeable with the results to which reference has been made, or how much in the division of responsibility is to be set down to the account of those who violate the law, and how much to those, who, forewarned of the weakness of human nature deliberately make laws which especially lead men into temptation, are yet unsettled questions.

"A point of great interest and importance in this connection, though often overlooked, is that even if all the States of the Federal Union should entirely exempt personal property within their territory and jurisdiction from taxation, it would, nevertheless, owing to the dual nature of the Government of the United States, be subject to a large measure of heavy and disproportionate taxation. Thus, the expenditure of the Federal Government, which represents taxation, was in 1896, including the cost of revenue collection, in excess of \$445,000,000, not one cent of which was derived from taxes on real estate. The aggregate of annual taxation by States, counties, cities, municipalities, and the District of Columbia for the same year, is estimated by reputable authorities to have been about \$400,000,000, of which at least one-fifth was assessed or was collected from personal property. If real estate paid all the State taxes, personal property, therefore, would still be paying all the United States Government

taxes, or a large excess of its equitable share of any or all national taxation. A claim that any personal property owner is justified in protecting himself against such extortion in any and every legal way has much, therefore, to be said in its favor. When such protection cannot be effected legally, he has only to leave the State for others that are not extortionate oppressors of capital. But who cannot perceive on reflection that personal property (capital) must be largely used by its owners and at fair rates at their residence; and that the home of such capital will show the benefit in increased local business, increased population and increased value of real estate by its use? Why, then, so much overrighteous talk of personal property owners dodging taxation?

"Logical and ingenious as have been the arguments in opposition to the legal exemption of personal property from taxation, the citation and consideration of the undisputed experience of all countries, people and ages are all that is necessary to refute and disprove them. There was a time when nearly all men believed and taught that the world was flat, and when the few lisped to the contrary exposed themselves to a charge of religious heresy and punishment. But a comparatively short navigation experience effectually put an end to all controversy on this subject; and it is doubtless only a question of time when personal property will be exempt from governmental taxation, because no system has ever been devised, or is likely to be, which will enable a State to tax it with any approach to uniformity and equity."

EXPERIENCE OF AMERICAN STATES.

OHIO.

It has been claimed by some that the administrative features of the law in certain States are not sufficiently thorough and severe, and for that reason the system has broken down, and not because the system is wrong in itself. This reproach cannot be laid against the law in Ohio. The Constitution of Ohio provides as follows: "Section 2. Laws shall be passed taxing by a uniform rule all moneys, credits, investments in bonds, stocks, joint-stock companies or otherwise; and also all real and personal property according to its true value in money."

The statutes of Ohio require that blanks containing lists of every conceivable kind of personal property shall be sent to every person over twenty-one years of age, who must answer every question relating to the various sorts of property which he owns or are in his keeping, and he must do this under oath and under pain of heavy penalties. In order that the inquisitorial nature of the law may be fully understood I quote Sections 2736 and 2737 of the Ohio statutes:

"Sec. 2736. Each person required to list property shall, annually, upon receiving a blank for that purpose from the assessor, or within ten days thereafter, make out and deliver to the assessor a statement, verified by his oath, of all the personal property, moneys, credits, investments in bonds, stocks, joint-stock companies, annuities or otherwise, in his possession or under his control on the day preceding the second Monday of April of that year, which he is required to list for taxation, either as owner or holder thereof, or as parent, husband, guardian, trustee, executor, administrator, receiver, accounting officer, partner, agent, factor or otherwise."

"Sec. 2737. Such statement shall truly and distinctly set forth, first, the number of horses, and the value thereof; second, the number of neat cattle, and the value thereof; third, the number of mules and asses, and the value thereof; fourth, the number of sheep, and the value thereof; fifth, the number of hogs, and the value thereof; sixth, the number of pleasure carriages (of whatever kind), and the value thereof; seventh, the total value of all articles of personal property, not including in the preceding of succeeding classes; eighth, the number of watches, and the value thereof; ninth, the number of pianofortes, and the value thereof; tenth, the average value of the goods and merchandise which such person is required to list as a merchant; eleventh, the value of the property which such a person is required to list as a banker, broker or stock jobber; twelfth, the average value of the materials and manufactured articles which such person is required to list as a manufacturer; thirteenth, moneys on hand or on deposit subject to order; fourteenth, the amount of credits as hereinbefore defined; fifteenth, the amount of all moneys invested in bonds, stocks, joint-stock companies, annuities or other-

wise; sixteenth, the monthly average amount or value, for the time he held or controlled the same, within the preceding year, of all moneys, credits or other effects, within that time, invested in, or converted into, bonds or other securities of the United States, or of his State, not taxed, to the extent he may hold or control such bonds or securities on said day preceding the second Monday of April, and any indebtedness created in the purchase of such bonds or securities shall not be deducted from the credits under the fourteenth item of this section; but the person making such statement may exhibit to the assessor the property covered by the first nine items of this section, and allow the assessor to fix the value thereof; and in such case the oath of the person making the statement shall be in that regard only that he has fully exhibited the property covered in said nine items."

