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SECOND ROUND TABLE

PROPERTY TAXATION

MONDAY, JUNE 3, 1946, 7:30 P. M.

DAVID H. STEVENS, presiding.

(A transcript of these proceedings is not available. They included some provocative remarks by the chairman; three leading papers, all of which are reproduced below; two scheduled discussions, only one of which was captured for the record; and some exceptionally lively discussion from the floor.)

ALTERNATIVE METHODS OF TAXING REAL PROPERTY

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In a period such as that in which we are living, when cherished institutions are imperiled everywhere, no study of real estate taxation can be complete unless it emphasizes the fact that locally administered taxes on real property have been closely associated throughout many centuries with the growth of virile institutions of local self-government and of the concepts of individual liberty. It may be contended that this association is the result merely of historical accident. The fact remains, nevertheless, that in the great motherlands of southern Europe, in which real estate taxation had not been highly developed on the local level prior to the age of colonization following the global explorations of the fifteenth and sixteenth centuries, local autonomy of the type which we, for example, take for granted, has had only a stunted growth, and that real estate taxation and local autonomy alike have developed only in narrowly limited forms in most of the overseas settlements descended from those mother countries. In some of the countries of northern Europe, on the other hand, institutions of local self-government and of the local taxation of real estate had early reached higher stages of development. In those countries of northern Europe which have emerged from the second World War as self-governing nations, press dispatches and official reports indicate that the ancient institutions of local self-government and real

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estate taxation have survived both blitzkrieg and occupation. Meanwhile, their overseas descendants have continued in the old tradition.

The limited time available to me, whether for the preparation or for the presentation of this paper, has compelled me to confine my scrutiny to one family of local systems of taxing real estate—that found in Great Britain, in the United States of America, and in the self-governing dominions of the British Commonwealth of Nations. While there are notable variations among the members of this family of systems, certain characteristics remain common to all. Under each, the local governments have been vested with powers and responsibilities concerning a wide range of relatively costly services and improvements; and the major part of the costs of those services and improvements is derived from a locally administered tax imposed, with occasional exceptions, at a uniform rate applied to the annual or capital value of every parcel of taxable real estate listed on rolls compiled by local officials in each of the several areas of local government.

THE LOCAL RATING SYSTEM OF ENGLAND AND WALES

The oldest member of this family of local tax systems assumed definite form in an act of the English Parliament in 1601. The major purpose of the act was to require every parish in England and Wales to make provision for the support of its own paupers. To provide local revenues for this purpose, the parish overseers of the poor were required to make an assessment roll for the parish as a whole and to levy a local tax on that roll at a rate sufficient to maintain the destitute inhabitants. The preëxisting local tax system had consisted of a strange medley of special acts and ancient customs. Because the governing bodies of local units of government other than the parishes were permitted by the new act to certify their requirements to the overseers of the poor for extension on the same rolls as the poor rates, the door was opened for the ultimate development of a nationwide system of local taxation, uniform for all types of local units.

The act itself was no more notable for the clarity and precision of its definition of the tax base than many more recent tax laws have been, whether in England or elsewhere. The overseers, acting as assessors, therefore had to rely for guidance on their knowledge of practices and procedures already in existence. Since these varied widely from one part of England to another, there was at first little uniformity among the parishes in the form and content of the local rolls.

Among the elements which influenced the practices that grew up under the act, a few are worth listing because of their effects not only on the methods of rating now in force there but also on the forms of local taxation which emerged elsewhere, as successive

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waves of migrants left England to establish homes in North America, Australia, and South Africa. The manors, which among other things had long served as areas of local government in the rural sections of England and Wales, had been accustomed to impose local taxes payable by their inhabitants, whether in services, in kind, or in money, on the occupiers of the lands of the manor in proportion to the annual rents paid. The livestock owned by the several grades of occupiers was also taken into account in the levies. In areas of England, on the other hand, located in what we should now call levee and drainage districts, ancient custom (subsequently sanctioned by statutory enactment) imposed costs of ordinary repairs and maintenance on the occupiers alone, but provided also that the costs of occasional expensive major repairs should be imposed only in part on the occupiers of lands as occupiers, the remainder being levied on land owners as owners. Furthermore, a national tax on movables, that is to say on what we should now call tangible personal property, had for more than two centuries and a half been administered by local officials. In addition, local rolls made up under special acts relating to designated chartered municipalities, which required the apportionment of local taxes amongst the townsmen according to each man's "ability and substance," included not only the annual value of real estate occupied but also tangible personal estate and personal incomes from occupations.

