

CHAPTER V

THEORIES OF TAXATION

General Considerations

When one reviews the history of taxation it is difficult to avoid the conclusion that it illustrates

“The good old way, the simple plan
That he shall take who has the power,
And he shall keep who can.”

We find that the king took ruthlessly from the common people, while his power to take from those in positions of influence was tempered very materially by his fear of the consequences. Against this there have been innumerable uprisings upon the part of those who felt that they were hurt, but knew not exactly how or where.

Particularly within the last hundred years has there been a growing feeling that taxes should be levied upon some understandable theory, whether correct or not. Out of ignorance and distress, knowledge has come, but it is as yet vague, even on the part of the best informed. Today many of the learned shut their eyes to obvious facts of modern civilization and grope cautiously in the dark for some explanation which will not do too much violence to privileged interests. We have sought to show that the system of equivalents recognized as the foundation of business offers a sure course out of the present darkness into the light of day.

Meanwhile, too blind to see the obvious, some so-called tax experts vainly strive to discover some central idea to explain their wanderings. Some of their imaginings which they conceive to be principles, but are mere guesses or hypotheses, deserve consideration because of their evil effects upon the minds of lawmakers as well as upon the public.

That All Property Should Be Taxed Equally

The theory that all property should be taxed equally is fading away from the minds of the writers, but prevails in a varying degree through the force of constitutions and laws, and hence commands our attention from a practical point of view. Many states, even those as presumably intelligent as Ohio and Illinois, constitutionally direct this to be done.

That in the beginnings of even a crude system of taxation all property was treated alike, may be the occasion of no surprise. That the practice should survive to the present day is an anachronism for which a general lethargy in matters of taxation, despite its pre-eminent importance, is to be held responsible.

When our country was in process of formation, the idea of equal taxation of every kind of property might well have been looked upon as a great step in advance over previous systems, or the lack of them. And so it was. Theretofore in both France and England methods of taxation had furnished great advantages to privileged classes. The landed gentry of England paid little in the way of taxes, and the same was true to possibly an even greater degree in France. There the Parliament of Paris refused to register edicts prepared to do away with the exemption of nobility from taxation, and in this connection used language familiarly employed today with regard to other propositions. Said this Parliament among other things:

“The first rule of justice is to preserve to everyone what belongs to him; this rule consists not only in preserving the rights of property, but still more in preserving those belonging to the person which arise from the prerogative of birth and position.
. . . . From this rule of law and equity it follows that every system which under an appearance of humanity and beneficence

would tend to establish between men an equality of duties, and to destroy necessary distinctions, would soon lead to disorder (the inevitable result of equality), and would bring about the overturn of civil society."

As a revolt against such ideas, the people of this country, taking a step in advance in the general field of taxation, but without the necessary corrective experience, determined to tax equally all objects of whatever character. In the beginning the rule did not work badly, if the entire community is considered.

Ownership of land was not to any appreciable extent a special privilege, and it had small value. Holdings of land were general. Personal property was generally of a material character and had not taken on its present great variety. The man who held land usually had a corresponding holding of personal property. Equality of taxation on all things might then be approximated. Taxes were low and the government, receiving little, did little by way of return.

The mistake of our forefathers was in thinking that a system which in their time did no great amount of damage was necessarily of a permanent character and represented a principle for all time and all circumstances. They established the idea in constitutions, and their successors, being taught to revere the actions of their ancestors, have to a very large degree followed them, ignoring the patent facts of every-day life. Nevertheless, the people of one hundred and fifty years ago took a decided forward step. Their error was in not leaving constitutions free from restrictions upon the adoption of any advanced step which extensions of governmental functions, larger experience and acuter observation might dictate.

Let us first deal with taxation upon articles of visible personal property. Can this be in any wise

equal as contemplated by the theory we have under consideration? Today it cannot be. The few articles of household use held by the small householder may be readily approximated in value. To the tax appraiser, in the majority of instances, the rug which may be estimated as worth five hundred dollars is simply a rug, and from the use standpoint this may be true; but from the standpoint of worth, entirely false. So of paintings and all other objects of real value to the connoisseur. The working implements of the farmer may be rated at their cost. The worth of the fine tools of the model shop may not be discovered. Any attempt to discover the true valuation of all the objects we call personal property would require a degree of expertness on the part of the assessor and the employment of so many men that any scheme for the true application of the tax on personal property would break down of its own weight. This is more readily understood when we recall the infinite variety of things for sale in our stores. To approach it would require a degree of inquisitorial examination which no people would stand. In fact, therefore, save as to the personal property of the farmer or small householder, the attempt is a failure.