It is also provided that any person required to list property who shall claim that there is no taxable property within his control which he owns or which he has on account of others, shall be required to make oath to that effect. Persons may be summoned, questioned under oath; and if any person fails to appear, or, appearing, refuses to testify, "he shall be subject to like proceeding and penalties for contempt as a witness in actions pending in the probate court. If a person refuses to list or swear his property to the assessor, the auditor shall add 50% to the amount returned or ascertained, and the amount thus increased shall be the basis of taxation."

In addition to these provisions of the statutes there is what is called a Tax Inquisitor Law, which gives the County Commissioners authority to make a contract with persons who may give information which will result in personal property being placed on the assessment roll. In Hamilton and Cuyahoga counties such informers may be paid 25% of the amount collected, and in the rest of the State 20% of the amount collected. Debts may be deducted from credits, but otherwise there is no exemption because of indebtedness.

In 1893 a Tax Commission was appointed, by Governor McKinley—two Democrats and two Republicans—to investigate the whole subject of taxation. In its report the Commission said: "We have in Ohio the most efficient and minute scheme

of bringing upon the duplicate all of this class of property which has been devised in any State." After describing the system, the Commission presents numerous illustrations all designed to show that the amount of personal property assessed has rather decreased than increased. In one table it presents the moneys and stocks and bonds returned for taxation in the different city counties of Ohio for the years 1881 and 1892—that is, before and after the passage of the Tax Inquisitor Law. This table shows that in almost every case less money was assessed in 1892 than in 1881, and less stocks and bonds, or a very small increased amount, in spite of the fact that the various cities were increasing at a rapid rate in population and wealth. In the foot note* I present this table as made by the Commission of 1893 with the corresponding figures for 1903. In Cincinnati there is actually less money and less in stocks and bonds assessed in 1903 than in 1881.

Summing up the whole matter the Commission says: "The system as it is actually administered results in debauching the moral sense. It is a school of perjury. It sends large amounts of property into hiding. It drives capital in large quantities from the State. Worst of all, it imposes unjust burdens upon various classes in the community; upon the farmer in the country, all of whose property is taxed because it is tangible; upon the man who is scrupulously honest, and upon the guardian and executor and trustee, whose accounts are matters of public record."

For a number of years Ohio has endeavored to amend the Constitution so as to make a reasonable system of taxation pos-

	MONEY.	STOCKS AND BONDS.
* Hamilton County, 1881.....	\$2,217,868	\$2,135,873
Hamilton County, 1892.....	1,585,375	2,230,223
Hamilton County, 1903.....	1,193,077	1,399,515
Cuyahoga County, 1881.....	1,402,322	1,836,054
Cuyahoga County, 1892.....	1,800,593	2,085,001
Cuyahoga County, 1903.....	2,385,016	1,823,440
Lucas County, 1881.....	174,946	51,935
Lucas County, 1892.....	253,087	170,944
Lucas County, 1903.....	558,804	218,309
Franklin County, 1881.....	1,513,965	594,897
Franklin County, 1892.....	1,094,448	897,930
Franklin County, 1903.....	1,324,590	498,932
Montgomery County, 1881.....	1,643,938	670,835
Montgomery County, 1892.....	1,354,593	435,254
Montgomery County, 1903.....	1,702,891	257,213
State-at-large, 1881.....	40,642,919	8,647,839
State-at-large, 1892.....	38,417,478	10,550,756
State-at-large, 1903.....	61,492,870	9,850,355

sible. So far these amendments have failed because it is necessary to obtain a majority of all the votes cast at an election to pass an amendment to the Constitution. In 1903 an amendment was adopted by the Legislature and submitted to the people. By this amendment the clause for the equal taxation of all property was stricken out and the following language substituted: "The General Assembly shall provide for the raising of all state revenue for all state and local purposes in such manner as it shall deem proper. The subjects of taxation for state and local purposes shall be classified, and the taxation shall be uniform on all subjects of the same class, and shall be just to the subject taxed."

This amendment was prepared by the Ohio State Board of Commerce and was indorsed by the Cincinnati and Cleveland Chambers of Commerce and by 21 other organizations throughout the State. The Republican platform of 1903 declared:

"We favor removing the limitations which prevent a more just system of taxation, so that property can be adequately classified for taxation purposes, and invite the most careful consideration of the amendment for that purpose to be voted upon at the election next November."

The Democratic party, in their platform, declared as follows:

"Taxation: We heartily indorse the constitutional amendment now pending before the people, to be voted upon at the coming election."

The vote upon the amendment was 326,622 in favor and 43,562 opposed. The amendment failed because it did not receive a constitutional majority of all the votes cast at the election. The Ohio State Board of Commerce declares that this amendment will be submitted to the next Legislature, and calls upon the people of the State to give it hearty support.

