In the Supreme Court of Ohio

BEAVER EXCAVATING COMPANY, ET AL.,	:	Case No. 2011-1536
Plaintiffs-Appellants,	:	
	:	On Appeal from the
v.	:	Court of Appeals,
	:	Tenth Appellate District
RICHARD A. LEVIN [JOSEPH W. TESTA], TAX COMMISSIONER OF OHIO,	:	Court of Appeals Case No. 10-AP-581
Defendant-Appellee.	:	

REPLY BRIEF OF PLAINTIFFS-APPELLANTS BEAVER EXCAVATING COMPANY, ET AL.

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INTRODUCTION

The Commissioner labors hard to ignore the plain words of Section 5a. He conspicuously overlooks the rejected 1934 amendment and the 1936 food amendment that offer helpful comparisons and contrasts to Section 5a. He fabricates an incorrect history of roadway funding and then accuses Plaintiffs of isolating Ohio by pitting Section 5a against his so called "history." Unfortunately for the Commissioner, his arguments contradict known facts as well as authorities in both Ohio and other states. The Commissioner even mischaracterizes the Plaintiffs' claims to invent a new standing issue.

The reality is that in 1947 the people purposefully chose broader, more inclusive language in Section 5a than that of the rejected 1934 amendment and the 1936 food amendment. These words and actions are lessons in text and history. They instruct us on what the people intended and what they did not. This Court should declare the CAT, as applied to Motor Vehicle Fuel gross receipts, unconstitutional for failing to set forth a lawful Section 5a object.

ARGUMENT

A. The Tax Commissioner attempts to rewrite this Court's rules of constitutional interpretation by ignoring the plain and commonly understood text of Section 5a.

Section 5a mandates that "[n]o moneys derived from fees, excises, or license taxes relating * * * to fuels used for propelling [motor] vehicles shall be expended for other than [highway purposes]." To free the CAT from Section 5a's restrictions, the Commissioner must rewrite the Constitution's text by substituting only selected portions of definitions for terms that otherwise are regularly used and well-understood in Ohio law.

The Commissioner's brand of wordsmithing is extreme and inconsistent with the perspective of a common sense voter/drafter. In matters of the constitution, this Court requires that litigants give "the simple language of the plain people" "such meaning as they usually give

to it in political discussions and arguments. * * * Where the language is plain there is neither room nor right to construe." *State ex rel. Keller v. Forney*, 108 Ohio St. 463, 466 (1923) (quotation marks and citation omitted). Language parsing is not favored when considering amendments adopted by citizen initiative. *Id.* The Court presumes that "the drafters of the proposed constitutional amendment and the voters who approved it" had in mind the existing law touching the subject at hand. *State v. Carswell*, 114 Ohio St.3d 210, 2007-Ohio-3723, ¶ 6.

Plaintiffs provided in their opening brief authority demonstrating that the people in 1947 understood the breadth of the language of Section 5a to cover all fees, excises, or license taxes relating to Motor Vehicle Fuel. (Merit Br. of Plaintiffs-Appellants ("Pls. Br.") at 24-27.) These "relating to" taxes include (at a minimum) the former liquid fuel tax, the Ohio motor vehicle fuel tax, and all future privilege-of-doing-business excise taxes that bear a similar relationship to Motor Vehicle Fuel. In contrast, the Commissioner insists that "fees, excises, or license taxes" is not broad or inclusive (and omits the CAT) because the drafters did not include the term "all" in front of fees, excises, or license taxes. (Br. of Appellee Tax Commissioner ("Comm'r Br.") at 24.) The Commissioner cites no authority in support of his nonsensical standard nor does he consider the damage his "all" standard will inflict on other constitutional or statutory provisions that are intended to be broad or encompassing, but do not use the magic word "all."[1] Moreover, the Commissioner's "spin" on the scope of Section 5a flies in the face of this Court's pronouncement in *Ohio Grocers*, where the Court stated that if the drafters of a constitutional amendment intended to affect excises of "every stripe," they would have used the term "excise

[1] Section 5a states, "No moneys derived from fees, excises, or license taxes," not "some moneys" or "certain moneys" derived from such taxes. This is a comprehensive mandate. To require Section 5a to state "No moneys derived from [all] fees, excises, or license taxes" in order to be inclusive, as the Commissioner argues, contradicts common usage of the English language. *See also* 73 Am. Jur.2d *Interpretation* § 213 ("Where the legislature has made no exception to the positive terms of the statute, the presumption is that it intended to make none.")

taxes," 123 Ohio St.3d 303, 2009-Ohio-4872, ¶ 29, as the drafters and voters did in Section 5a.

The Commissioner also argues that "relating to" in Section 5a modifies the "tax," and not the moneys derived from the tax. With this, the Commissioner attempts to completely rewrite the text of Section 5a, arguing that "relating to" requires a direct and express reference to Motor Vehicle Fuel as the sole basis for the tax. (Comm'r Br. at 26-28.) Plaintiffs do not disagree with the assertion that "relating to" may modify the tax, but even so, there is no authority (case or otherwise) that limits the term "relating to" to mean only "direct and express reference to." Such blatant wordsmithing undermines the "simple language of the plain people."

There is clear authority that modifiers like "relating to," "providing for," "imposed upon," and "directly relating" have distinct meanings. Ohio courts have given meaning to "relating to" such that the voters in 1947 understood that they were approving a broad anti-tax-diversion provision. *See e.g.*, *State ex rel. Keller*, 108 Ohio St. at 467 (distinguishing "relating to" from "providing for" as "much broader, much more comprehensive"); *see Acad. of Med. v. Aetna Health, Inc.*, 108 Ohio St.3d 185, 2006-Ohio-657, ¶ 18 (stating that an arbitration clause containing the phrases "arising out of" or "relating to" "is considered the paradigm of a broad clause"); *see also* multiple cases discussed in Plaintiffs Br. at 22-27. Had the drafters intended to require a direct and express reference to or an exclusive relationship with Motor Vehicle Fuel for Section 5a to apply, they certainly knew how to include that "direct reference" requirement. *See Fyr-Fyter Co. v. Glander*, 150 Ohio St. 118, 122-23 (1948) (interpreting the newly added term "directly" in a tax statute as a term intended to narrow the previous breadth of the statute).

Simply put, the Commissioner has not set forth a plausible reading of the text of Section 5a that saves the CAT from Section 5a's constitutional restrictions. The actual language of Section 5a and its history as well as the history and wording of other tax amendments (the

rejected 1934 amendment and the food amendments) eliminate any doubt as to the breadth of Section 5a. In 1947, the voters were concerned with the avarice and creativity of the General Assembly to divert all present and future excise and license tax revenues relating to Motor Vehicle Fuel – not just the then-questioned liquid fuel tax. The drafters and voters who passed Section 5a in 1947 would be angered by the Commissioner's narrow position today. Imagine a voter in 1947, having just passed the Section 5a constitutional amendment, learning that in addition to the repeal of the liquid fuel tax the General Assembly passed a general gross receipts tax including gross receipts from Motor Vehicle Fuel sales and extended the general sales tax to include sales of Motor Vehicle Fuel – all without setting roadways as the object of those new taxes. They would have felt betrayed. But that is the outcome of the Commissioner's argument.