On first thought it seems that the merchant is really paying a tax equally with the landowner. His stock of lumber or furniture or food may be guessed at, but to what result? Does he pay the tax? It is evident that he does not. The tax upon him becomes one of the conditions upon which he does business. It is, like wages, one of the charges upon his industry which has to be returned to him from the purchaser, else he must fail. The price to the purchaser of shoes, food, lumber, or what not is increased by the amount of the tax, and the tax is paid by him. The merchant,

though he is supposed to pay, and though his business is in the first place interfered with and burdened, pays nothing. One of the canons of taxation with which we started is violated. The tax is not paid by the man upon whom it is levied, but by someone presumably not in the mind of the assessor. We have a clear specimen of what is in reality a shifting tax enhancing the price of living in exchange for nothing furnished by the State, for all the protection it gives to the merchant is represented by the enhanced value of the land, a value given by the community through the State, its agent.

Let us turn from the field of tangible to intangible personal property. This may consist of money, stocks and bonds or other securities in their various forms for the repayment of debt. Certain general observations applicable to all classes may be made. If you tax them, they tend to disappear or seek some more favorable clime. This is a blow to the jurisdiction attempting to tax, as well to the general and natural course of business, and ultimately diminishes the value of land in the district. Such properties are capable of being concealed to a greater or less degree, and hence equal taxation, either as between them in their varieties, or between them and other classes of property, is impossible.

Consider evidences of indebtedness, such as notes and bonds, either of which may or may not be supported by mortgages. Aside from the fact that such intangibles tend to disappear when taxed, other undesirable effects follow. Let the State undertake to tax them and the rate of interest rises or the lender requires the borrower, as a condition of making the loan, to pay the tax, or the tax is made up in the shape of bonuses or similar charges. In other words, invariably the borrower and not the lender, against

whom the tax is levied, pays the bill. Nor does the mischief stop here. The increased rate so occasioned for the use of money is a source of distress in the business world as an unjustifiable interference with the orderly operations of industry. A similar situation arises as to cash.

The unfairness of such a tax has been illustrated in this wise: Real estate nets, let us say, six or seven per cent after paying taxes. If all money were taxed to its owner and the tax rate were two per cent, the lender would exact eight or nine per cent for its use if he were to be placed on an equality with the real estate owner. If he were not able to transfer his load, the return on his property would be four or five per cent (six or seven less two) as against the full six or seven or more gained by the holder of real estate. Thus the attempt to tax both classes of property equally would result in the greatest inequality. We must reject such tax because it may be and is shifted, and because it is an interference with the prosperity of the community.

But another form of tax upon so-called intangible personal property is that upon stocks. These differ somewhat in their nature from bonds. A bond is ordinarily secured by a mortgage lien upon the fixed property of a corporation, and is a first charge against it. The interest of the stockholders (where bonds are outstanding) is represented by their "equity" in the value of the property (already taxed) after providing payment for bond or debt holder. To all intents, the stockholder is like any individual owner of a piece of property subject to mortgage. His certificate is an evidence of part ownership, just as the deed in the hands of the individual owner is the evidence of his title. The deed or the certificate,

as the case may be, is merely proof of ownership and in itself nothing more.

Perhaps the only exceptions to the statement above, that stock is only an evidence of interest in a tangible equity, are when ownership of a patent is shown by a stock certificate, or where imaginary values, such as with some public utility organizations, are capitalized for exploitation purposes. Such instances should be dealt with by instrumentalities other than those of taxation.

Aside, therefore, from the possibility of concealment and consequent impossibility of any equality of taxation upon stocks, exists the further factor of double taxation, because by such taxing both the property and the evidence of ownership are taxed. This is the reverse of equality and therefore to be shunned. We thus see that in the search for equality we have arrived here at inequality.

A general observation should be made. Issuing stock or bonds neither creates new wealth nor adds to the wealth of a community. This may be illustrated by turning a private or partnership ownership into a stock company. In either case, the tangible thing upon which ownership is based remains unaffected—neither increased or diminished.

The same holds true of bonds. The community gains no wealth by their issuance. The person or corporation issuing them remains unchanged as to visible assets. The debtor may have exchanged an unencumbered fee simple ownership for a debt, but the entire property is still the subject of taxation in his hand. To tax paper evidences of ownership becomes truly a second taxation.

At present, in fact, the bonds or the stock may be used as collateral for a loan, and this again subjected to taxation. Thus virtually the same property may

What do the words mean? For a time it was thought that all should be taxed according to ability as measured by consumption. Then it was seen that as to necessities of life there was no such difference in the requirements of the rich and the poor as to make the test an assured one, for with the burden falling on consumption, the poor were unduly oppressed, while the rich were scarcely touched. This criterion was abandoned and a new formula sought in equality of sacrifice or relative wealth or income.

Let us consider for a moment the matter of equality of sacrifice. How can this be in any wise determined? Let a poor man be charged with the payment of but ten dollars over the expense of living, and it is to him a serious thing. It represents a real loss. If it be justified as against him, then an equalizing sacrifice in terms of deprivation would require the tax against the man possessing an income of a million dollars to be a tremendous sum. If he were allowed a yearly expenditure of fifty thousand dollars, which should be liberal enough, then, in proportion, as the surplus over necessities of the poor man was taken, he should pay at least nine hundred and fifty thousand dollars. No such proposition has been made or is likely to be made. The relative smarting caused by a tax, which is the degree of sacrifice, cannot be a satisfactory measure of the justice of a tax. So sacrifice becomes an impossible thing, rendering it unnecessary to discuss the hurtful effects or the impossibility of such a procedure.

