

## CHAPTER VIII.

LOCAL TAXATION.—JUSTICE OF THE PROPERTY  
TAX.

TURNING from the national government to the State and local governments, we enter the field where the burdens of taxation are more fairly distributed than in any other country in the world, Switzerland not excepted. Local taxation in America is direct, and had been for two generations when **Democracy in Taxation.** *Thierre* complacently declared that indirect taxation was the "system of the most advanced nations, while direct taxation belonged to barbarous peoples." From the time the New England system became the American system, the discussion of local taxation has been almost uninterrupted among the mass of the people; and the theory of the general property tax has become so thoroughly imbedded in the public consciousness, that violations of it are everywhere felt to be an abuse demanding a remedy. There have, indeed, been times when the corporations have succeeded in evading the laws, until the whole system seemed imperilled. But except in a few commonwealths, the unanimous protests of the middle

classes have everywhere forced the legislatures to frame new laws, giving greater practical effect to the principle that all property should be taxed alike.

The opinion so commonly expressed in some of our Eastern cities, that personal property more and more largely escapes taxation with each succeeding year, is unwarranted. I am <sup>Criticisms</sup> aware that this opinion has been ex- <sup>of the</sup> pressed as late as 1891 by so broad a <sup>Property Tax.</sup> scholar as Professor Seligman;<sup>1</sup> but his argument does not sustain his position. "The Tenth Census," he urges, "asserts that from 1860 to 1880 the assessed valuation of real estate increased from \$6,973,006,000 to \$13,036,797,000, while that of personal property decreased from \$5,111,554,000 to \$3,866,227,000." Upon the face of it, this evidence looks conclusive; but in 1860 three-fifths of the personal property was in the slave States, and consisted chiefly of slaves. "In California," his argument goes on, "personal property was assessed in 1872 at \$220,000,000; in 1880 at \$174,000,000; in 1887 at \$164,000,000; a net decrease in fifteen years of \$56,000,000. Real estate increased in the same period from \$417,000,000 to \$791,000,000." Again the evidence looks convincing merely upon its surface.

<sup>1</sup> Essay on The General Property Law, March, 1891, *Political Science Quarterly*.

The assessment of personalty in California in the early seventies ran as follows: —

1871 . . . . .	\$ 86,000,000
1872 . . . . .	220,000,000
1873 . . . . .	118,000,000

It was only by taking unconsciously the year 1872, in which a systematic attempt was made to tax mortgages as personalty, that Professor Seligman's generalization even seemed to be sustained. This taxation of mortgages was that year overthrown by the State Supreme Court, on the ground that to tax both the mortgage and the property mortgaged violated the clause of the Constitution requiring the equal taxation of property. In 1879 the people of the State adopted a new constitution, which carried out logically the principle of the property tax by taxing mortgages as a part interest in the real estate mortgaged. In 1887, under this provision, over a hundred million dollars worth of mortgages were taxed as real estate, and the \$164,000,000 of personalty taxed as such by local assessors was additional thereto. So also were the \$47,000,000 of railroad property assessed by the State Board. The aggregate amount of personalty taxed in 1887 was far greater than in 1872, anomalous as that year's assessment was.<sup>1</sup>

<sup>1</sup> The amount of personalty taxed in the Northern States in 1890 was nearly twice as great as in 1880 or 1870, nearly three times as great as in 1860, and over six times as great as in 1850. The ratio of taxed realty to taxed personalty was the same in 1890 as in 1850.

The chief ground for most of the sweeping assertions made by scholarly writers concerning the exemption of personal property, lies in a totally mistaken notion concerning the extent of such property. It is observed everywhere that when the commonwealth was a mere territory, the amount of personalty nearly equalled the amount of real estate;<sup>1</sup> and it is assumed that the proportion of personalty ought to increase when the State becomes settled. It is forgotten that in a newly settled territory unimproved land is worth practically nothing. The wealth of the farmer in the first instance consists chiefly in the stock he brings upon the land. His real estate is relatively unimportant. As time goes on, and improvements, public and private, are made, his real estate rises in value and his personalty becomes relatively unimportant. At present the tangible personal property in the country, including the entire value of railroads and mines, is estimated by the census at \$25,000,000,000; the real estate at \$40,000,000,000. These figures indicate roughly the proportions in which personalty and realty should be taxed.

The  
Proportion  
of Personal  
Property to  
Real.

The Relative  
Proportions  
Taxed.

<sup>1</sup> In Montana to-day the amount of personalty fully equals the amount of real estate. The auditor's and treasurer's report of 1891 returns realty at \$69,000,000, and personalty at \$72,000,000.