At First A Combined Tax on General Property and Income.—Edwin Cannan, on whose *History of Local Rates in England* I have leaned heavily, cites cases to illustrate the problems which confronted judges as a result of the lack of clarity in the act of 1601 and the wide variations in form and content of local rolls which grew out of earlier acts or ancient customs. In some instances, the overseers endeavored to impose local levies on owners of real estate as well as on occupiers, or on owners instead of occupiers, especially when those owners happened to be nonresidents. (The tendency of assessors to single out nonresident owners for special treatment on their rolls is not, of course, without parallel in this country.) In addition, there was a widespread tendency to include tangible personal property in the form of stock-in-trade and livestock on the local rolls—a tendency which the courts seemed to countenance during the entire period from 1601 to the time of the American Revolution. During the same period, the judges seem to have had some difficulty in deciding whether local overseers were or were not carrying out the intent of the law when they included on their rolls, and taxed at the property tax rate, certain incomes from occupations. As will be seen later, all of these factors have an important bearing on the systems of

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local taxation which evolved during the same period in Britain's overseas colonies.

Later a Tax on Real Estate Only.—Partly because of the growing influence on Parliament and on local governments of persons engaged in commerce and manufacture, partly also, perhaps, because the demands imposed by the Napoleonic wars had led the national government to impose an income tax, the local overseers subsequently showed a decided tendency to eliminate from their rolls both personal property and incomes from occupations; and the courts veered to the theory that items of that type were not proper elements for inclusion in the local tax base. Acts of Parliament in 1836 and 1840 gave statutory form to changes in the content of local rolls which had already come about almost everywhere throughout England and Wales as a result of dominant public opinion, court decisions, and revisions of administrative procedures. Since that time, local taxes have been levied only on occupiers of real estate, whether owners or tenants, at a uniform rate applied to the "hypothetical annual net rent" of the individual holdings. Subsequent acts have made municipal governments the taxing districts, in lieu of the parishes; have transferred the assessing duties from the overseers of the poor to municipal officials known as valuers; have provided for equalization when a superior unit of local government imposes its levies on properties in two or more subordinate units; have established in the national government a central valuation office, the records of which are available for the resolution of a wide variety of valuation problems arising on the local level; and have reduced to a series of statutory formulae a large part of the task of converting reported gross annual rents to the hypothetical annual net rents which enter into the tax base.

Shortcomings of the System.—A perusal of several of the more searching analyses of the English rating system, whether by Englishmen or by Americans, indicates that the system suffers from disabilities of two major types: those which it shares with our American system and those which are peculiar to itself. No American assessor needs to be told that his task of valuing a railway or a large manufacturing plant would be simplified in any way if he were required to ascertain its net annual rent instead of its capital value. In fact, the English valuer derives his annual value for such properties by applying an assumed normal rate of return to his estimated capital value. Similarly, those American assessors who struggle with the problem of assigning a capital value to wasting assets such as mines and forests can easily see that the concept of capital value for such properties is hardly more elusive than that of annual value with which their English contemporaries are concerned. Furthermore, the effects of occasional court decisions handed down with respect to the valuable properties of these ex-

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ceptional types are as devastating in England as in this country. So much for the disabilities common to British and American systems.

The disabilities peculiar to the English system arise from the fact that unused vacant lands, unoccupied houses, and houses occupied only by caretakers are assumed to be exempt from taxation because they have no annual value. Vacant lands devoted to uses less intensive than the highest and best uses for which their location makes them available are taxable on the annual net rent actually received and not on the potential higher uses. In the period between the two World Wars, municipal officials were irked by the high prices they were compelled to pay for these untaxed or lightly taxed vacant lands when they acquired them for municipal housing projects or other public purposes. As a consequence, the London County Council approved by a large majority the submission to Parliament of a bill to authorize that unit of local government to levy, in addition to its rates on annual value of real estate, a supplementary local tax to be imposed on the capital value of all land within the county, exclusive of the improvements thereon. A number of smaller urban municipalities outside the London area joined in a petition to Parliament requesting similar powers. The Conservative Government in power at the time ignored the requests. The manner in which municipalities in Australia and New Zealand have approached the problem will be touched on later.