But is relative wealth or income a sure guide to methods of taxation? Several questions arise. What was the source of this wealth, or income? The importance of this question will be appreciated when we recollect that the origin may be found in the direct personal labor of the individual or the result

of the ability to command the labor of others through privilege of some kind. If the first, the payment of a tax constitutes a direct burden upon industry. If the second, it may be that the privilege should be limited by a direct tax, or the privilege may present a social question, such as, for instance, patent monopoly, which should receive special treatment. To create or permit the creation of a monopoly and then seek to minimize or reverse its natural results through a tax upon the recipient is, to say the least, an indirect and therefore an inefficient method of procedure.

The income tax is an attempt to apply the theory of levying according to ability to pay. It was advocated largely as a method of achieving social justice. The argument from this point of view has largely fallen to the ground through failure to bring about such result. Its social effects have been minor. Witness the slight results in England. As an apportionment of sacrifice, it is also a failure, and for reasons stated must remain so. However, it is not as actively injurious as some other forms of taxation, and as a rule, the most of those called upon to pay it can do so without materially suffering thereby. But if the theory is to be adopted as a scheme of taxation universal in character, it can only meet disaster.

So far the income tax has received its largest application to national taxation. A few states have resorted to it. As far as the taxation problems of minor jurisdictions are concerned, its general application offers impossibilities and added injustices.

Examine further the proposition that ability-to-pay, as usually presented to us, furnishes a rule of taxation. Those who advance it deny that there is any difference in their essential nature between land and other properties. If it be possible, they say, for land to have an unearned increment value, which is

a value conferred by the community and not the result of the labor of the owner, so may it be possible for other classes of property to have the same. "The distinction between them", says Seligman, (*Essays in Taxation*, 10th Edition, p. 82) "for all practical purposes is one only of degree, not of kind." The attempted parallel he uses is between increase in land values and the rising earnings of a newspaper because of the growth of a community.

It is surprising to find one of the great and generally accepted authorities in this country committing such a palpable error. The growth of land values, as far as the mere holder of the title to land is concerned, is strictly an unearned increment. Had he remained a thousand miles away it would have gone on just the same. No act of his, therefore, brought about the result, the benefit of which he reaps. As landholder, he had but to put the title deeds into the safe-deposit box and let the community do the rest.

Contrast the position of this landholder with that of the owner of a newspaper or any industry. The newspaper owner uses land to produce wealth; uses capital to erect a suitable building and to buy expensive machinery, thus employing skilled laborers to construct and furnish the necessary newspaper plant; employs other skilled laborers to make the paper, ink and other raw materials needed; employs skilled labor for his business office and editorial forces, and other labor for final delivery of his paper to homes and advertisers. The land owner, merely as a landowner and collector of unearned increment, does none of these things, all of which are necessary for the prosperity of the community. That is the contrast. If comparison is to be made along the line of Seligman's statement that the difference "is one only

of degree, not of kind," then the newspaper plant must be closed, the machinery left in place and all labor employed in it discharged. In that case, how much unearned increment will the newspaper building and the machinery, now idle, put into the pocket of the owner because they are surrounded by an industrial community?

Let us turn from the man of affairs to the professional man. If a lawyer, he may commence with few and poor clients. His returns will be low. As years go by and he gains the confidence of the community, both the number of his clients and their financial position will advance. Such constant labor and growth Seligman compares with the unearned increment of the landholder. It might be as well said that "tarrying in Jericho 'til his beard was grown" gave the Isrealite an unearned increment. Increased years and added experience mean to the professional man the equivalent of what Seligman calls a "social value", which he says should be levied upon by the tax-gatherer. "Social value" Seligman does not define. Granting that there is such a "social value," taken possession of by the individual business man, and therefore in the opinion of Professor Seligman a fair subject for taxation, such individual (or the corporation holding it) could only have obtained it by giving an equivalent or that which in the market place of society was considered an equivalent. It is something of his own creation or just ownership. Therefore he has paid for what he possesses; it belongs to him and should not be subject to taxation. The rewards of the professional man are the fruit of education and a long tarrying "in Jericho" before the opportunity arrives for him to obtain any large return for his individual labor.

The trouble with Professor Seligman is that he has confused "unearned increment" with mere increment or increase which was plainly earned. He therefore naturally wants to tax both equally, regarding the earned as if it were unearned, and no equivalent as having been given for it.

It may be that Professor Seligman has some idea that the man who has grown wealthy in business has done so by taking an advantage of his fellows which should be corrected by the tax-gatherer, but he does not say so, except perhaps by inference, meanwhile ignoring the fact that the fortune is the result of mutually agreeable exchanges. He forgets, too, that the ability to make a fortune or even a fair living upon land is what gives it value. Therefore the advantage of the large business man is already paid for in what he gives for the use of land, and a tax on his business also becomes a double burden in whatever way it be levied, either as a condition for doing any business whatever, as illustrated by occupation taxes, or as taxes on incomes from business or otherwise.