The proportions in which they are taxed is approximately shown by the following table:<sup>1</sup>—

GEOGRAPHICAL DIVISIONS.	REALTY.	PERSONALTY.
New England . . . . .	\$ 2,593,000,000	\$1,266,000,000
Middle . . . . .	6,071,000,000	1,334,000,000 <sup>2</sup>
Southern . . . . .	3,199,000,000	1,556,000,000
Western . . . . .	7,093,000,000	2,663,000,000
TOTAL . . . . .	\$18,956,000,000	\$6,819,000,000

During the last decade the amount of personalty taxed has increased much more rapidly than the amount of real estate. Personal property now pays two-thirds of its proportion of the local taxes outside of two commonwealths. The contrast between these and the rest of the country is as follows:—

<sup>1</sup> The figures are those of the census, except in a few States where these did not include corporate property assessed by State Boards. The additions made on this account were as follows: Massachusetts, \$213,000,000; Connecticut, \$77,000,000; and Louisiana, \$13,000,000. According to the Report of the Massachusetts Tax Commissioners for the year 1894, nearly \$400,000,000 more might be added to the amount of taxed personalty in that commonwealth; but the Commissioners' figures include savings-bank deposits and other property taxed at much less than the local rate on realty.

<sup>2</sup> The proportion of taxation borne by personalty in two of the Middle States—New Jersey and Pennsylvania—is even less than the census figures indicate, since personalty taxed at a light rate is included in the returns. In Delaware and New York the exemption of personalty is somewhat less marked than would appear. Nevertheless, these two States, in the order named, are altogether pre-eminent for the injustice of their local tax systems toward the owners of real estate.

	REALTY.	PERSONALTY.	PER CENT.
New York . . .	\$ 3,404,000,000	\$ 382,000,000	11
Pennsylvania . . .	2,042,000,000	618,000,000	30
Other States . . .	13,510,000,000	5,819,000,000	43

Unfortunately it is the New York figures that have been continually paraded before the world. Regarding Pennsylvania, it should be said that this commonwealth has never yet completely adopted the general property tax theory, though it has moved steadily in that direction. During the last few years, especially, has personal property been made to bear more nearly its just share of taxation. The gross failure of New York to conform with the obvious demands of justice is due to the influence of New York City, whose middle classes are weak, and whose immigrant poor are indifferent to questions of taxation, local as well as national.

Serious efforts to tax personal property fail only where they ought to fail, — only where the principle of equal taxation is abandoned, and the attempt made to tax personalty twice. To tax both the mortgage and the property mortgaged, both the corporation and the stockholder, both the property within the taxing district belonging to persons outside of it and the property outside the taxing district belonging to persons within it, is double taxation. If accomplished, it would violate the

Where the  
Taxation of  
Personalty  
Fails.

fundamental principle of the property tax. Mortgages are simply certificates of part ownership in the property mortgaged. Where the principle of the property tax is applied, as by the English income-tax law,<sup>1</sup> and by the measures the farmers are urging American legislatures to accept, the owner of the mortgage pays his proportionate share of the tax on the property.<sup>2</sup> Shares in corporations are simply certificates of part ownership in the property of the corporations. Where the principle of the property tax is applied, the corporation is taxed upon its property in the same way and at the same rate as an individual. Personal property lying in one taxing district, but owned in another, should be taxed once, and once only. Where the principle of the property tax is applied, it is taxed like real estate where

<sup>1</sup> See Dowell's "History of Taxation and Taxes in England," vol. iii., pp. 114, 115.

<sup>2</sup> This principle should be applied to railroad mortgages as well as those resting upon individual real estate. Only in this way can bondholders — especially foreign bondholders — be made to bear their share of local taxation. The taxation of mortgages, though the same thing in reality as the taxation of bonds, is not surrounded by the same legal difficulties. The mortgage has a situs in the State where it is recorded. The decision of a bare majority of the Federal Supreme Court, that a State could not tax foreign-held bonds in its corporations (*R. R. v. Pa.*, 15 Wall. 323), rested on the legal fiction respecting the situs of a bond. Where the law makes the mortgage a part interest in the estate mortgaged, the foreign owner may be taxed. See the unanimous decision of the Supreme Court of Oregon in *Mumford v. Sewall*, 11 Oregon, 67, 72.

it is located, without reference to the residence of its owner.