ILLINOIS.

In the State of Illinois the statutes require personal property to be listed yearly according to the quantity owned on the 1st of May. Persons listing are required to make statement under oath and to deliver to the assessor an itemized schedule of the number, amounts, quantity and quality of all taxable personal

property in their possession or under their control. When any person refuses to make and verify the schedule required, it is the assessor's duty to list the property of such person according to his best judgment, and to add a penalty of 50 per cent. to the valuation; the person refusing being subject also to a fine of \$200, as for a misdemeanor.

By 1897 this system was a complete wreck in Chicago and was little better in the remainder of the State. Personal property in Chicago amounted to only 13.5 per cent. of the total taxable valuation of all property, and in the remainder of the State it amounted to only 17.7 per cent. Cook County (containing the City of Chicago) in that year had one-third of the total real estate value of the State and only one-sixty-third in value of watches and clocks, one-ninth as much money, one-twenty-second as much value in carriages and wagons, and one-fifty-fifth as much of credits.

Recently all attempts to obey the letter of the law was abandoned in Chicago, and for the tax upon personal property there has been substituted what is practically a gross revenue tax upon business. Professor Commons has described this extra-legal system in the *Review of Reviews*.^{*} It is a striking testimony to the impossibility of enforcing the general property tax in a large city and to the practical nature of the American people, who in this case have managed to work some sort of rough justice while entirely disregarding the letter of the law.

The relation between the assessed value of the various items of personal property classified in Cook County and in the remainder of the State is an object lesson to farmers just as it was in 1897.

MISSOURI CITIES.

Missouri is blessed by the same kind of a listing law as that of Ohio and Illinois. There are only four large cities in the State, and the iniquitous effect of personal property taxation is clearly shown by a comparison between the city counties and the remainder of the State, or between the City of St. Louis and one of the rural counties (1899). In the four city counties personal property amounts to less than 14 per cent. of the total assessed

^{*}February, 1903.

value of real and personal property, while in the remainder of the State it amounts to 28 per cent. In St. Louis personal property amounts to 12 per cent. and in the rural county of Camden it amounts to 30 per cent. of the total. Camden County is an exceedingly good illustration of the way the taxation of personal property affects the farmers. The assessed value of the property in the county is \$1,773,076. Of this amount 30 per cent. is personal property, and nearly two-thirds of this personal property by value consists of live stock; that is, over one-sixth of the entire taxable value of Camden County is live stock. Under a severe listing system it is absolutely impossible for farmers to avoid paying taxes on their live stock, and the result is that farmers, as a class, pay vastly more in taxes than they ought to pay. The effect of this upon the cities is indirect, but none the less extremely harmful. The farming industry is discouraged, and country boys are driven to the cities, where their competition reduces the wages of those who are city born.

WEST VIRGINIA.

In West Virginia there are no large cities, and consequently personal property pays a large share of the taxes, averaging for the whole State over 28 per cent. A New York Assemblyman once said that the personal property tax worked beautifully in West Virginia, because there is a severe listing system there, and he said that this proved that all the State of New York or any other State needed was to imitate the system of West Virginia. This theory might sound well to one unacquainted with the facts, but, as always, the facts in West Virginia give the lie to any theory of universal taxation.

In Ohio County town lots are more than double the value of farm lands, and personal property pays 25 per cent. of the taxes; while in Harrison County, in which farm lands are six times the value of town lots, personal property pays 36 per cent. of the taxes. In West Virginia a record is kept of the various items of personal property. In Ohio County, which had more than double the real estate value of Harrison County, watches and clocks are assessed at \$1,550, while in Harrison County they are assessed at \$15,425, or ten times as much. The 27,000 inhabitants

of Harrison County have 2,514 watches and clocks (exclusive of those in stock in stores or factories), while the 48,000 inhabitants of Ohio County get along with 34 (according to the assessors). These figures are from the Auditor's report for 1902, and there is no evidence of any improvement since the report of the commission in 1884, which said: "Things have come to such a condition in West Virginia that, as regards paying taxes on this class of property, it is almost as voluntary and is considered pretty much in the same light as donations to a neighboring church or Sunday school."

A special commission on taxation reported in 1902. In their report they advocated the abolition of taxes on intangible property. They said that strong arguments had been presented to them for the entire exemption from taxation of improvements on land, and they recommended that power be given to the municipalities of the State to exempt intangible property, manufacturing plants or all personal property, also to exempt improvements on land in whole or in part.

MASSACHUSETTS.

A commission appointed to inquire into the expediency of revising the tax laws of the State, in their report, issued in 1897, says: "The taxation of personal property in the form of securities and investments is thus a failure. It is incomplete, uncertain, not proportional to the means as between individuals, grossly unequal in its effects in different parts of the State. The experience of Massachusetts in this regard is the same as that of the other States in the Union. Everywhere, without exception, the testimony is that this part of the system of the general property tax is unequal, unsuccessful, often demoralizing to tax officers, always irritating to taxpayers."