It is urged in favor of the tax according to ability to pay, as presented by Professor Seligman and others, that to reject it is to permit large corporations amounting to monopolies to escape paying their just dues to the State. The statement is plausible, or it may be appealing, enough to deserve a little consideration.

We may divide the great corporations of the country into three classes, as follows: 1. Those carrying on business in a large way; 2. Those based in some fashion upon the exclusive possession of the land—a special privilege; 3. Those based upon patent monopoly. There are, of course, those that in varying degrees combine two or more of these features.

Let us first deal with large business undertakings. In principle these differ in no material way, save size, from small business. Their mortality is likely to be as serious, owing to changes of fashion or business practices. We have witnessed of late years the almost complete passing away of regional supply houses in favor of larger ones, or great distributing stores like Sears-Roebuck. As an instance of changing fashion, the radio has almost destroyed the market for the victrola, which in turn had largely supplanted the piano.

We include among business undertakings extensive manufacturing corporations. The land is strewn with their wrecks. Even the greatest aggregation of woolen factories in the country is being conducted at a deficit, despite all the supposed aid of a protective tariff, and our cotton mills are in more or less distress in spite of tariff protection. The difficulties of business, large and small, are immense and no arm of the government should be extended to make them worse. When government does so act, the whole body politic is poisoned by its action.

To say that all business returns should pay because some large undertakings sometimes make great profits is absurd.

May we not believe that with freedom of business from taxation will come more healthy competition and greater stability and security for industry? There are no bounds to the beneficial effects to be expected.

Let us examine those privilege values which are based in some fashion upon the exclusive possession of land. When we treat of these we are discussing real basic privileges. Whatever business these corporations may have carried on at first, they are in the aggregate land privileges in the largest measure.

We find one oil company owning and carrying on its books at \$7.00 an acre land underlain by some of the largest pools of oil in the country, and undoubtedly worth, at any reasonable valuation, many thousands of dollars an acre. Were these holdings, together with attendant natural gas, valued on the tax books on any proper basis, the return to the government would be enormous. The Southern and Western states are filled with such wealth, and even in the East representatives of natural gas are preparing to supply the city of New York with this product. Here is one of the greatest items of social wealth not appreciated by the tax collector. Tax this at its source, and not industry. Instead of so doing, we are taxing in large measure the helpless user. Acting properly we will be violating no canons of taxation and will be taxing social wealth. Of course in so far as these companies are refiners and distributors, they do useful co-operative work, and are entitled to be freed from taxation.

It is curious that Professor Seligman carefully abstains from defining and describing what he calls "economic monopolies." Without classifying, he apparently masses together various sorts of things.

We come next to special privileges of a somewhat similar nature, but properly differentiated as artificial monopolies, that is to say, created by the direct action of government. These are monopolies of the supplies of water, gas, electric light and power, and, in our cities and through the country, transportation by rail, pipe line, telegraph, telephone, or radio. In a very great degree our government has abdicated its powers to private individuals—powers truly governmental, and in a large measure involving the use of land of the community. To these undertakings the government has contributed the use of streets and

roads. To them it has given the power of "eminent domain," empowering them to use its strong arm in the taking of property of every description, including water-power sites. If these are among the "economic monopolies" with which we have to deal, then they call for special treatment, as their entire value, aside from the physical value of the property put in place, is derived from the state. Whether government should itself do this work without farming out its powers—farming out is always dangerous—is in detail a question beyond the purview of this book. We can only call attention to the fact that there is another way of dealing with them than through the arm of taxation. Any attempt to limit and control these monopolies through or by taxation is round-about and of doubtful efficacy.

We next come to the consideration of the patent monopoly and the huge fortunes derived from it. It is probably an understatement to say that these doubtless impose upon the inhabitants of the United States a yearly burden much greater than that of interest upon the debts of the national and state governments. It is a matter of surprise that the subject has not yet been more thoroughly studied. These are the greatest purely artificial monopolies in the country, and are solely the creation of law.

It is entirely out of our plan to discuss the patent system at length. The Constitution authorized Congress to provide a patent law, and that body acted speedily. To this law it is commonly believed we owe much of the progress of the world. Such belief is subject to debate, or, if true, raises the question whether the progress has not been at too high a cost. We may, however, point out that it is scarcely probable that this has lengthened human life a single moment, while it is beyond discussion that the un-

selfish labors of physicians, with no thought of pecuniary reward, have alleviated much suffering and even conquered diseases.

The system affords a doubtful spur to human action. The physician and the engineer both regard as unethical any attempt to turn the results of their inventiveness or research to individual profit. Such is not the case with the great corporations which employ bodies of research workers and inventors to their own pecuniary advantage, and only in a very secondary and extravagantly compensated way to the welfare of the community.

Again, many inventions and discoveries of vast importance but not promising direct personal profit to the promoter have been made under governmental auspices. These, for instance, have eradicated Texas fever, and in this instance and many others have added millions to the value of land by insuring its new or renewed usefulness. Meanwhile, our National Bureau of Standards performs research work of high value and may be the nucleus of a solution of the patent problem.