As time goes on, the equal taxation of personal property steadily becomes easier. As firms change into corporations, the value of their property becomes ascertainable to a degree never reached by real estate. Fifteen years ago the worst abuse in the local tax system in this country was the systematic exemption of railroad property. But the commonwealths which have set to work to tax railroads as they tax real estate, have found railroad property by far the easier to value. Connecticut, for example, has now for years assessed its railroads at the value of their stocks and bonds, — taking the proportion thereof fixed by Connecticut mileage in the case of interstate roads. The stocks and the bonds obviously represent the whole property, and their value can be found from the newspapers. In Indiana, where a similar system has been in force since 1891, 6,292 miles of railroads of very ordinary value are now taxed upon \$157,000,000, or \$25,000 a mile. The railroads are assessed at as high a rate as the farms and homes. The same system is being applied to other corporations; through it, and through it alone, can all corporations doing an interstate business be justly taxed. No State has the right or the power to tax such corporations upon the

The Taxation  
of Personalty  
Becoming  
Easier.



whole of their property. But every State has the right and the power to tax them upon the proportion of their total property corresponding with their business within the State.<sup>1</sup>

This discussion of local taxation in the United States has seemed necessary because of the widespread opinion that nearly all local taxes in America fall upon real estate, and thus greatly overburden the poorer classes of property owners. It is true that over one-third of the personal property still escapes taxation. Nevertheless, the rapid abandonment, during the past decade, of the legal fiction respecting the situs of personalty, and the wider application of the principle that all property should be taxed at the same rate, and at the place where it produces its revenue, have made this abuse much less flagrant than formerly. The personal property that escapes taxation is indeed pre-eminently the property of the rich; the homes and

<sup>1</sup> In order to be just, such taxes should be upon the capital, or capitalized net earnings of the corporations, and not on the gross receipts; for it is only the tax on capital that cannot be shifted in some degree upon the public. For the incidence of various taxes the reader is cordially recommended to consult Professor Seligman's admirable essay on the Incidence of Taxation. Professor Seligman criticises the generalization that the taxation of property is the taxation of the property owners; but he himself holds that the tax upon land cannot be shifted from the landowner, that the tax upon net earnings cannot be shifted from the stockholders in corporations, and that the taxes on other property cannot be shifted in case they are general.

farms<sup>1</sup> which are overburdened are pre-eminently the property of the smaller holders. Nevertheless, the line between the classes as to the form of property owned is not a sharp one, and the average rate of taxation on the property of the rich is but little greater than the average rate paid by the relatively poor.<sup>2</sup>

The percentage of the property tax that is shifted upon the shoulders of the propertyless is relatively small. It is, of course, greatest in

<sup>1</sup> The writer knows no better example of the common-sense of American farmers respecting their own interest, and the folly of city experts who think them fools, than the way in which the former have clung to the taxation of personal property. One of the most brilliant attorneys in New York, Mr. Thomas G. Shearman, has written at length to show that everywhere it is the farmers who pay the bulk of the taxes on personal property. But everywhere he loses sight of the fact that the personal property returned in the rural counties is almost exclusively returned in the towns and villages of those counties. In Ohio, where he finds several illustrations, the value of farm-land equals that of urban realty, yet the aggregate value of farmers' personalty—including as such all the live stock, and all the carriages, wagons, watches, and pianos in the State—is but \$90,000,000, while the value of merchants' and manufacturers' stock, money, credits, etc., is \$223,000,000, and that of banks, railroads, etc., another \$182,000,000. These are about the proportions in most States with fairly good tax systems, and the farmers know it without statistics.

<sup>2</sup> Even the taxation of mortgaged property entirely to the mortgagor does not result in the exemption of the richer class. The mortgagor pays less for the possession of the property, because he pays the tax. However, California's experience in taxing mortgages to the real owners, and New England's experience in taxing savings-banks and public bonds, entirely run counter to the claim of the creditors that the direct taxation of their loans increases the rate of interest to the full amount of the tax.

the large cities, where personal property in the largest measure escapes taxation, and property owners refuse to erect new buildings until the rentals will yield them as much as tax-free investments. But the field of tax-free investments has become a limited and overcrowded one. In only a small degree, therefore, does the exceptionally heavy taxation of real estate direct investments to other channels. Even in this degree it is the rental of buildings alone that is affected. The exceptionally heavy taxation of land does not lessen the supply of land, nor increase its rental; and in the largest cities the value of the land, even in the tenement-house districts, approximately equals the value of the buildings.<sup>1</sup>

Were it not for the poll-taxes and the license-taxes still employed by local governments, it would be difficult to defend the proposition that the small property owners pay a much heavier percentage on their property than the larger. The property tax averages about three-fourths of one per cent upon the actual value of all property; and it is doubtful if it falls below three-fifths of one per cent for the wealthiest class, or rises as high as one per cent for the great body of the people. However, about \$50,000,000 a year is collected from poll-taxes, liquor licenses, etc.; and three-