The Court should give effect to the text the voters adopted in 1947. The Court should apply the simple language of the plain people and reject the Commissioner's strained "interpretation."

B. The Hayden Cartwright Act does not support the Commissioner's limited reading of Article XII, Section 5a.

The federal Hayden Cartwright Act ("HCA") did not cause an anti-tax-diversion movement that bore fruit in Ohio thirteen years later. But, even if that were true, it does not allow the Commissioner to ignore the plain language used in Section 5a in favor of the language in the HCA. Section 5a does not use the terms "special taxes" or "gasoline tax," as does the HCA. Section 5a does not reference the HCA. The Commissioner has not cited a single contemporaneous reference to the HCA in the newspapers of 1947 or the ballot language.[2] Yet,

[2] Contrary to the Commissioner's argument, the mention of the "promised federal highway program" in Section 5a's ballot language is a reference to the Federal-Aid Highway Act of 1944. For a more complete discussion of the Federal-Aid Highway Act of 1944 see the Reply Brief of Amicus Curiae County Engineers Association of Ohio at 9-11.

the Commissioner begs the Court to ignore common sense and hold that Ohio voters decided to use entirely different language in Section 5a (compared to that in the HCA) to express their hidden intent to enact the HCA's narrower language. Had the drafters and the voters intended to enact the HCA restrictions, they would have done so. If they meant to cover only "gasoline taxes and other special taxes," they would have adopted that language. They did not. Instead, they imposed Section 5a's much broader restrictions on moneys derived from "fees, excises, or licenses taxes" "relating to" Motor Vehicle Fuel. The broader language in Section 5a (than in the HCA) shows that the drafters and voters purposefully rejected the focus of the HCA and its tether to gasoline taxes only. The Court should give effect to the actual language of Section 5a.

C. Generally-applicable excise taxes as applied to Motor Vehicle Fuel gross receipts (such as the CAT) and excise taxes specifically-applicable to Motor Vehicle Fuel (such as the Ohio motor vehicle fuel tax) relate to Motor Vehicle Fuel in the same way. Section 5a's restrictions must apply to both.

The Commissioner contends that Section 5a applies only to gasoline taxes because they expressly reference Motor Vehicle Fuel. (Comm'r Br. at 25-28.) He argues that a business privilege tax (like the CAT) as applied to a specific line of business (e.g. Motor Vehicle Fuel) is fundamentally different and therefore constitutionally distinguishable from a business privilege tax (like the Ohio motor fuel tax) that applies specifically to the same line of business. (Id. at 27, 30-33.) The text of Section 5a shows that the Commissioner is wrong. In addition, history demonstrates that the Commissioner's distinction is made up. At the time of Section 5a's enactment, generally-applicable sales and gross receipts taxes were understood to relate to fuel in exactly the same way that gasoline taxes related to the Motor Vehicle Fuel. Consequently, Section 5a was intended to reach both equally.

The operative Section 5a language is "excises or license taxes relating to * * * fuel." It contains no technical language to distinguish between a retail sales tax and a business privilege

tax, as do the food amendments. The drafters did not use the term "gasoline taxes" or otherwise express an intention to limit Section 5a to just that narrow subset of taxes. Thus, comparing the historical understanding of how general sales taxes, general gross receipts taxes, and gasoline taxes "related to" Motor Vehicle Fuel is instructive.

In Ohio and elsewhere, during the 1930s and 1940s, both generally-applicable gross receipts and retail sales taxes were colloquially "described as sales taxes." Carlton S. Dargusch, *Economic and Legal Aspects of the Sales Tax*, 1 L.J. Student B. Ass'n Ohio St. U. 192, at 192-193 (1935) (Ex. A). Both were commonly understood to be general excise taxes of the same type. *See* id.; Carl R. Johnson, *The Ohio Retail Sales Tax Act*, 11 Ohio St. L.J. 143, 145 (1950) (Ex. B) (comparing "sales or gross receipts tax laws"); Blakey & Roy, *State Sales and Use Taxes*, 20 Taxes 155, 157 (1942) (describing both gross receipts tax and retail sales tax as a "type of sales tax") (Ex. C); *see also* William L. Haas, *Sales Taxes Affecting Motor Vehicle Operation*, Public Roads, 22:147, 150, (Sept. 1941) (Ex. D) (describing how "general sales or use taxes . . . [were] variously designated as 'gross receipts,' 'retail sales'" taxes). In short, the nature of these two generally-applicable excise taxes was considered to be the same or similar. They are analogs of one another.

Plaintiffs understand that, as the Court relied on in *Ohio Grocers*, technical limiting language such as "imposed upon" and "sales or purchases" in Article XII, Section 3(C) and 13 can evidence an intended distinction between types of general excise taxes (e.g. sales tax versus gross receipts tax). That was true even in the 1940s. *See, e.g., Minnesota v. Keeley*, 126 F.2d 863 (8th Cir. 1942) (addressing whether the United States waived federal sovereign immunity on federal enclaves for state excise taxes on gasoline where operative statutory language was "imposed upon"). However, Section 5a does not express such a distinction. It uses the broader

phrase "relating to," and not "imposed upon." In the absence of such technical limiting language giving a reason to distinguish between them, Section 5a was understood by drafters and voters to cover general excises, which include both gross receipts taxes and retail sales taxes.

The common conversations and terminology relating to "gasoline taxes" in the 1940s did not distinguish between excise taxes on the dealer (gross receipts) versus excise taxes on the consumer (retail sales). Such taxes were conversationally referred to and popularly understood as "selective sales taxes" without regard to the question of whether the tax technically was imposed on the dealer or the consumer. *See* Edwin L. Smart, Sr., *The Tax Structure of the State of Ohio*, 19 Ohio St. L.J. 24, 34 (1958) (Ex. E) stating:

> Although excises such as the corporation franchise, the public utility excise and the inheritance tax had been part of the state tax system, a new form of them appeared as the economic depression became more severe. These were selective sale taxes and, finally, a general sales tax. The gasoline tax, which is an example of the former, had been in existence since 1925 * * *.

Despite their general characterization as a "selective sales tax," gasoline taxes throughout the country were usually in the form of business privilege taxes on the dealer. *See Keeley* at 864 n.1. The same was true in Ohio as well. *See Hickok Oil Corp. v. Evatt*, 141 Ohio St. 644, 652-53 (1943).