"The experience of Massachusetts is the more striking because here the difficulty does not lie mainly in the administration of the tax laws. The assessors are usually honest, competent, zealous. We have heard much of grave abuses, of almost corrupt laxity, in other States, but in this Commonwealth, notwithstanding occasional defections (some of which we have just referred to), the standard of public duty continues to be high,

and the cause of failure is not to be found mainly in official dereliction. It lies in the system itself."

A special commission appointed by the Mayor of Boston reported in April, 1891, and said that it would be greatly to the benefit of Boston to abolish personal taxes altogether. On page 24 of their report they said: "In Philadelphia personal property is not doubly taxed; in New York it is seldom doubly taxed; in Boston the most strenuous efforts are made to collect a double tax upon it. Boston and Massachusetts are both avoided like a house guarded by a savage dog. It is true that one may not be bitten, but it is pleasanter to go where the dog is not so fierce."

"Our system is a scarecrow, and a most efficient one."

"Both capital and men are free in this country; they go where they please."

"Enoch Ensley, of Tennessee, lays down this axiom: 'Never tax anything that would be of value to your State that could and would run away, or that could or would come to you.'

"Untold millions of industrial capital has been warned away from Massachusetts and driven out of it by our oppressive and unreasonable laws, and many a millionaire has feared to come here or left here for the same reason."

"We all know that the value of real estate depends upon the capital employed on it. The more capital there is the more demand for labor. We should seek to attract capital. We should not continue to warn it off and drive it out."

A FAILURE IN NEW JERSEY.

New Jersey testifies to the same effect. A commission was appointed in that State by Governor Griggs to investigate the subject of taxation and reported in 1897. The commission says: "It is now literally true in New Jersey, as in other States, as has been well said by another, that the only ones who now pay honest taxes on personal property are the estates of decedents, widows and orphans, idiots and lunatics. * * * The reports of our State Board of Taxation for 1893, 1894 and 1895 speak of these things and decry them, and like complaints have come to us from many sources."

Then follows a complete table of the counties of the State, with the assessed value of real and personal property and the percentage of taxes paid by each class of property. In speaking of this table the commission said: "It is submitted, this table speaks for itself—is a significant indictment of our present tax laws—and reveals evils and abuses in New Jersey taxation that, together with the foregoing, call for due and early remedies."

MINNESOTA.

Minnesota has the same constitutional provision with reference to taxation that is found in the Ohio Constitution. In 1902 a tax commission made a report, in which they said:* "So universally is the evasion of the law in the assessment of personal property practiced and so notorious is the fact that much the greater volume of it is unassessed, that its evasion is often regarded a virtue rather than a vice. In few, if any, States is more than 25 per centum of the personal property liable to taxation listed for assessment.

"It necessarily results that, in the enforcement of the law with respect to such property, numerous instances of gross injustice occur. So far as it is reached at all it belongs chiefly to banks, the estates of decedents, insolvents, minors, persons of small means and the comparatively few who conscientiously list their property.

"It has unquestionably given rise to widespread immorality. Men of unquestioned business integrity not only find little difficulty in listing their property far below its real value, but also in making oath to lists which they know to be false.

"It has long been the policy of this State, as well as many other States, to tax mortgages and other forms of credit. Long experience has demonstrated that such a law can at best be but imperfectly enforced. Students of taxation, with scarcely an exception, denounce it as fallacious in principle and a fruitful source of immorality."

In 1902 the Legislature adopted an amendment to the Constitution, but failed to take the advice of their Tax Commission, and made a long, complicated amendment, giving additional

* Report Minnesota Tax Commission, pp. 6 and 7, 1902.

power to the Legislature in minor matters, instead of abolishing all restrictions upon the power of the Legislature. This amendment was defeated by the people. This year, 1905, the Legislature has adopted a simple amendment which practically gives all power to the Legislature. The amendment was passed by a Republican Legislature and signed by a Democratic Governor. There is every prospect of its acceptance by the people.

KENTUCKY.

In 1903 Kentucky adopted a constitutional amendment authorizing cities and towns to substitute for the general property tax on personal property, income and license taxes, and in 1904 a law was passed carrying out the provisions of the amendment.

KANSAS.

The necessity for amendment is appreciated in Kansas, as is seen by the Governor's message to the Legislature of 1903. Governor Bailey said: "For many years it has been generally conceded that our present tax law is insufficient for present conditions, crude and inequitable in its operation. Framed thirty-four years ago, when Kansas was a frontier State, and all its property visible and easy of assessment, it is now imperfect and wholly inadequate to meet the changed conditions of society."

CALIFORNIA.