The Burden of Real Estate Taxes.—How heavy is the burden of local taxes on property in England and Wales? The report issued by the Ministry of Health through His Majesty's Stationery Office in 1945 entitled *Rates and Rateable Values in England and Wales, 1944-45* provides a basis for an answer. The rates of taxation for local purposes are expressed in shillings and pence per pound of rateable value. The weighted average rate for England and Wales as a whole for the fiscal year in question was 12 shillings 8 pence. Reduced to a percentage basis, this means that, on the average, the rate payers paid in local taxes an amount equivalent to 63.3 per cent of the hypothetical annual net rent at which they were assessed. This average varied from a minimum of 40 per cent in the municipality with the lowest rate to 145 per cent in that with the highest.

But the hypothetical net rent differs from the reported gross annual rent by varying formulae, depending on the amount of gross rent paid. A residence for which the tenant pays 20 pounds gross rent per annum—other reports indicate that there are many such in England—would pay taxes based on a rateable value of only 12 pounds, ten shillings. A house rented at a gross rent of 200 pounds, on the other hand, would be entitled to a smaller proportionate deduction from gross, and—except in London, where

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deductions are computed by a different formula—would be entered on the roll at 163 pounds, seven shillings. Converting these figures into American currency at an assumed rate of exchange of five dollars to the pound, the householder who paid $100 per annum to his landlord for the use of his home would, at the weighted average rate, pay $39.56 in taxes direct to his local government. If he were unfortunate enough to live in the municipality with the highest rate, he would pay in local taxes $89.63. His more affluent fellow citizen living in the home with a gross rent of $1,000 would pay in local taxes, over and above his rent to the landlord, $516.95 at the weighted average rate, $1,184.15 at the maximum rate. Obviously, the notion current in some quarters in this country that local taxes on real estate in England are light compared with those in this country is not substantiated by these computations with respect to individual properties.

THE SCOTTISH RATING SYSTEM

The method of local taxation followed in Scotland varies from that of England and Wales in several particulars, the most important of which lies in the fact that rates are imposed not only on occupiers of real estate as occupiers, but also on owners as owners. One half of the costs of certain specified services are imposed, both in urban and in rural areas, directly on real estate owners as owners; the other half rests on occupiers as occupiers, whether they occupy as owners or as tenants. Certain costly services provided only in urban areas, however, are deemed to benefit only the occupiers of real estate, and the owners are therefore not taxed for any part of the costs of such services. The sum of the rates resting on owners and on occupiers produces a weighted average rate for Scotland about as high as that of England. The maximum combined rate imposed in any Scottish municipality is well below the highest rates levied south of the Scottish border.

The Burden of Owners' Taxes and Rate of Building.—It is interesting to note that a committee was appointed in 1943 to inquire among other things into the effect of the Scottish rating system "on the provision of houses." The report, issued through the Edinburgh branch of His Majesty's Stationery Office in 1945, states that during a period prior to the outbreak of the second World War unsubsidized private builders had produced new homes for sale or rent at a rate which was six times as great in England as in Scotland. While the committee lists other contributory causes, it concludes that the ever-mounting tax burdens on owners, whether their houses are occupied or unoccupied, are chiefly responsible for the lower rate of building in Scotland. Because the complete abolition of owner's rates would necessitate "readjustments of the financial relationship between landlord and tenant,

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between local authority and local authority, and between the central and local exchequers," the committee refrains from recommending so drastic a change. Instead, it proposes the freezing of owners' taxes on existing houses at present levels and on new or reconditioned houses at substantially lower levels. Neither tax limitations nor partial exemption to stimulate new building is wholly unknown, of course, in this country.

INFLUENCE ON TAX SYSTEMS ELSEWHERE

In the few minutes remaining, it will be well to take a bird's-eye view of what happened when English colonists established their homes on virgin continents, bearing with them the customs, habits of thought, and local institutions prevalent in the mother country at the time. As was pointed out earlier, the concepts of benefit, ability, and substance had all affected the evolution of the British system of local taxation; and, until the time of the American Revolution, local taxes were imposed in England at uniform rates on tangible personal property, sometimes on incomes from occupations, and almost everywhere on the annual value of real estate. The real estate tax was payable as a rule by the occupier, but sometimes by the owner. After the Revolution, the movement to eliminate from local rolls all personal estate and incomes from occupations gathered momentum, and it had become an accomplished fact within about six decades.

In the United States.—The best available source of information concerning taxation in the American states shortly after the Revolution is to be found in a report made under direction of Congress by Oliver Wolcott, Secretary of the Treasury, in 1796. The remarks that follow have been derived not directly from that source but from a digest made of its findings by Richard T. Ely, in Chapter II, of Part II of his volume *Taxation in American States and Cities.*[1] It is not improbable that Mr. Wolcott encountered difficulties in interpreting the statutes and reports of the several states and that Ely was not always able to understand Wolcott. I confess that I have had difficulty in building a clear-cut table of distinguishing characteristics on the basis of Ely's analysis.