Because gross receipts taxes, sales taxes, and gasoline taxes (whether business privilege or retail sales tax) all were considered within the same species of excise tax, Ohio, like other states, embraced the policy of not imposing more than one of these taxes on the same tax base. *See* Haas, Ex. D at 150, 155 (defining "general sales tax" to include "gross receipts taxes" and providing that "[g]asoline for highway use is generally exempt from general sales taxation"); Fred Picard, *The Nature and Operation of the Ohio Retail Sales Tax*, 11 J. of Fin. 86, 86 (Mar. 1956) ("[G]asoline, and other commodities are exempt because selective sales taxes are [already] imposed upon these goods.") (Ex. F); *House To Act On Sales Tax Today*, The Chronicle-

Telegram, Elyria Ohio, (Sept. 13, 1933) at 1 ("[The proposed sales tax] exempts . . . commodities already subject to selective sales of excise taxes, . . . such as gasoline and liquid fuels.") (Ex. G). This was true without regard to the technical form of the taxes. Despite the fact that the Ohio motor vehicle fuel tax was technically a business privilege tax on the dealer while the sales tax was a transactional tax on the consumer, Ohio exempted Motor Vehicle Fuel sales from the Ohio sales tax. This Court, in *Haefner v. Youngstown*, 147 Ohio St. 58 (1946), *overruled on other grounds*, *Cincinnati Bell Tel. Co. v. Cincinnati*, 81 Ohio St.3d 599 (1998), explained that Ohio's sales tax exemption of Motor Vehicle Fuel sales was based on an understanding that the taxes were the same or similar, as they related to Motor Vehicle Fuel. *Id.* at 64.

Not surprisingly, when Ohio considered enactment of a gross receipts tax in 1934 (contemporaneously with the consideration of the Ohio sales tax), the proposed gross receipts tax also exempted gross receipts from sales of Motor Vehicle Fuel for the same policy reason that gave rise to the Ohio sales tax exemption – specifically, Motor Vehicle Fuel was already subject to the same type of excise tax. *See Sales Tax Bill Bobs Up In Ohio Senate Today For Consideration*, The Piqua Daily Call, Piqua, Ohio (Apr. 24, 1934) at 1 (setting forth exemption from proposed gross receipts tax because of existing Ohio motor vehicle fuel tax) (Ex. H); *Gross Receipts Tax Measure is Drafted*, The Evening Independent, Massillon, Ohio (Apr. 25, 1934) at 1 ("[T]ax as approved would exempt gasoline liquid fuel.") (Ex. I); *Committee Votes Down Sales Tax*, The Star Journal, Sandusky, Ohio (Apr. 24, 1934) (describing pyramiding nature of proposed gross receipts tax and exemption for receipts from gasoline and liquid fuel because of existing motor vehicle fuel taxes) (Ex. J).

Section 5a applies to excises or license taxes "relating to" Motor Vehicle Fuel. The

foregoing makes clear that general sales and gross receipts taxes were understood to "relate to" Motor Vehicle Fuel in the same way that the motor vehicle fuel tax related to that commodity. No distinction was made between the technical form of a motor vehicle fuel tax, gross receipts tax, or sales tax. If a state already imposed a motor vehicle fuel tax, it was understood that to apply a general excise tax to sales or sellers of fuel would be to apply the same type of tax a second time to the same tax base. Accordingly, both the general public and state governments (including Ohio) understood that general gross receipts, general retail sales taxes, and motor vehicle fuel taxes "related to" Motor Vehicle Fuel in the same way.

The Commissioner's assertion that Ohio drafters and voters in 1947 believed that Section 5a would not reach the sales tax as applied to fuel sales or a general gross receipts tax if applied to fuel sellers is baseless. It contradicts text and history. It contradicts the intention of the people and undermines the very purpose of Section 5a.

The Commissioner fails to answer the question, "why would a tax that is the 'same or similar' to the Ohio vehicle motor fuel tax not be subject to Section 5a?" Any exception to the reach of Section 5a, with regard to taxes historically understood by the drafters and the voters to be the same type and share the same tax base as the motor vehicle fuel tax, must be expressed, not implied. As discussed below, that is precisely how other states have addressed the matter.

D. The history of other states' "Section 5a" constitutional amendments supports Plaintiffs' view that generally-applicable privilege-of-doing-business excise taxes (such as the CAT) are covered by Ohio's Section 5a because they relate to Motor Vehicle Fuel.

The Commissioner declares that a "national consensus" exists regarding state constitutional amendments protecting highway revenue and how those amendments exclude coverage of generally-applicable excise taxes, like sales or gross receipts taxes. (Comm'r Br. at 40.) He claims that Plaintiffs "cannot cite a single State that has adopted a view similar to what

it advances here." *Id.* But, his research and reasoning are wrong. In reality, states understood that generally-applicable taxes (such as gross receipts taxes or sales taxes) are the same or similar to specifically-applicable excise taxes (such as motor vehicle fuel taxes) and are therefore equally subject to Section-5a-type amendments protecting road funding. The national consensus on this issue strongly supports Plaintiffs, not the Commissioner.

In considering the passage of Section 5a, Ohioans were directed by the ballot language to Michigan. Texas amended its constitution in 1946 to require that certain revenues from excise taxes be spent on the roadways. Article VIII, Sec. 7-a of the Texas Constitution uses broad language like Ohio Section 5a, but applies to taxes both "on motor fuels and lubricants used to propel motor vehicles over public roadways." Like Ohio, Texas exempts Motor Vehicle Fuel from its generally-applicable sales tax because that commodity is taxed by another similar excise (e.g. Texas's motor vehicle fuel tax). *See* Tex. Tax Code Ann. §151.308(3). Unlike Motor Vehicle Fuel, however, lubricants in Texas are not subject to the state's motor vehicle fuel tax and, therefore, are not exempt from the state sales tax. *See id.* If the Commissioner is correct that broadly inclusive language, like that used in the Texas amendment or Ohio's Section 5a, nonetheless contains an implied exclusion for generally-applicable taxes, then Texas sales tax revenue derived from sales of lubricating oil would be appropriated for non-highway purposes. That is not the case. In keeping with the national understanding that these taxes, as applied, are indistinguishable, Texas appropriates its generally-applicable sales tax revenue from sales of lubricating oil to highway funding purposes in accordance with Section 7-a. Tex. Tax Code Ann. §151.801. This undermines the Commissioner's argument that Section-5a-type amendments apply only to specifically-applicable motor fuel taxes.

Michigan's treatment of its generally-applicable sales tax also supports Plaintiffs' arguments here. Article IX, Section 9 of the Michigan Constitution sets forth the Michigan version of Section 5a. Interestingly, Michigan does apply its generally-applicable sales tax to gasoline sales and does not earmark those funds for highway purposes. As enacted, the Michigan Constitution contained an express exception for general sales and use taxes, stating "[t]he provisions of this section shall not apply to the general sales tax, the use tax, * * *."[3] If the Commissioner is correct that generally-applicable excise taxes were by implication outside the reach of Section-5a-type amendments, then Michigan would not have needed to insert an express exception in its constitution. Ohioans were directed to the language of the Michigan amendment. If Ohioans wanted to except generally-applicable excise taxes from Section 5a, they would have followed Michigan's example by including an express exception to Section 5a.[4]

From the foregoing we can draw a few conclusions. First, generally-applicable excise taxes (such as gross receipts and sales taxes) and specifically-applicable excise taxes (such as motor vehicle fuel taxes) were considered to be within the same species of excise tax. All of these taxes were understood to tax and relate to Motor Vehicle Fuel in the same or similar way. Certainly, the public did not distinguish between them in common conversations. Thus, when state constitutional amendments restricting excise taxes that applied or related to Motor Vehicle Fuel came along, those amendments facially applied to generally-applicable and specifically-

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[3] The exemption in Michigan's amendment was later changed to read "All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels * * * shall * * * be used exclusively for transportation purposes." Mich. Const., Art. IX, Sec. 9.