Governor Pardee, of California, in his message to the Legislature in 1903, calls attention to the inequitable working of the California law, a law very similar to that of Minnesota. The Governor said: "The amount of personal property assessed in California is actually less by several millions than it was thirty years ago. As long ago as 1872 the assessors found nearly \$220,000,000 worth of personal property. A few years later the assessment had shrunk to a little more than half of that sum, and though there has since been a slow increase, it amounts for the current year to only \$200,000,000."

TEXAS.

Texas has a similar restrictive Constitution, and Governor Sayres, in his message in 1903, said: "It is strictly true that the amount of property escaping taxation steadily increases year by year, and that when rendition is made it is so rated as to hardly reach one-third of its true market value."

ONTARIO.

In Canada more progress has been made in improving methods of local taxation than throughout the United States; but until recently the general property tax was in common use. It has lately been abolished in the City of Toronto, largely as a result of the work of the Ontario Assessment Commission, which reported in 1902. In their report they said (page 15): "The conclusion would seem to be that in Ontario, as everywhere else, the direct taxation of personal property generally fails to reach the new kinds of property or wealth which modern civilization has produced. The more comprehensive general property tax which prevails in most of the States of the American Union fails in spite of the most stringent provisions for the discovery of personal property. The various attempts to compel its enforcement by stricter inquiries and greater penalties have only brought a train of moral evils upon the community, without reaching the property intended to be taxed. As Professor Ely has said of it: 'The more you perfect it the worse you make it.' In its application to personal property it has been pronounced to be unequal, capricious in its incidence, replete with incongruities, and its deficiencies of principle are aggravated and exacerbated by its non-enforcement."

"From another entirely different point of view the General Property Tax fails in its intended effect. When taxes are imposed on different classes of persons in proportion to their ability to pay, measured by their wealth, it is with the object that those persons upon whom the tax is laid shall really bear it. If they can shift it to others they are really not taxed. Experience would seem to show that when merchants, lenders of money, insurance companies, and many others are taxed on their capitalized prop-

erty, the only effect is to raise the price of goods, the rate of interest, premiums, etc., so that the tax really falls upon others, the persons who deal with them."

MARYLAND.

As a member of the Tax Commission of the State of Maryland, Professor Richard T. Ely made a supplementary report in 1888. He says that there is great dissatisfaction with the tax conditions and proceeds: "This dissatisfaction has increased without interruption up to the present time, and every year renders our existing methods of assessing property and of taxing it more intolerable. The endeavors to improve upon actual methods have been frequent and are daily increasing in frequency, but they usually prove fruitless or render a bad matter worse, because those who make them have failed to go to the root of the evil, which is the system itself. The truth is the existing system is so radically bad, that the more you improve it the worse it becomes. This lies in the nature of things and nothing any Legislature can do can alter this condition of things. Experience and reason alike teach this, and in my opinion place it beyond controversy for all those who have eyes to see what is passing about them every day of their lives."

"The Testimony of Experience.—I have first to remark that the one uniform tax on all property as an exclusive source of revenue, or the chief source—the main feature in direct taxation—never worked well in any modern community or State in the entire civilized world, though it has been tried thousands of times, and although all the mental resources of able men have been employed to make it work well. I have read diligently the literature of finance to find an example, but in vain, and lest this should not be sufficiently trustworthy, I have made it my business, in my capacity as Tax Commissioner, to visit typical States and cities and to make inquiries in person, of citizens as well as officials entrusted with the administration of the laws. I have visited Charleston, South Carolina; Savannah, Atlanta and Augusta, Georgia; Columbus, Ohio; Madison, Wisconsin; Toronto, Mon-

* Supplementary report on Taxation, pp. 100, 101 and 104, Richard T. Ely. Report Maryland Tax Commission to the General Assembly, 1888.

treal and Quebec, Canada; and the result has been abundantly to confirm all that I have said about the impracticability of the one uniform tax on real and personal property."

THEORY OF THE GENERAL PROPERTY TAX.

The theory of the General Property Tax requires the equal taxation of all property by the same rule. Out of the attempt to put this theory in practice has grown a further theory that in order to be equal taxation must be equally imposed on all property. Experience shows that the practice antedated the theory. To carry out this theory all property must be assessed and taxed at its true value, and it assumes that the pressure of taxation shall be equal upon all forms of property just as the pressure of the air is equal upon all tangible objects.

If the theory ever could work anywhere, it could only work in a community absolutely isolated from all the rest of the world. Under conditions as they actually exist a few comparisons between different kinds of property will be sufficient to show the impossibility of obtaining the conditions under which alone the theory could work with any degree of perfection. One who invests in real estate in any city pays a price based upon existing conditions, and in effect buys an annual income; for example, he pays the sum of \$10,000 for property which will yield \$500 a year. If the property should yield only \$400 he would pay no more than \$8,000 for it. He buys with reference to known local conditions. On the other hand, if one buys railroad bonds he must pay a price fixed by world markets, and if he is so fortunate as to secure safe bonds that pay 5 per cent. \$10,000 will buy an income of \$500 in the absence of any taxation. If the bonds are taxed $2\frac{1}{2}$ per cent., his income is but \$250, instead of the sum of \$500, which he would get from an investment in real estate.