But, it will be urged by the advocates of taxing according to ability-to-pay, as the theory is usually presented, these great corporations, although taking advantage of the patent law, should, and under the law do, pay according to such a principle. The idea thus becomes one of not disturbing the foundation of evil, but of pruning away some of the limbs. Such an attempt is never successful in any large way, for often the tax on the value of the patent or upon the thing patented can be shifted to the purchaser of the article, and hence it has no efficacy in bringing about right action.

The whole question needs much more profound study than has yet been given. Treatment of this and

like subjects calls for action of a different and fundamental nature. It is not a matter of taxation at all.

We thus find that important enterprises, alleged to afford great wealth through taking possession of what are called "social values", are of diverse and often antagonistic characters. One of the three large classes of business undertakings turns out to be of a nature not different from the smallest enterprises; of the remaining two, one exists because the community fails to do its duty in a governing way, and the other because of the possession of special privileges that should be investigated.

It is impossible to discuss fundamentally the subject of taxation and at the same time ignore basic principles of everyday morality and the reasons for the formation of governments.

When Professor Seligman forgets the doctrine of the exchange of equivalents, he lays aside right action as a matter of little consequence—in fact not germane in taxation. When he speaks of monopolies without differentiating and analyzing them, he ignores the fact that the chief end of government is not to collect taxes but to insure justice and the well-being of the citizen, and that natural and artificial monopolies call for special treatment. Without the broader view, no true conclusion can be drawn. Forgetting the great world of right and wrong and the duties of government, he and his fellows fall short in their surveys. We are reminded of the query: "What should they know of England who only England know?"

We have pointed out some of the insufficiencies of two great theories of taxation now receiving public attention. The first—equal taxation of everything—is falling behind because of the impossibility of relating it to the facts of modern life. The second theory

—that of ability-to-pay (again as usually advanced), and illustrated at its best in the income tax—we find without foundation in principle and actively injurious in many respects, including its ignoring of basic conditions not connected with taxation. Nevertheless, with its manifest faults, it represents a groping toward the light, though advocated by men who shut their eyes against illumination to be derived from a real study of present-day conditions. Neither proposition represents a *principle* of taxation, ever applicable, but only what at most may be called a primitive hypothesis, which at many points conflicts with facts, and therefore is not well founded.

After all, what we have criticized is not so much a true doctrine of ability-to-pay as the imperfect, partial and halting applications made of the doctrine. All attempts to meet the requirements of the doctrine have fallen short of a just result; income taxes, all forms of personal taxes, occupation taxes—all have failed to meet the demands of justice. Usually they have interfered with industry or with its appropriate rewards, and thus have oppressed the common people.

Let us approach the subject from its earliest development in the history of the nation. When the first settlers came to this country, or, in fact, later, when new sections were settled, they brought with them little or no wealth or that part of it which we call capital, *i.e.*, that part to be devoted to the production of more wealth. Almost the only advantage anyone possessed over his fellows was in his ownership of the soil. This was the natural measure of his ability to pay. It gave him, even after paying his taxes, the power to create and command capital, and thus the ability to enrich himself. Therein lay his

true ability-to-pay. Therein lay the value of land. To levy taxes upon such possession of land was to tax the primary source of his power.

Has this position, which seems obvious enough at its commencement, been changed in anywise by our present civilization? All the advantages of possessing land still exist, and, in principle, in no respect changed.

We have to remember that today, just as in the beginning, the power of the landholder rests in his control over a land rent which must be annually renewed or it perishes. Each year he must anew possess control over his fellows through his command of economic rent. His ability to pay taxes thereon must be and is born again. Each year we enter, as it were, upon the discovery of a new country for its value must be annually renewed. Each twelve months, like Antaeus in the fable, if thrown to the ground the possessor of land rises refreshed by contact with Mother Earth. The ability-to-pay is perpetually replenished.

A tax upon such ability to pay is an exhaustless one because ever renewed by the community which levies it.

Our tax proposition, therefore, addresses itself to the future. Its idea is not to redress the balance of society by reapportionment of the profits of the past. It is not punitive, but remedial. Those who advocate, after the usual manner, a tax according to "ability-to-pay," as illustrated by the income tax, have in mind something that has gone before, and as to which under ordinary circumstances an act of limitations or prescription would apply. We are concerned in enjoining a repetition of the occurrence.

Sales Tax

We should not leave the subject of taxation according to ability-to-pay without discussing a sales tax. This illustrates more properly ability to obtain money without the active knowledge of the person paying. It is favored among politicians who feel the necessity of obtaining money for carrying on government with the least trouble to the governors, and without consideration of the real effect of the operations of government. The goose yields up its feathers with the least amount of squawking.

Ordinarily these taxes are obtained in one of two methods, either a tax levied upon the merchant selling, determined by his gross amount of sales, or a tax upon certain objects of sale and included directly in the selling price. In either instance, the tax carries with it all the objectionable features of which we have spoken.