[4] The Commissioner cites two states in support of his claim of a "national consensus" – Maine and Kentucky. But Maine does exempt Motor Vehicle Fuel sales from its general sales tax. Me. Rev. Stat. Tit. 36, §1760(8). And, a close review of Kentucky law shows that Kentucky's treatment of its own Section-5a-type amendment supports Plaintiffs. *Ross v. Ford's Dock, Inc.*, 551 S.W.2d 236, 238 (Ky. 1977) (acknowledging Kentucky's motor vehicle fuel exemption from its general sales tax flows from Section 230 – Kentucky's Section-5a-type amendment).

applicable excise taxes alike (Texas), or they contained an express exception allowing such taxes to be carved out (Michigan).[5]

The Commissioner implores the Court to ignore the broad and inclusive text of Section 5a based upon his own unsupported notions of "history." Yet, neither Ohio history, nor a national historical survey, supports the Commissioner. Ohioans initially drafted a narrowly tailored version of Section 5a limited to specifically-applicable fuel taxes measured in gallons sold, but they rejected that 1934 amendment. They again rejected the narrow focus of the 1934 amendment when they refused to use it as a model for Section 5a. They also rejected excepting language like that in the amendment in Michigan – opting instead for the broad language of Section 5a we have today.

The Commissioner suggests that Plaintiffs seek to broaden the meaning of the phrase "relating to," and that various other taxes might be dragged into the Section 5a net if Section 5a is interpreted in a plain, common sense way. The Commissioner uses a parade of horribles as a scare tactic suggesting the Court should gut Section 5a and render it toothless. But, Plaintiffs do not seek to broaden the term "relating to." Plaintiffs urge that "relating to" should be given the same common sense meaning it was understood to carry for nearly a century. This common sense approach recognizes there is neither a functional nor historical difference between a generally-applicable, business privilege, measuring-stick tax such as the CAT when applied to

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[5] Plaintiffs have diligently researched numerous state authorities. Plaintiffs could find no authorities in any of these states supporting the Commissioner's implied exception to Section 5a, excluding generally-applicable excise taxes from its coverage. Plaintiffs' multi-state research establishes an overwhelming state consensus that supports Plaintiffs. To be clear, none of the states suggested to Ohioans on the 1947 ballot apply a general sales or gross receipts tax to fuel and fail to earmark those funds for highway-specific uses, without an explicit exception allowing for that. Authorities from jurisdictions with general gross receipt taxes also support Plaintiffs. *See* Ariz. Const., Art. IX, §14, Ariz. Rev. Stat. Ann. §42-5008 and Ariz. Rev. Stat. Ann. §42-5061(A)(22); Wash. Const. Art. II, §40; *see also Heavey v. Murphy*, 982 P.2d 611, 617 (Wash. 1999); 2001 Wash. Atty.Gen.Ops.No. 2, 2001 WL 406985.

Motor Vehicle Fuel gross receipts and the specifically-applicable, business privilege, measuring-stick motor vehicle fuel tax. Both taxes "relate to" Motor Vehicle Fuel in the "same or a similar way." *Haefner*, 147 Ohio St. at 64. Section 5a cannot apply to one of these taxes but not the other without language in the amendment expressing that narrowing intent.

E. The corporate franchise tax is a poor analog for the CAT with regard to the application of Section 5a.

The Commissioner observes that Ohio's corporate franchise tax ("CFT") revenue was never earmarked for roads and was never challenged under Section 5a. (Comm'r Br. at 38.) The Commissioner also offers that the CFT was one of the taxes replaced by the CAT. (Id. at 10.) The Commissioner then erroneously argues that the two taxes are the same and proceeds to the conclusion that because the CFT was never subject to Section 5a, then the CAT also must fall outside Section 5a's mandate. (Comm'r Br. at 38-41.)

As explained, both generally-applicable gross receipts taxes and sales taxes were considered historically to be the "same or similar" to motor vehicle fuel taxes in Ohio and around the country. However, there is no such historical understanding for the CFT. The CFT has never been understood as a close analog to a motor vehicle fuel tax. In reviewing treatises, law review articles, or cases, Plaintiffs have not found a single authority treating the corporate franchise tax within the same species of excise taxes as gross receipts taxes and motor vehicle fuel taxes. Although states avoided imposing on the same business either a generally-applicable gross receipts or sales tax on top of a motor vehicle fuel tax, no such consideration has been afforded to CFT-like taxes anywhere. Thus, the Commissioner's suggestion that the CFT is equivalent to the CAT as to whether they are subject to Section 5a is wrong – CFT-like taxes have never been discussed or grouped with business privilege excise taxes in the context of Section-5a-type amendments.

In addition, as Plaintiffs explained in their opening brief, the CFT does not tax the same privilege as the CAT or the motor vehicle fuel tax (e.g. the privilege of existing in corporate form versus the bare privilege of doing business by any person), and therefore reaches a different tax base. (Pls. Br. at 39-41.) Nowhere in the Commissioner's brief does he address this fundamental difference between how the CFT and the CAT operate or the difference in how they relate to Motor Vehicle Fuel. Because the CFT reaches a different tax base than the motor vehicle fuel tax, it cannot be used by the General Assembly as a surrogate to supplant the motor vehicle fuel tax or divert revenue from that tax base. These are not technical distinctions between the CFT and the CAT. They have a practical result. A seller of fuel could avoid the CFT by doing business in a different form (partnerships, proprietorships, etc.). Fuel sellers cannot avoid the CAT. The CFT simply cannot undermine the purpose of Section 5a like the CAT does. Plaintiffs are not asking the Court to interpret Section 5a in a way that would make it apply where it has never been applied before. Plaintiffs are asking for the Court to apply Section 5a to the same species of excises taxes to which Section 5a historically has been understood to apply, including the CAT. This result is consistent with Section 5a's text and history showing the people's common understanding of taxes. This result is necessary to give effect to voter intent and avoid a legislative hijacking of Section 5a.