If all retail merchants in a city are taxed equally the tax will be added to the price at which they sell their goods, and they will be able to make the usual profit upon capital invested in such business. A manufacturer who makes articles for export can only sell in competition with manufacturers in other States and countries, and taxes levied on him in excess of taxes upon a similar business elsewhere reduce his profits, and may reduce them

to such an extent as to force him to remove to a more favorable place.

If money is invested in a mortgage in any State in which mortgages are taxable (except California, Oregon and, after July 1st, New York), the investment is not based upon the equal taxation of all mortgages in that State, but is made in competition with money sent from outside the State for investment there.

Instances showing the impossibility of treating all alike by a general property tax imposed equally on all property might be multiplied indefinitely. These examples suffice to show the utter lack of uniformity produced by a so-called "equal tax." The theory has been abandoned and a modern theory takes its place, which is that property must be classified according to its nature, and taxed or exempted from taxation in accordance with justice, expediency and practicability. This theory has received in effect the indorsement of one of our most thoughtful bodies. In the case of *Pacific Express Co. vs. Seibert* (142 U. S., 351), the United States Supreme Court said:

"This Court has repeatedly laid down the doctrine that diversity of taxation, both in respect to the amount imposed and the various species of property selected either for bearing its burdens or for being exempt from them, is not inconsistent with a perfect uniformity and equality of taxation in the proper sense of those terms; and that a system which imposes the same tax upon every species of property, irrespective of its nature, condition or class, will be destructive of the principle of uniformity and equality in taxation and of a just adaptation of property to its burdens."

WHAT SHALL WE DO IN THE CITY OF NEW YORK?

The evidence presented could be multiplied many fold, but it seems ample to demonstrate that every effort should be put forth to get rid of the general property tax, and that any attempt to patch it up will only make a bad matter worse and render the task more difficult. It cannot be doubted that in The City of New York the public mind is ready for great changes, and that if we had the power we would speedily effect a vast improvement.

If we should propose almost anything to take the place of the tax on personal property it is certain we should array a larger body of opinion against our proposal than in favor of it. The next step is to secure the power to change.

In suggesting that we should secure the power to change we are not proposing anything new, but a remedy which has been tried with success elsewhere, and has been recommended here on many occasions and in several forms. It was recommended by our great Tax Commissioner, George H. Andrews, in a memorial to the Legislature in 1874. In the course of his address to the Assembly Committee on Ways and Means Mr. Andrews said: "The effect of the present laws for assessing personal property is disastrous to the owners of real estate, inasmuch as many of our best citizens remove to the States already enumerated to avoid the operation of our tax laws. The real estate of the State needs for its development and prosperity residents, capital and business. These are the elements which, coursing through the veins of the community, give it life and health. Without these real estate must droop and languish, but with these trade must flourish, mechanics find employment, stores and tenements be fully occupied, the farmer find a ready market for his produce, and the sunshine of prosperity gladden every heart and lighten every burden.

"Under the operation of the present laws real estate must continue to bear more and more of the burden of taxation, and also suffer heavily because those laws, instead of attracting, scare away residents, capital and business."

In his message to the Board of Aldermen in 1888 Mayor Hewitt recommended that the City should have power to abolish personal taxes, and said: "The abolition of personal taxes in this city would attract to it the capital of the whole world. We are now the centre of exchanges on the Western Continent, but in a few years we should be the clearing house for the commerce of the globe. * * * Any proposition to impose taxation upon what people or corporations owe, instead of what they own, is absolutely unsound, and it is difficult to understand by what process of reasoning this policy is advocated. According to the conclusions of the best financial authorities actual property should

alone be taxed. Evidences of debt should never be taxed, because, as a rule, they only represent property which has already been taxed. No sounder system of taxation for local or State purposes can be devised than that which practically puts the tax upon tangible and visible property, and upon public franchises which have an actual cash value, as shown by their earning power."

In 1901 the New York Chamber of Commerce endorsed a bill designed to give The City of New York the power to make changes in its system of taxation, by doing two things. First: It provides that the proportion of revenue The City of New York shall pay to the State and that the other counties of the State shall pay to the State, shall be based upon the amount of revenue derived locally. This does away with the necessity for uniformity throughout the State and makes possible a grant of power to the local authorities to make changes in the local system. The bill further contains a section conferring this grant of power:

"Sec. 4a. Other property may be exempted from taxation, or the assessment upon the same reduced, as provided in this section, but such exemption or reduction of assessment shall have uniform operation throughout the county or city in which it is made, and shall not be made on the ground of ownership. Within any county such property shall be exempt from taxation or the assessment upon the same reduced in such manner as the board of supervisors of such county shall from time to time prescribe. Within any incorporated city, extending over the whole of any one county or over more than one county, such property shall be exempt from taxation, or the assessment upon the same reduced in such manner, as the board of aldermen of such city shall from time to time prescribe. Nothing contained in any special act, or the act incorporating any city or village, shall affect the validity or operation of any such exemption or reduction of assessment. The provisions of this section shall not affect section four nor articles nine, ten, fourteen and fifteen of this chapter, nor any other general law of the state."