<sup>1</sup> See Boston Assessors' Report for the year 1894, p. 33.

quarters of these taxes fall upon the relatively poorer classes. The final table for the distribution of local taxation would therefore stand approximately as follows:—

## Distribution of Local Taxation.

CLASS OF INCOMES.	NO. OF FAMILIES.	TOTAL	TOTAL	LOCAL	TAXES TO	
		PROP.	INC.	TAXES.	INC.	PROP.
		(Millions.)	(Millions.)	(Millions.)		
\$5,000 and over,	200,000	\$35,500	\$ 3,110	\$220	.07	.006
\$5,000 to \$1,200,	1,300,000	20,500	2,890	170	.06	.008
Under \$1,200	11,000,000	9,000	4,800	125	.03	.014
	12,500,000	\$65,000	\$10,800	\$515 <sup>1</sup>		

In other words, our system of local taxation is the most just in the world to the poorer classes. In proportion to incomes, the taxation is progressive. From the incomes less than \$1,200, less than three per cent is taken; from the incomes above \$5,000, seven per cent is taken. Nevertheless, even these relatively humane burdens rest twice as heavily upon the property of the poorer classes as upon the property of the rich. When these local taxes are joined with the national, the aggregate tax is one-twelfth of the income of every class. There is no exemption of wages. The wealthiest class is taxed less than one per cent on its property, while the mass

Summary.

<sup>1</sup> EXTRA CENSUS BULLETIN NO. 70.

Taxes on property, including corporations . . . . .	\$465,000,000
Licenses, poll-taxes, etc. (about) . . . . .	50,000,000
	<u>\$515,000,000</u>

of the people are taxed more than four per cent on theirs. In this way the separation of classes is accelerated by the hand of the state.

The investigation of the present distribution of wealth is now complete. We found in the

*Conclusion.* English retrospect that the concentration of wealth has been going on rapidly despite the reforms of the present century. In our own country the Civil War overthrew the once dominant cause of the separation of classes, but called into activity new forces working to the same end. The dominant forces to-day are all working toward the concentration of wealth in the cities, and the impoverishment of the country districts. In the cities these forces are working toward a yet narrower concentration. The wealth of the cities is as much more concentrated as it is greater than the wealth of the rural districts. Taking city and country together, we found that the great body of small property owners now hold barely one-eighth of the national wealth; and that one family out of every one hundred owns as much as all the remainder. Turning to the incomes of families, we found that in this country, as well as in Europe, two-fifths of the product of industry goes as the share of capital, quite apart from the earnings of the capitalist classes from personal exertions. One-tenth of the families have the same aggregate income as the remaining

nine-tenths, while the one per cent at the top have as much as the fifty per cent at the bottom. Turning finally to the field of taxation, we found that the public is taking as large a percentage from the incomes insufficient for healthful and decent living as from the incomes morally perilous to their possessors, and is placing upon the property of those struggling for an independence burdens fourfold heavier than upon the property of those already rich. Such a review cannot be concluded with the mere recommendation that taxation shall be changed so as to rest equally upon the property of the rich and poor. The equal taxation of property will not restore substantial equality of opportunities. It will not even stop the separation of classes now going on. To accomplish these ends will require radical measures along many lines. For the moment, the reform of the currency and the control of the railroads seem destined to have the first place in the hearts and consciences of those who desire a better social condition. But when these reforms are accomplished, and the nation sees that the gulf between the classes is still widening, and that the incomes from great properties, instead of promoting energy and thrift, are promoting idleness and waste, there is bound to be a further change in the canons of taxation. In Europe during the present generation we have witnessed the de-

mand of liberals for a proportional income tax change into a demand for a progressive income tax. In this country during the coming generation we are likely to see the public demand for the proportional property tax change into an equally vehement demand for a progressive property tax. The great principles of taxation will not be changed. Taxation will still be distributed according to the ability of each class to bear, according to the public sense of social justice, according to the obvious demands of the public welfare. But the public will recognize that the ability to pay taxes increases faster than the private fortune; the public will feel that the sacrifice becomes less as the size of the fortune grows greater; and the public will know that the well-being of the nation will be increased by a distribution of public burdens, which will enable the small property owners to gain a competency, even if it seriously reduces the incomes in excess of the demands of comfort or culture or character. The public welfare is the supreme law, and the heart and conscience of the nation are bound to give effect to measures which shall make the wealth of the nation synonymous with the national well-being.