What emerges is this: that in all of the fifteen states then in existence, local governments, and some of the state governments, derived revenues from taxes imposed on locally prepared tax rolls; that lands and certain types of visible personal property, the latter varying greatly from state to state, were everywhere listed on the rolls; that houses were specifically mentioned in the tax laws of only five states; that at least three and possibly more states used annual value as the tax base for real estate; that most of the rest relied on fixed valuations per acre, usually graded by location and kind; that in one state, a double land tax was imposed on non-

[1] Crowell: 1888; out of print.

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resident owners; and that eight states included incomes from specified occupations in their general property tax base. It is obvious, then, that the local tax system as it existed in England prior to the Revolution had an influence on our own systems which survived for almost a generation after the Declaration of Independence.

In a nation such as ours was in the early days, where nearly all real estate was owner-occupied except in a few of the still relatively unimportant urban municipalities, and where much real estate was for sale and little for rent, it is easy to understand why capital value replaced annual value as the tax base for real estate. Objective indices on market prices were much more readily accessible to assessors than information on gross or net annual rents. Now that the populations of our large cities are made up predominantly of tenants who vote but pay only negligible sums, if any, in direct city taxes, it is also easy to understand why official commissions have for thirty years or more been advocating resort to a supplementary rental tax—that is to say, a tax to be levied as in England on the occupier of real estate in proportion to the actual or imputed annual rents of the property he occupies.

Our American faith in written constitutions, strictly construed, has introduced rigidities which have made difficult the adaptation of our local tax systems to changing conditions. This is notably true of those states which amended their constitutional provisions governing taxation during the great depression of a century ago or adopted their constitutions subsequent to that time. Except in a few of the older industrial states along the Atlantic seaboard, we therefore follow the practice of including personal property on our real estate polls—a practice which our forefathers had patterned on that of England at the time of colonization but which has since disappeared there.

In the Self-Governing Dominions.—In order to understand why the local tax systems which grew up in the self-governing dominions vary in many particulars from those in our American states, in spite of their common ancestry, it is necessary to bear in mind two factors. Except in the Maritime Provinces of Canada, where English settlements had been established before the American Revolution and to which British loyalists fled in large numbers from the colonies south of the border during and after the Revolution, settlement took place after England had begun its movement away from the general property tax. On the basis of this time element alone, it is easy to understand why the local tax systems of the Canadian Maritimes should most closely resemble our own.

But even in the oldest of the Canadian provinces, there has been much more freedom to experiment on the local level than in this country. This is true because the Acts of Parliament which serve the self-governing dominions in lieu of constitutions did not greatly concern themselves, as our state constitutions do, with the form

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and functions of local government nor with the manner in which the local governments should levy taxes for their own support. Everywhere in the Dominions, whether in Canada, Australia, New Zealand, or South Africa, local governments have had much greater powers of "home rule in taxation" than our American municipalities have ever enjoyed.

Past proceedings of this association indicate that this phenomenon of fiscal home rule has been discussed repeatedly from this rostrum. Because many local governments in all the British dominions had used it for purposes of moving toward the taxation of land values, to the exclusion of other forms of property, there has been a decided tendency on the part of our leading authorities to dismiss home rule in taxation as a spurious device advocated with tongue-in-cheek by Singletaxers who saw in it an opportunity for advancing their cause. But let us see to what other uses it has been put in the British self-governing dominions.

Even in the dominions most recently settled, local governments were permitted to abandon the British system of taxing real estate on annual value and to substitute capital value if they so desired. Those which continued to impose their levies on annual value had no difficulty in modfying the British system by entering vacant lots and lands and unoccupied houses on their rolls at a stipulated percentage of capital value, thus overcoming one of the disabilities peculiar to the system used in England.

Furthermore, municipalities in the Maritime Provinces were permitted to continue the taxation of personal property on their local rolls long after the practice had been abandoned in England and, to a large extent, in the newer Canadian provinces. Recently, some of them—notably Moncton, New Brunswick—have removed tangible personal property from their local rolls and have substituted a real estate tax, payable by occupiers and based on the actual or imputed annual rental value of occupied real estate.[2] This is only one example of many which might be cited to indicate a trend toward the Scottish system of taxing real estate both to owners and to occupiers.