The bill is printed in full as an appendix to this report. It has been endorsed by the Chamber of Commerce of the State of New York, the State Commerce Convention, Board of Trade

and Transportation, Merchants' Association, West End Association, United Real Estate Owners' Associations, Business Men's Association of Cohoes, and other associations of business men, the Central Federated Union, the Building Trades Council and many other labor organizations.

It will be seen that provision is made not only for the exemption of property from taxation altogether, but for a reduction of the rate of assessment if that shall be deemed desirable. It might be that instead of abolishing the tax on some forms of property entirely it would be deemed wise to reduce the rate, and if the experience of Pennsylvania and Connecticut is worth anything it is demonstrated that a smaller tax on certain forms of personal property will produce a considerably larger revenue than a larger tax. Again, the main objection to the abolition of the tax upon personal property is that the rate would be increased upon real estate, and thus tend to check improvements and make the building of homes for the people more costly. The power to reduce the assessment on any form of property would permit a reduction of the rate of assessment upon dwellings and other improvements. This would entirely counteract any tendency to check the erection of buildings, and indeed would encourage their erection.

So long as a tax on land does not increase faster than the value of the land increases, it is not a burden upon the owner. Professor Ely says:*

"When the tax on the value of land is liable to comparatively slight variation, and is something which can be calculated upon as a fixed and unalterable fact, it partakes of the nature of a charge upon the land, and to this extent it may be said to amount simply to partial public ownership. A farmer owns, let us say, one hundred acres of ground purchased for \$10,000, but a mortgage for \$5,000 rests on it because he was able to pay only one-half of the purchase money. He feels the burden of taxation and groans under it, yet he should reflect that he would be no better off if his land had never been taxed, for in that case he would have been obliged to pay so much more for it, and instead of being \$5,000 in debt, he would owe, perhaps, \$7,000. I re-

* Taxation in American states and cities, Richard T. Ely, pp. 246, 247 and 248, 1888.

cently purchased a house, and in deciding how much I was willing to pay, I took into consideration the taxes. If the house had been exempt from taxation, I would have been asked more for it, and would have been willing to give proportionately more. How, then, can I say that I am really bearing any burden at all? I simply pay the public annually for its claim on my property, and if this claim should be released, it would be equivalent to a present to me. Of course, if the rate of taxation is raised, it amounts to this, that the claim on my property is raised and the value of the part owned by the public increases. The more invariable and permanent taxes are, the larger the extent to which the above principle can be applied. * * *

"Apart from this, land is visible, easily valued, and permanent in its location, and these qualities render it specially suitable for taxation. The following reasons have also been given for a tax on real estate, more particularly on land: Land derives an increased value from public security and from public works, and taxes are expended chiefly for these two purposes. This is so true with reference to public improvements that many of our growing cities have become embarrassed by expenditure made at the solicitation of land owners, particularly on occasion of 'booms,' and not, as popularly imagined, by the moneyless rabble. An instance recently occurred in Buffalo, where large expenditures were forced upon the people by real estate owners, and against the protest of at least some of the workingmen. A second reason is that the tax may be considered as a return to the community for the rights which it has surrendered in what was once common property.

"All assessors should be by law especially directed to assess to the last dollar of its true value all real estate held for speculative purposes. There is a common and iniquitous practice, which I have observed everywhere in my investigations, of undervaluing land held for a rise, and not used at all, or used only for some unnatural purpose, as when city lots are utilized as cow pastures. Such land is occasionally actually valued as farm land. Thus men, without a stroke of work, and even while obstructing the natural growth of cities, see their property steadily increase in value, and this is solely due to the industry and thrift of their fellows."

SUMMARY.

In view of the experience of foreign countries and those American States which have employed the most thorough and stringent means of taxing personal property, it is plain that the system is wrong in principle and should be abolished; that any plan for enforcing the law more efficiently by repealing the provision allowing the deduction of debts from personal assets, by subjecting additional property of non-residents to taxation, or by requiring sworn statements from taxpayers, will increase the injustice now done to individuals and work against the interest of real estate owners by driving away persons and property which alone give value to city real estate. By increasing the amount collected for a time it will render the abolition of the tax more difficult.

Personal property amounts to 13% of all the property assessed in The City of New York, but over one-third of the personal taxes are not collected, so that in fact personal property, assessed for the general property tax, only pays about 8% of the taxes. It would be greatly to the advantage of all the people of the city to abolish the tax at once and entirely. In view of the relation of the City to the State this is impossible, and I therefore recommend to the Commission for their approval the annexed bill for the Apportionment of State Taxes and for Local Option in Taxation.