F. The Commissioner's standing argument mischaracterizes the nature of this declaratory action and is meritless.

1. The Tax Commissioner has waived any new standing arguments.

The Tax Commissioner argues to this Court that he, for the first time, is raising and challenging Plaintiffs' standing. (Comm'r Br. at 14.) To the extent that the Commissioner is raising a new argument, that standing argument is waived. Standing issues that do not challenge the court's subject matter jurisdiction are not jurisdictional and are waiveable. *State ex rel. Jones*

v. Suster, 84 Ohio St.3d 70, 77 n.4 (1998) ("We have held standing to be jurisdictional only in limited cases involving administrative appeals, where parties must meet strict standing requirements in order to satisfy the threshold requirement for the administrative tribunal to obtain jurisdiction.") (citations omitted). To the extent the Commissioner's standing argument includes an issue of whether Plaintiffs are the "real parties in interest" under Civil Rule 17, this issue does not challenge a court's subject matter jurisdiction and is therefore waiveable. *BAC Home Loans Servicing, L.P. v. Cromwell*, 9th Dist. No. 25755, 2011-Ohio-6413, ¶ 8 (*citing State ex rel. Jones*, 84 Ohio St.3d at 77). To the extent the Commissioner now argues for the first time a Civil Rule 12(B)(6) issue regarding Plaintiffs' alleged failure to state a claim upon which relief can be granted, this issue too is waiveable. *See* Civ.R. 12(H)2.

2. *The Tax Commissioner mischaracterizes the posture of Plaintiffs' action for declaratory judgment.*

This is not a challenge to the expenditure of CAT moneys. Although certain CAT-mandated expenditures do violate Section 5a, this challenge lies in the text of the CAT itself and became ripe in July 2007, when the CAT first applied to Motor Vehicle Fuel gross receipts. This is a constitutional challenge to the CAT because the CAT statute does not provide a constitutional object for revenues derived from gross receipts from Motor Vehicle Fuel sales.

Every Ohio tax law must follow certain principles. Since 1851, taxes must state an object (also referred to as a "purpose") to which their proceeds will be applied. Article XII, Section 5 of the Ohio Constitution states that "*[n]o tax shall be levied, except in pursuance of law*, and *every law imposing a tax, shall state, distinctly, the object of the same*, to which only it shall be applied." (Emphases added.) Thus, every tax must have a distinct object (purpose) for which it is enacted and for which the revenues must be spent. *Saviers v. Smith*, 101 Ohio St. 132, 138 (1920). A tax in Ohio may have a specific purpose (e.g. to raise funds for schools) or a general

purpose (e.g. to raise funds for General Revenue), but the purpose must be stated specifically and it must be lawful.

The CAT follows the requirement of Section 5 by stating a specific purpose. Integral to the entire CAT scheme, R.C. 5751.20 mandates that revenue derived from the CAT must be deposited into the "commercial activities fund" and then divided and forwarded to the following three state treasurer funds: (1) the General Revenue Fund; (2) the School District Tangible Property Tax Fund; and (3) the Local Government Tangible Property Tax Replacement Fund. The Commissioner acknowledges that R.C. 5751.20 sets forth the object of the CAT. (Comm'r Br. at 10, 15.)

However, Section 5 also requires each tax statute to have a distinct and lawful object. If the tax does not have a lawful object, then the tax is unconstitutional and the Court may invalidate it. *See State ex rel. Walton v. Edmondson*, 89 Ohio St. 351, 363-64 (1914) (finding unconstitutional and invalidating a 1913 tax statute under Section 5 because the 1913 tax statute, which required all revenue raised to assist the blind be deposited into a state fund, violated the distinct object of a 1908 tax statute, which raised revenues solely for county funds to assist the blind; the object of the 1913 tax statute contradicted the 1908 tax statute and therefore the 1913 object was not lawful, which, as a corollary, invalidated the 1913 tax). Whether a tax provision complies with Section 5 is based on the language of the statute. The issue exists regardless of whether the revenues are ultimately spent in a constitutional manner. *Id.* (invalidating the 1913 tax statute despite recognizing that the purpose and ultimate expenditure of the funds (the state fund for the blind created by the 1913 tax statute and county funds for the blind from the 1908 tax statute) were similar).

By design, Section 5a is a subsection of Section 5. It is the only provision of the Ohio

Constitution that mandates the Section 5 object for certain taxes. Specifically, Section 5a mandates the Section 5 "object" for "moneys derived from fees, excises, or license taxes relating to [Motor Vehicle Fuel]." The required object or purpose of any fees, excises, or license taxes relating to Motor Vehicle Fuel are set forth in Section 5a – the administration, construction, and repair of public highways and bridges. If a fee, excise, or license tax relating to Motor Vehicle Fuel does not distinctly set its object as mandated by Section 5a, then the statute creating that fee, excise, or license tax violates both Section 5a and 5, as applied.[6]

This is the challenge Plaintiffs present: The CAT relates to Motor Vehicle Fuel but does not set out a proper Section 5a object. Therefore, it is unconstitutional as applied.

3. *In R.C. 5751.31, the General Assembly statutorily defined this Section 5a challenge as one of tax assessment and collection, and recognized the Commissioner as the proper party to address that tax assessment issue. It also provides that any taxpayer that pays the CAT is a proper party with standing to pursue a Section 5a challenge to the constitutionality of the CAT.*

In addition to the foregoing analysis, the General Assembly has designated the CAT's inherent Section 5a problem as one of tax assessment and collection, and not expenditure. R.C. 5751.31 provides:

> Notwithstanding any section of law to the contrary, *the tax commissioner may issue one or more final determinations under section 5703.60* of the Revised Code for which any appeal must be made directly to the supreme court within thirty days after the date the commissioner issued the determination if the primary issue raised by the petitioner is the constitutionality of division (H)(3) of section 5751.01 of the Revised Code or *an issue arising under Section* 3, *5a*, or 13 of Article XII, Ohio Constitution. * * *

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[6] The Commissioner claims that Plaintiffs have waived their ability to argue Section 5. (Comm'r Br. at 23 n.3.) This argument has no merit. Plaintiffs raised Section 5 in briefs and arguments at every level of this litigation. Moreover, the Commissioner's waiver argument misses the point. Constitutional provisions must be read in *pari materia*. *See Toledo Edison Co. v. City of Bryan*, 90 Ohio St.3d 288, 292 (2000). The CAT does not violate Section 5 alone. The CAT violates Section 5a as applied, and Section 5 provides the constitutional structure by which Section 5a and the CAT must be analyzed.

(Emphasis added.) Moreover, R.C. 5703.60(A) provides that "[i]f a petition for reassessment has been properly filed under a law that specifies that this section applies, the tax commissioner [may cancel, correct, or not issue a corrected assessment.]"[7] Together, these statutes illustrate two important points: (1) the General Assembly was aware of the CAT/Section 5a constitutionality problem; and (2) the Commissioner's argument that this Section 5a challenge is limited to expenditure issues rather than an improper object (levy and collection issues) is contrary to the General Assembly's understanding of this issue as reflected in the CAT statute itself.