If, as in the first instance, the tax is paid by the merchant upon the gross amount of his sales, his industry is interfered with by requiring a larger amount of money with which to carry on business. Furthermore, he cannot continue business except, as stated, the tax be charged into the cost of doing business, and the purchaser can only buy as he meets this charge. This violates what we have considered as a canon of taxation—that it should rest where placed and not be transferred to other shoulders. As a method of compelling presumed “ability-to-pay” to give up a share to government, it is injurious.

Looked at from the standpoint of possible purchasers, it is again condemnable. A sales tax becomes a tax upon the necessities of life. As we have pointed out, there is no real connection between the relative cost of living to a poor and to a rich man. The basic needs are much the same. Thus we find

that upon the poor an undue burden is thrown. No more skillful way of dodging duties by the better situated class could be found than is embodied in a sales tax of any description.

The alternative method of imposing a sales tax is, as stated, by levying it upon each article sold. If at the time of payment a separate slip were given each purchaser stating that so much was designed for the government and so much for the seller, it is probable that a tax of this description would not last long. As it is, the fact that he is making such a payment enters but vaguely into the consciousness of the tax payer. All that can be said against a tax upon the gross receipts of the merchant applies equally well to a tax directly paid upon the article sold, and need not be repeated.

We will consider specifically a sales tax now becoming rather common—the state retail tax upon gasoline. Some of those who favor this method argue in its support that it represents in a rough fashion the extent to which roads are used by the automobile driver. We will briefly analyze this position.

We have universally arrived at the conclusion that every obstruction to traffic in the shape of toll roads and toll bridges should be abolished. We resent their interference with locomotion. We feel that the roads should be owned and managed by the state in the interest of all. We believe no higher duty rests upon the State than that of making communication easy between individuals and communities. Our beliefs in this respect and our practices are often widely separated.

Notwithstanding these very reasonable beliefs in their minds, our legislators act in a manner completely contrary. They tax one class of users for roads which are designed for all. Our travelers on

foot or horseback or by carriage are untaxed, as they should be. The auto owner alone is taxed for availing himself of a necessary instrumentality of civilization. He pays a toll often larger than was previously charged for roads and bridges. To abolish ordinary tolls and insist upon a new tax on transportation does not change the substance of the situation.

But it is said that today he is furnished with vastly better facilities for transportation. True it is, but in so doing the State is but fulfilling its duty. Further, the fulfillment of this duty has added immensely to the value of the land. The lots of the city and the broad acres of the farmer are brought closer together, to the advantage of both, an advantage at once reflected in increased land values.

It is said that automobiles, and particularly trucks, damage the public roads and should pay therefor. Has experiment determined the amount of such damage, and has the tax any relation thereto? Both questions must be answered in the negative. Meanwhile, we will not overlook the fact that a heavy wagon with iron tires and horses with iron-shod hoofs will inflict many times more damage than a hundred machines, and properly enough goes untaxed in this special respect. The suggestion of damage as a reason for taxation must go by the board.

Next, it is insisted that the automobile owner is simply paying proportionately for the use he makes of public property. The trouble with the statement is that it lacks full foundation. The owner pays but a small proportion of the total for his use of roads. The greatest share of his tax goes to the creation of new roads or the construction of bridges not now in existence, and no part of which he may ever use, and the profit in the existence of which will go to

another. He is thus being steadily exploited.* The man who uses nothing but city streets pays for the construction of roads hundreds of miles distant.

A further important objection is that the gasoline tax creates an immense fund which almost of necessity is expended in ways of little value to the vast majority of the public. In many cases also the tax becomes an instrument of waste in government.

The gasoline sales tax is an interference at once with industry, health, comfort and progress. It discourages the use of automobiles. It often affects those who are relatively poor and yet compelled to use an auto infinitely more than those who are wealthy. Again the curse of the poor is their poverty. It even increases the cost of motor bus transportation. It is a qualified veto upon the free exchange of city and country production.

It is said that automobile users are able to pay such a tax, that in this sense the tax is based upon ability-to-pay. Assuredly it is not based on any relative ability, which would follow if the theory were sound and applicable. It falls upon the user according to his real or imaginary necessities, and takes no note as to whether gasoline is used in a Ford or a Rolls-Royce. In our modern civilization, therefore, it is a necessities tax.

Upon each individual farmer it levies a direct toll of certainly not less than from ten dollars to fifty dollars or more per year, unless the farmer receive special exemption, and this he has no right to ask or expect. The average upon each machine in Califor-

* If the user of gasoline in California paid for the use of the roads the interest on outstanding highway bonds and an equal amount for their maintainance, his tax would be about a half cent a gallon instead of three cents, the difference now going into new construction. In fact the ordinary annual license tax about meets these two charges.

nia is \$17.32 per annum.* If he could shift this tax to one on land values only, he would find himself in almost every instance paying less to the community than he now pays. Particularly would this be true with the small farmer keeping one or more trucks as well as his household machine. As has been said by another, it would be as reasonable to tax the horse's oats as the farmer's gasoline.