LAWSON PURDY.

APPENDIX.

AN ACT to amend the Tax Law by providing for the apportionment of State Taxes and for local option in taxation.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Tax Law is hereby amended by adding thereto, after Section 4, the following section:

§ 4a. Other property may be exempted from taxation, or the assessment upon the same reduced, as provided in this section, but such exemption or reduction of assessment shall have uniform operation throughout the county or city in which it is made, and shall not be made on the ground of ownership. Within any county such property shall be exempt from taxation, or the assessment upon the same reduced in such manner, as the board of supervisors of such county shall from time to time prescribe. Within any incorporated city, extending over the whole of any one county or over more than one county, such property shall be exempt from taxation, or the assessment upon the same reduced in such manner, as the board of aldermen of such city shall from time to time prescribe. Nothing contained in any special act, or the act incorporating any city or village, shall affect the validity or operation of any such exemption or reduction of assessment. The provisions of this section shall not affect section four nor articles nine, ten, fourteen and fifteen of this chapter, nor any other general law of the State.*

SECTION 2. Section 171 of the Tax Law is hereby amended by adding thereto the following:

Ninth. Obtain annually from the financial officer or other officer or person charged with the custody and disbursement of any funds of each tax district of the state a report of the amount of gross revenue of each tax district for the preceding calendar year and the sources of such revenue; and for this purpose such local officer of each tax district, at the expense of such district,

* Section four, of this Chapter, provides that certain property shall be exempt from taxation. Articles nine, ten, fourteen, and fifteen deal with the taxation, for State purposes, of corporations; transfers of property by will, by the interstate laws of the State or in expectation of death; the tax on sales of stock; and on mortgages.

shall furnish such information in such form as may be required by the state board of tax commissioners. Neglect or refusal to file a true and correct report in the office of the state board of tax commissioners at the time and in the form required by the board is a misdemeanor, the making and filing of a report containing a willful misstatement is a felony.

Tenth. Classify and file, according to tax districts, the reports of gross revenue which they obtain from local officers.

Eleventh. Examine the reports of gross revenue filed with them, and tabulate the results of such examination, so as to show summarily, and in separate tables, for each tax district, for each county and for all the counties of the State, and for each calendar year, (1) the gross revenue, (2) the sources of such revenue, (3) any other results which they think it for the public interest to exhibit. They shall present a report of the results of such examination to the state board of apportionment at its meeting on the first Tuesday in September.

"Tax district," as used in this section and in section 173 of this chapter, means a political subdivision of the state, having a board of assessors, or an assessor or officer, authorized to assess property therein for taxation for state, county, city, village, school, highway, or any other purpose whatever, or having an officer or officers authorized to sign warrants for the collection of taxes.

"Gross revenue," as used in this section, and in section 173 of this chapter, means the total sum of money received by any tax district for public purposes, and the value, at the rate of commutation allowed by law, of work performed for the tax district without compensation under a requirement of law. But it does not include assessments for local improvements, money borrowed, money received as interest on any obligation of the tax district owned by said district or held in trust for it by any board or officer, or so much of the revenue from sales to private users of water, gas, electricity, or other industrial service as represents the cost thereof.

For the purpose of this section, and of section 173 of this chapter, the city of New York shall be deemed to be one county.

SECTION 3. Section 173, of the Tax Law, is hereby amended so as to read as follows:

§ 173. State board of [equalization] apportionment powers and duties.

The commissioners of the land office and the three commissioners of taxes shall constitute the state board of [equalization] apportionment. The state board of [equalization] apportionment shall meet in the city of Albany on the first Tuesday in September in each year [for the purpose of examining and revising the valuations of real and personal property of the several counties as returned to the board of tax commissioners, and shall fix the aggregate amount of assessment for each county, upon which the controller shall compute the state tax. Such board may increase or diminish the aggregate valuations of real property in any county by adding or deducting such sum as in its opinion may be just and necessary to produce a just relation between the valuations of real property in the state. But it shall, in no instance, reduce the aggregate valuations of all the counties below the aggregate valuations thereof as so returned] and, at such meeting, shall ascertain and determine the percentage of state tax each county shall pay, by dividing the sum of the gross revenue, for the preceding calendar year, of each county including all the tax districts within the county, by the sum of the gross revenue of all the tax districts of the state for the same year. The comptroller shall immediately ascertain from this [assessment] determination of the percentage of state tax which each county shall pay, a copy of which shall be transmitted to him, the [proportion] amount of state tax each county shall pay, and mail a statement of the amount to the county clerk and to the chairman and clerk of the board of supervisors of each county.

SECTION 4. This act shall take effect October first, 1906.

EXPLANATION.—Matter underscored ——— is new; matter in brackets [] is old law to be omitted.