R.C. 5751.31 defines the Section 5a issue before this Court as a tax assessment and collection issue. Taxpayers necessarily have standing to raise the constitutionality of the CAT under Section 5a because the General Assembly has declared in R.C. 5751.31 that the Commissioner has authority to address that issue. *See Middletown v. Ferguson*, 25 Ohio St.3d 71, 75 (1986) (recognizing that standing may also be conferred by statute). It is self evident that if a taxpayer has standing to raise an issue regarding the constitutionality of assessment of a tax via petition for reassessment, the taxpayer also has standing to raise the same issue via action for declaratory judgment if no reassessment is sought.[8]

4. *When a tax statute fails to set forth a proper Section 5a object, the remedy is declaratory and injunctive relief, invalidating the levy and collection of such taxes. This is true of the CAT. Cases like* State ex rel. Donahey v. Edmondson, *89 Ohio St. 93 (1913), where the object is valid under Section 5a, are irrelevant to this analysis.*

The Tax Commissioner argues that Section 5a cannot serve as a bar to the collection of a tax or fee because Section 5a is expressed in terms of a limitation on the expenditure of such tax

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[7] By the General Assembly's own definition, petitions for reassessment are filed in order to seek correction of illegal assessments, not illegal expenditures. R.C. 5703.60.

[8] R.C. 5751.31 is by no means a taxpayer's only recourse. The General Assembly, through R.C. 2721.03, provided that "any person whose rights, status, or other legal relations are affected by a constitutional provision [or] statute" may through declaratory action "have determined any question of construction or validity arising under the * * * constitutional provision, [or] statute."

revenues. (Comm'r Br. at 46-50.) This argument fails not only because it ignores the interplay between Section 5 and Section 5a, but also because this absurd reading of the amendment would render the mandates of Section 5a null and void. The Commissioner's interpretation of Section 5a would allow the General Assembly to continue to levy and the Tax Commissioner to continue to collect the CAT as applied to gross receipts from the sale of Motor Vehicle Fuel, in perpetuity (with no legal recourse), even if the objects stated in the CAT violated Section 5a and were found to be unconstitutional.

The Commissioner cites to three cases decided before Section 5a was adopted for the proposition that "the proper remedy for a Section 5a violation is enforcement of the spending restraint, not an injunction against collecting the tax or fee." (Comm'r Br. at 46.) But none of these cases support his position. The main case on which the Commissioner relies, *State ex rel. Donahey v. Edmondson*, 89 Ohio St. 93 (1913), is entirely irrelevant to the challenge at hand and to an analysis of the relationship between Sections 5 and 5a and the CAT.

Edmonson involved a statute requiring a half-mill property tax for the purpose (the object) of raising revenue to build roads. The Hamilton County Auditor refused to list the tax on the county tax rolls and objected because the statute did not provide for the specific expenditure of the raised tax revenue, for the time period for when such funds were to be spent, or for the uniform distribution of such funds across the state. The State Auditor brought a preemptory writ seeking to force the County Auditor to list the tax. In its decision granting the writ, this Court noted that road building has already been determined as a proper object for state taxing. *Edmondson*, 89 Ohio St. at 113-14. Because the *Edmondson* Court determined that the property tax at issue had a valid object, the Court never considered any issue remotely comparable to the issue of whether the CAT has a valid object under Section 5a.

Indeed, a close reading of *Edmonson* actually supports Plaintiffs' challenge because the Court points out that it is up to the General Assembly "to provide constitutional ways and means by which the fund may be applied to the object named in the statutes." *Id.* at 114. This hits the issue precisely on point. If the object of the CAT were valid under Section 5a, then issues with the disbursement of those funds that violated the Section 5a object would indeed be a tax expenditure case. But, as here, where the issue presented is whether the stated object of the CAT is constitutionally valid under Section 5a, then it is not a tax expenditure case.

The other cited cases are no more helpful to the Commissioner for the same reason. Critical to each of these three cases was the fact that the "object" of the challenged tax was already determined to be legally permissible.

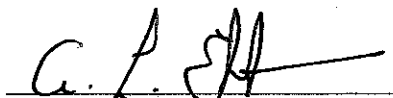
In the present case, it is the legality of the CAT's "object" that is being challenged. The remedies the Plaintiffs seek are a declaration that the imposition of the CAT is unconstitutional and injunctive relief against its future collection, because the CAT as applied to Motor Vehicle Fuel gross receipts has an unconstitutional object.[9]

CONCLUSION

For all the above reasons, the court of appeals' decision should be reversed, the CAT should be declared unconstitutional as applied to the gross receipts from Motor Vehicle Fuel sales, and the Tax Commissioner should be enjoined from future collection of the CAT as applied to gross receipts from Motor Vehicle Fuel sales.

[9] The Commissioner argues that the Court itself has no power to grant the injunctive relief requested. While Plaintiffs strongly disagree with this conclusion, should the Court agree with the Commissioner on this injunctive point, Plaintiffs will accept declaratory relief alone.

Respectfully submitted,



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APPENDIX

Economic and Legal Aspects of the Sales Tax

CARLTON S. DARGUSCH*

The economic depression has caused the states to turn to new sources of revenue, such as the sales tax. The federal government has for many years levied in various forms selective sales taxes, the principal one at the present time being the processing tax on various commodities. The sales tax system is widely in vogue in Europe, particularly in Germany and France. Over half of the American states now impose the sales tax in one of its varied forms. In Canada, a sales tax has been in force since 1920. In the Dominion it has been found that the sales tax has operated with satisfactory results. The following quotation, taken from the testimony of George W. Jones, Department of National Revenue, Canada, was given before the United States House of Representatives in 1932:

> No government would have continued such a form of taxation for a period of 11 years if it had been found to affect business adversely. As against any objections that have been offered by individual manufacturers, the Retail Merchants' Association of Canada, a national organization, has placed itself on record as being heartily in favor of the rentention of the sales tax.

There are four types of taxes more or less commonly described as sales taxes.

1. The general sales tax, which applies to all sales whether involving the production of raw material, manufacturing, wholesaling or retailing. This type is in force in France.

2. A retail sales tax such as the Ohio type, which attempts to lay a tax upon the ultimate sale or sale for consumption.

3. The gross receipts tax which is levied not upon the sale but upon the receipt of money by the taxpayer and depends

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largely upon the definition for its operative scope, such as that in force in West Virginia.

4. The gross income tax. This tax usually applies to the gross income of all taxpayers such as that received from services and other types of income, as well as that derived from sales of tangible personal property. A good example of this type may be found in Indiana.

The taxes imposed by the European nations are turnover taxes, which tend to produce pyramiding in their application. The retail sales tax law in force in Ohio is so drawn that the tax applies only upon sales to the ultimate consumer and has no application to those commodities which might be consumed by a manufacturer or fabricator in the process of production. In a general sales tax as distinguished from the retail sales tax, the problem of pyramiding is presented, which causes the product finally sold and taxed to have included in it many items which have been previously subject to the general sales tax. For example, in a sale to a customer of a suit of clothes, under a general sales tax there would be a tax upon the sale of raw materials, a tax upon the sale of the yard goods to the manufacturer and a tax upon the sale of the finished suit by the manufacturer to the retailer and again a tax upon the sale of the suit by the retailer to the consumer. The pyramiding of the tax in the case of a gross sales tax is such that upon various commodities such as clothing, fabrics, tires, and sugar, a tax of 1 per cent becomes pyramided into a tax of about 2.75 per cent. This pyramiding problem is practically eliminated in the case of a retail or consumer's sales tax such as that in force in Ohio, as there is but one tax when the commodity is sold in its finished form and not a series of taxes buried in the price of the commodity, as well as the final sales tax.