The total gasoline tax throughout the Union now exceeds \$500,000,000 per annum—larger than was ever imposed upon the liquor traffic. Think of a special burden of a half-billion upon a single subject of taxation with no element of privilege existing! To this add direct personal and license taxes and all the prior personal taxation entering into the construction of automobiles. Can we then wonder that from the orebeds, through the steel mills, the auto factory, the railroads, and the offices of the retail dealers, industry has been paralyzed, men have been thrown out of work, and capital languishes? Carry the examination through every branch of society and we can readily account for our present social disasters.

It is urged on behalf of this tax that it really falls in some degree upon the oil companies themselves, and that, laying aside all thought of the fact that it enters into the price at the oil station, the real payer is the oil producer. In some very small degree this may be true. However, the real ground of complaint of the companies against the tax is that it tends to limit their market and diminish their sales. In this

* To this is properly added the personal property tax which in California averages \$15.00 per year, making with the license tax a total of \$37.62, or 72+ cents per week. The range throughout the Union is from \$20.16 in North Dakota to \$82.02 in Nevada. The license tax is properly a police charge, and as such need not be annual. The average total for all states is \$39.00. (Report in U. S. Daily)

respect it is of course an interference with and a curb upon industry.

As a tax upon monopoly, the gasoline tax is insufficient and inefficient. A truer method of reaching monopoly is to levy upon the natural opportunity from which oil and gas are produced. Today, to illustrate, the oil companies monopolize many thousands of acres capable of producing oil and gas. These acres, offering a "potentiality of wealth beyond the dreams of avarice," are taxed as virtually barren land, valued at a few dollars per acre. In this manner hundreds of millions, even into billions of dollars of real value remain untaxed. The real tax dodgers, as illustrated in this case, are not among the men who fail to make a return of their few thousands of property already taxed in another shape. They are the owners of our great national privileges, which privileges should be taxed at their sources. We, the people, have parted with our birthright for the mess of pottage consumed on the instant. We can recover a measure of it through a tax on land values. Such a tax (the sales tax being removed) would at the same moment encourage production as far as needed and increase consumption, while directly diminishing price through compelling competition between producers.

Inheritance Taxes

Doubtless the advocates of ability-to-pay include inheritance taxes, but they rest on special considerations. They are among the large sources from which taxes are obtained, and of late years their importance has increased. They are to be distinguished in principle from all others.

In their favor it is pointed out that they violate no natural right and render back to the community a

portion of the advantage the decedent had secured for himself through living in it.

It must be admitted that no natural right is violated by levying an inheritance tax, since in nature a man's ownership and control over the visible world ceases upon his exit. The rights of descent and bequest are created by our written laws and have no other basis. Even as conservative a writer as Blackstone recognized this. (Commentaries, Chapter 1, Book 2).

Inheritance taxes existed even among the ancients, recognizing the principle afterward enunciated by Blackstone. Later they fell into disuse, but of recent years have been revived.

The fact may not be overlooked, however, that the general sense of mankind has recognized, through inheritance laws well nigh universal, that those dependent upon the departed, sharers of his bounty during his lifetime, have a claim for protection and support upon such property as he might have accumulated, having their necessities in mind. His judgment has largely been accepted as to their possible needs. An unqualified denial of such right would meet with little acceptance, whatever appeal might be made.

In attempting to arrive at a solution of this problem, oftentimes the decedent has been denied the right to will away from members of his immediate family more than a certain portion of his estate—whatever personal pique or liking might lead him to do.

Modern inheritance taxes have taken two forms, sometimes upon the body of the estate exceeding a certain sum, and sometimes upon the share falling or bequeathed to the next of kin or legatee, and occasionally a mixture of both. With these details we

shall not concern ourselves, save to note that on large fortunes they have reached, as in England, as high as fifty per cent.

By many these taxes are favored as a proper return to the State for favors enjoyed under it—in other words, because of their social effect of returning unearned money to its creator. As long as we allow the diversion of such wealth to the individual in its present measure, these taxes may be regarded as a useful makeshift. Were we to limit by taxation at the source the turning of public wealth to private benefit, it might well be that inheritance taxes would come to be regarded as mischievous and unnecessary. Even today they may carry with them injurious consequences in certain cases to individuals and to society. This is notably true when, upon death, a business is so crippled by a large inheritance tax that its further prosecution is rendered impossible.

On the whole, and subject to the comment just made, these taxes may be accepted as a form to be dispensed with as soon as possible after the substitution of a better system. Meanwhile, they may be used to gather back to society some of the unjust advantages society has given to the deceased and in a measure to correct evils of our present system of taxation.

Inheritance taxes differ from all others in that they may with justice be collected only by the largest political units. Great fortunes are commonly acquired through ownership in concerns gathering wealth in many states. In greatest propriety, as the estate grows large, it may be levied upon by the general government. In much lesser degree is the State to be justified in exacting such tax. A county or city is never excusable. Inheritance taxes, when existing at all, come so far within the jurisdiction of the na-

tion that the subject does not call for development to any extent by us. So also we pass by discussion of the return of such taxes, when collected, which should be made by the general government to the State wherein the particular properties of the deceased may be located, or where he may have lived.