One finds examples, of course, in all of the self-governing dominions of local governments which single out land value as a base peculiarly fitted for taxation. In some instances, the plan is comparable to that in use in Pittsburgh and Scranton, where buildings bear less of the burden in proportion to value than land; in others, including Sydney, Australia, a city of more than a million inhabitants, the local property tax burden rests wholly on land values. Both the capital value base and the annual value base are to be found in use in some of these variants of the real estate tax.

[2] For other Canadian examples, see Hillhouse and Magellsen, *Where Cities Get Their Money,* Municipal Finance Officers Association, Chicago, 1945, pp. 109-115.

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CONCLUSIONS

Now, what useful lessons can we, as Americans, draw from a study of the wide range of alternative methods of taxing real property in use today among the family of systems to which our own systems belong? In order to provide a basis for an answer to this question, it is not necessary, I think, first to weigh the many contentious arguments for and against each of the alternative methods now in use. Whatever we may think of the advantages or disadvantages, the equities or inequities of any one or more of these methods, we can agree on this: that each of the variants has, during periods of time ranging from many decades to centuries, demonstrated its capacity to provide the local revenues necessary for the support of highly developed and costly systems of local self-government. This characteristic of the local tax on real estate, at least, is common alike to the tax on bare land values in Sydney and to the general property tax in Chicago, to the tax on capital value of the United States and to the tax on annual value of Great Britain.

And now for a glance at the special characteristics of some of the variants. The English system of taxing occupiers instead of owners has numerous faults which are presented clearly and frankly by many of that nation's leading authorities on public finance. To an American who has repeatedly seen his fellow citizens elect to local office men of negligible ability and doubtful integrity merely because the successful candidate had stressed his record as a good spender, the system would seem to have one great and unique advantage, at least for use in a city where the overwhelming majority of the voters are tenants. If the tenant voters, instead of paying nominal poll taxes and negligible personal property taxes, paid real estate taxes in proportion to their gross or net rents at rates comparable to those which prevail in England, is there not a possibility that they would demand of the candidates for public office other qualities than that of being careless with other people's money? At a time when increased costs of local government are destined to mount inexorably in spite of all that even the most capable officials can do, here is a time-tested idea worthy of serious consideration.

The current housing shortage is in the mind of every man in this gathering. Our federal government and some of our states have appropriated sums, staggering in the aggregate, to be used as direct subsidies for certain classes of the sorely needed new housing. Our local governments are granting indirect subsidies in the form of tax exemption. Why not, then, permit free experimentation with the type of local or partial exemption numerous examples of which have long existed in cities of Canada, Australia, New Zealand, South Africa and even in this country? The method hasn't wrecked the cities which use it. It probably won't wreck

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such other cities as may desire to test the method. There are those who think it might help. If adverse effects should follow, they can hardly be more inequitable than the program of selective subsidies on which we have embarked, the burden of which rests heavily on unsubsidized owners and builders.

And finally, there is the question of freedom—freedom to experiment, to make mistakes, to learn by experience, which is basic in the concepts on which our nation was founded. Are Americans inherently less capable of self-government than their cousins in the self-governing dominions of the British Empire? If not, why should their local governments, operating in a world in which rapid changes are in progress, be confined in constitutional strait jackets which impose on them rigid forms of local taxation, some of which have long since been abandoned in all of the nations to which they are most closely akin?

Those are questions I submit for your consideration.

RECENT DEVELOPMENTS IN PROPERTY TAX ADMINISTRATION

WALTER W. WALSH

Tax Commissioner, State of Connecticut

The consideration of property taxation normally encompasses a two-fold aspect, namely, real property and personal property. Since the former may well be regarded as the vertebral column of our nation's tax structure for local tax purposes and the latter the appendix, or an adjunct capable of elimination without functional interference, my paper will relate in the main to real property. It is further not the purpose of this discourse to dwell upon the essential records and equipment of the tax office or the fundamentals of property tax administration, but rather to highlight the existence and adoption possibilities of certain handrails for taxing officials that have proven themselves, in Connecticut at least, either through study or practical application, to be worthy of comment.

Even the most facile mind might experience difficulty in associating the ravages of a devastating war with an epochal advance in assessment procedure, yet such is the part played by aerial photography. Although the utility of this type of assessment instrument has already been demonstrated during recent years, the war born advancements of aerial photography have been of such rapid pace as to be breathtaking when considered in the light of potential assessment uses.

With this thought in mind, a brief exploration into the mechanics of these advancements might prove at least enlightening if not help-

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