The general theory of sales taxation has been sustained in *Miles* v. *Department of Treas.*, 193 N.E., 855 (Ind. 1935), involving the Indiana Gross Income Tax, and in *Boyer Campbell Company* v. *Fry*, State Circuit Court, County of Wayne,

involving the Michigan Retail Sales Tax, although the Supreme Court of the United States on March 11, 1935, in the case of *Stewart Drygoods* v. *Lewis*, 55 Sup. Ct. 525, 79 Law Edition 539 (1935), held Kentucky's progressive gross receipts tax law unconstitutional. Most of the decisions dealing with the question of sales taxation have involved technical questions of statutory interpretation.

Generally sales tax laws have contained various types of exemption such as to farmers, manufacturers, refiners, processors, etc. These exemptions have caused much administrative confusion. In New York the exemption of human foods caused more administrative trouble than all the other details of the law put together. In Ohio, the definition of "retail sale," while comprising but a few lines of the act, has caused the sales tax section more concern in interpretation than other provisions of the sales tax law. The principal question arises on the interpretation of the commission that sales to manufacturers, retailers, processors, refiners, and utilities to be exempt must be directly used in that particular process. For example, a truck used between two units of a factory in hauling unfinished parts would be directly used in the process of manufacturing, whereas a truck used for delivery by the same concern would not be directly used in the process. Likewise, in the case of a retail merchant, an advertising display is construed not to be directly used, but a showcase is held to be directly used and exempt. These very brief examples merely cite the administrative difficulties which arise in administering a general type of sales tax law.

In Ohio we have 210,000 vendors who constitute merchants under the definition of vendor, and for the purpose of administering the law we have created seventeen sales tax districts within the state. It is expected that we will collect in a full year, $60,000,000 to be divided $6,000,000 for old age pensions, $10,000,000 for poor relief, and the remainder, after deductions for administration, to be distributed sixty per cent

to schools and forty per cent to local governments. It should be observed that the state gets no part of the sales tax, except to meet the costs of administration, old age pensions, and poor relief and that the residue is entirely for schools and local government.

The Ohio sales tax is expressed in cents rather than percentage. No tax is levied if the price is less than 8c; 1c if the price is 8c to 40c; 2c where the price is 41c to 70c; and 3c where the price is 71c to $1.00, with a tax at the rate of three cents for each full dollar thereafter. The Ohio tax is unique to the extent of being expressed in cents rather than percentage. In most states, by merchants' agreement, the tax is collected in brackets because obviously all the variations of the tax are not expressed by coinage. In the states observing the bracket system of collection by agreement, however, the state does not receive the pennies collected by the merchant but only that percentage of the merchants's receipts which the law requires him to pay the state. In Ohio the taxpayer is assured that every cent he pays the merchants has been in turn paid the state through the medium of our prepaid sales tax receipt. Furthermore, the merchant is expressly prohibited from absorbing the tax in any way and is liable for a misdemeanor in the event he tries to absorb.

Without question the complications of interstate commerce cause the sales tax states considerable trouble. The existence of prohibitions on taxing interstate commerce causes Ohio consumers, especially in large volume purchasing, to go outside the state and buy commodities in interstate commerce for the purpose of avoiding the Ohio sales tax. At the present time the Association of States which is vitally interested in securing uniformity of taxation, is attempting to have Congress pass a bill which will permit the states in a nondiscriminatory way to tax under sales tax laws property moving in interstate commerce. There seems to be a fair chance for the enactment of this kind of a measure. If it should be enacted it will remove the greatest

outstanding objection to sales taxation as a permanent basis of revenue.

The general objection to the sales tax at least as voiced by Haig & Shoup in their outstanding work on sales taxation, has been that most sales tax laws tend to require absorption of the sales tax by the merchant, particularly in borderline communities and in the case of small merchants. The general experience seems to have been that chains and large merchants have less trouble in passing the tax on to the consumer. From the merchant's standpoint, the present Ohio law in all probability requires more completely than any other law now in force the passing on to the consumer of the sales tax.

One of the principal objections to sales taxation from the standpoint of the economist is that it tends to fall regressively upon the taxpayer of small income. This objection can not validly be denied. It must be conceded generally that a permanent fiscal system based upon a sales tax must necessarily include in its general scheme an adequate income tax for the purpose of balancing the burden of taxation.

The sales tax was enacted in Ohio because we were in dire need of large amounts of revenue and there was no other way to immediately secure to the state sufficient revenues. Most taxes are not productive for a year or more after the time they were enacted. The sales tax, because of its immediate collection features, provides immediate revenues.

It must be remembered that we are today paying in relation to the national income, approximately twice the national, state, and local taxes that we paid in 1929. We have distinctly a maximum requirement for governmental purposes because of abnormal expenditures with a minimum ability to pay taxes, which more than any other factor accounts for the myriad of new taxes.

Practically all the states have relied upon real estate as the backbone of the fiscal system. The real estate tax and the income tax have definitely broken down during the economic

depression, although it may be said that the real estate tax has not suffered quite as much as the income tax. The general tendency, in addition to this condition, has been to divert from real estate some of the burden of taxation. This has been brought about by constitutional limitations which prohibit the levying of taxes upon real estate beyond the limitation fixed, except under certain express exceptions.

The field of sales taxation is not new in this state in any sense. In 1925 Ohio enacted its first two-cent gasoline tax law and has made additions to that act so that a very substantial portion of all road expenditures now come from that selective sales tax. Ohio has, in addition, levied selective sales taxes on beer, liquor, cosmetics, malt, cigarettes, admissions, and soft drinks.

The federal government at the present time imposes a tax in some form on virtually every commodity which the human being consumes. The most vicious of these is the processing tax which is buried in the price paid by the consumer and consequently multiplied very substantially when paid by the consumer.

Ohio needs a permanent tax program looking into the future. It must not be erected upon a crack-pot premise of raising one's self by his own boot straps. The problem of taxation, in view of the fact that taxes consume such enormous proportions of the nation's income, presents a laboratory problem which should be carefully considered and assayed from all of its angles and from all possible viewpoints, with the ultimate purpose of providing an equitable and complete tax structure which will cast upon all our people their just share of the cost of supporting government. There is definite need for simplification of the taxing system and separation of the fields of state and federal taxation. After all, a popular tax program is not a good tax program, because it only taxes the other fellow.