That All Should Pay

It is perhaps too much to call this a theory apart from all others.

The advocates of the proposition we are now considering believe they are enunciating something new, forgetful of the fact before shown that every person living under government today has to pay for the privilege through the charge for the use of the land required for his existence. In relatively minor cases he may do it by proxy, as when a father pays for a son, or the reverse. At all events, his use of the land has to be paid for—normally by himself.

It is argued that everyone should be made to feel that he has a stake in the government and that he may only be made to feel this by directly confronting the tax-gatherer. The whole basis of the argument rests, therefore, upon the taxpayer's assumed ignorance of the fact that he faces the government whenever he pays his rent to the landlord. Everyone now perceives in some degree that he is a taxpayer, and as he will still pay through his ownership of land or through his landlord, he will perceive it more vividly as landownership is diffused.

The proposition that all should pay is directly illustrated by poll taxes, which are becoming less frequent, and, when maintained, are kept up not for revenue but for political purposes. In fact, where they exist they are paid largely by the political organization which hopes to have in return the aid of

the voter. Besides being objectionable in themselves and of little value from a revenue standpoint, they become the instrument of political corruption. Even the first State Constitution of Maryland, adopted as long ago as 1776, condemned poll taxes, though many other Southern States and one or two Northern still preserve such a tax. The tendency of the times is clearly to deny their rightfulness. We need give them no further attention.

We have discussed sufficiently what may be called the theories of the writers as to basic ideas which should govern taxation. As principles they must fall to the ground because of their inherent weaknesses and evils. We have next to consider the minor though important forms of taxation from which the body politic is suffering.

Occupation and License Taxes

Some of these so-called taxes we must regard as just, but only in so far as in fact they are not taxes at all, though passing under that name. Let us instance a charge for license tags on automobiles. Such tags serve a useful and necessary police purpose. So doubtless with some other specific charges. It is only when used to raise revenue that they become objectionable and incapable of any defense save as an "act of state," the defense of superior power when tyrannous deeds are committed.

But these charges are not limited to police purposes. They extend, usually under city direction, to many useful and necessary occupations, such as those of all varieties of merchants, wholesale and retail, and manufacturers. Often lawyers, brokers and doctors are included, and our teeth may not be filled save the dentist first pay a local charge. They are taxes upon the necessities and the infirmities of

mankind. The first payer must either pass the charge on to the purchaser or the afflicted, or else reduce his profits or go out of business.

It would be interesting to know why such taxes have been so long endured without active protest. It can only be because the payers regard their payment in the first place as giving them protection against others who might enter the same line of business. Large insurance companies and banks may welcome such taxes as protecting them against competition, while passing their burden on to policy holders or borrowers. This may be momentarily pleasing to the first payer, but it is contrary to real freedom. Extending very generally over occupations, they tend to defeat the reason for which they are tolerated by the occupation tax-payer, lessening the power of his patrons to purchase.

Meanwhile, these taxes, as has been said, are in the end usually passed on to the person served by the first payer. As shifting taxes, we must condemn them as mischievous.

What excuse, except that of power to inflict, can be made for such taxes? It is said that the taxpayer exercises his occupation or "mystery"—to use the ancient language—under the protection of the State. So do we all live in varying degrees. For the privilege of so living we relinquished our original condition, and for it the State was created.

Let us ask ourselves, which existed first—the man or the State? If we believe the man created the State to perfect his liberty and not to interfere with it needlessly, how can we reconcile ourselves to such governmental action?

Fortunately, not all members of the community are called upon to pay an occupation tax. Certain professional men escape, as yet not classified by the

authorities. The mechanic is not usually singled out for this tax. The laborer escapes. The employees of a public service corporation, whose gains may far exceed those of very many merchants, pay nothing for the privilege of working, even though in these cases they cannot shift the tax. As to the merchant, the argument of protection is advanced. As to those excepted, it is ignored. The tax, therefore, is unequal. Its justice may be denied on this ground.

The fact is that occupation taxes are a survival, and a pernicious survival, of Middle Age ideas on the subject of taxation—as now applied, an illustration of the Donnybrook Fair idea, unworthy of what we proudly call American freedom.

Perhaps in some degree occupation taxes are regarded as illustrating ability-to-pay. They seem rather to establish a doctrine of ability upon the part of the State's agencies to exact. It is interesting to note that Professor Seligman, writing a ponderous book on the subject of taxation, himself a protagonist of the ability-to-pay theory, finds no space in which to denounce occupation taxes, though he traces their origin to the evil practices of former times.

We find that as men come together in their various occupations a new value is created in the land of the community. As a consequence, for the privilege of laboring in this land we pay an added sum for its use, and we call this rent. Since this new value, created in the land by the industry of all, is a community production, should the government hesitate to take as much of it as is needed for community purposes, and leave each one to pursue any useful occupation without imposing a special burden upon him?