The Ohio Retail Sales Tax Act

CARL R. JOHNSON*

The Ohio Retail Sales Tax Act, born of the depression years, is designed to eliminate the pyramiding of tax, and in conformity with that object the tax is levied, insofar as is possible, on the sale to the ultimate consumer. This has been done by so defining retail sales as to exclude from taxation all intermediate sales and by also exempting specific classes of property such as feed and seeds, ice and items such as motor vehicle fuel, cigarettes and beer, upon which other taxes already were levied. The Sales Tax Act, like many other emergency taxes, was originally enacted as a temporary measure to relieve the financial crisis facing the State of Ohio and its many political subdivisions. The expiration date of the original act was first postponed and then eliminated, thus permanently incorporating into the tax structure of the state this lucrative source of revenue.

The industry-wide exclusions from taxation contained in the original act, under which tangible personal property used or consumed in retailing, mining, manufacturing and other business activities was excluded from taxation, were somewhat narrowed when the legislature inserted the word "directly" in the definition of retail sale. This came as a result of the realization that tangible personal property even remotely used in mining, manufacturing and other business activities was escaping taxation. At the present time, tangible personal property when used or consumed "directly" in making retail sales or "directly" in the production of goods for sale by manufacturing, mining and processing, among other things, is excluded from taxation. This change, modifying the former broad language of the definitive exclusions, should have produced increased revenues for state and local government units. The legislature, however, yielding to pressure from varied sources, has from time to time amended the definitive section of the statute to embrace new exclusions which have more than offset any advantage which might have resulted from inserting the word "directly." Furthermore, the supreme court, after more than a decade, has attempted to define the word "directly" without complete success. Cases are pending at the present time which involve the interpretation of this concept.

In considering the history of the Ohio Retail Sales Tax Act, Judge Hart in the case of *Kroger Grocery and Baking Company v.*

* Of the firm of Druggan & Gingher.

Glander,[1] describes the evolution of some of these exclusions in the following language:

> It was also the evident intention of the General Assembly that the statutes here involved be liberally construed in favor of the intermediate purchaser of items of tangible personal property which are used to make the ultimate property sold more valuable. This is indicated by certain recent amendments which the General Assembly has made in the taxing statutes in question, to the end that such intermediate purchasers be relieved of the tax. The original definition of 'retail sale' and the exceptions from such definition were adopted by the General Assembly on December 6, 1934 (115 Ohio Laws, pt. 2, 306). On March 25, 1935 (116 Ohio Laws, 41), the General Assembly repealed the exception originally limited to sales of 'feed, seeds, lime or fertilizer,' and broadened the exception by providing that 'farmers and horticulturists shall be considered manufacturers or processors in the interpretation of this act.' On May 15, 1935 (116 Ohio Laws, 248), the General Assembly added to the exceptions the sale of tangible personal property used in mining. Questions immediately arose as to what was comprehended in the term 'mining,' whereupon the General Assembly on May 8, 1941 (119 Ohio Laws, 389), clarified and liberalized this exception by including in the statute the words, 'mining including without limitation the extraction from the earth of all substances which are classed geologically as minerals.' Following that amendment, this court in the case of Bailey v. Evatt, Tax comm'r., . . . held that 'the production for commercial sale of sand and gravel from natural sand and gravel deposits by stripping the surface soil therefrom with a drag line and removing such sand and gravel from pits with a steam shovel constitutes 'mining' * * *.'
>
> In 1942, 1943 and 1944, assessments were made against certain laundry and linen supply companies on the purchase of material used by them in producing 'linen service' to customers. Those assessments were affirmed by the Board of Tax Appeals between May 2 and June 4, 1945, on the ground that such materials were not used in 'industrial cleaning' excepted by the statute. Appeals were taken to this court, but while the appeals were pending and before this court, on February 13, 1946, decided the case of Pioneer Linen Supply Co. v. Evatt, Tax Comm'r., . . . to the effect that laundry service or supply service was not within the term 'industrial cleaning,' the General Assembly under date of June 13, 1945 (121 Ohio Laws, 247), broadened the exception by adding the words 'or to use or consume the thing directly in the rendition of towel and linen service or supply * * *.'
>
> In 1944, an assessment was made against the Huron Fish Company on the purchase of certain fish nets used

[1] 149 Ohio St. 120, 130, 77 N.E. 2d 921, 926 (1948).

> for commercial fishing as being a retail sale and not a sale of tangible personal property used and consumed in the production of other tangible personal property for sale. While an appeal from that assessment was pending before the Board of Tax Appeals and before an appeal was taken to this court in the case of Huron Fish Co. v. Glander, Tax Comm'r., . . . the General Assembly on June 13, 1945 (121 Ohio Laws, 247), added to the statute a new exception in the words 'or (f) to use or consume the thing directly in commercial fishing.' Finally, on June 9, 1947, the 'mining' exception was extended or clarified by adding (122 Ohio Laws, 439) the following: 'and services in the exploration for and production of crude oil and natural gas.'

The foregoing comments by the supreme court illustrate the turbulent history of the Sales Tax Act and also indicate the intention of the legislature to adhere to the original plan of the act in avoiding the taxation of intermediate sales in order to avoid imposing tax upon tax. The extent to which this theory has been carried is illustrated by comparing the Ohio law with the sales or gross receipts tax laws of Michigan, Illinois, and California. The following chart is limited to a comparison of exclusions from taxation contained in the definitive sections of the Ohio law with the laws of the other states.

Application of Sales Tax in Michigan, Illinois, and California
To Items Excluded by Definition of "Retail Sale"
In Ohio Sales Tax Act, 1947

Ohio	Michigan	Illinois	California
A. Resale	A. Not taxed	A. Not taxed	A. Not taxed
B. Incorporation into Personal Property as an ingredient or component part by	B.	B.	B.
1. Manufacturing	1. Not taxed	1. Not taxed	1. Not taxed
2. Processing	2. Not taxed	2. Not taxed	2. Not taxed
3. Refining	3. Not taxed	3. Not taxed	3. Not taxed
C. Used or consumed Directly in the Production of Tangible Personal Property by:	C.	C.	C.
1. Manufacturing — Tangible personal property (such as machinery, tools, equipment and supplies) which while essential to the operation do not enter into or become a component part of the product	1. Not taxed	1. Taxed	1. Taxed
2. Processing	2. Not taxed	2. Taxed	2. Taxed
3. Refining	3. Not taxed	3. Taxed	3. Taxed
4. Mining	4. Taxed (except explosives, timbers, drills and electricity)	4. Taxed	4. Taxed
5. Farming	5. Not taxed	5. Taxed (except feeds, seeds, and fertilizer used in producing products for sale)	5. Taxed (except feeds, seeds and fertilizer used in producing products for human consumption or sale)

6. Horticulture	6. Not taxed	6. Taxed (except seeds and fertilizer used in producing products for sale)	6. Taxed (except seeds and fertilizer used in producing products for human consumption or sale)
7. Floriculture	7. Not taxed	7. Taxed (except as above)	7. Taxed (except seeds and fertilizer used to produce products for sale)
8. In making retail sales	8. Taxed (except commercial advertising)	8. Taxed	8. Taxed
9. Used directly in Public Utility Service	9. Taxed	9. Taxed	9. Taxed
D. Security for the performance of an obligation by the vendor	D. Not taxed	D. Not taxed	D. Not taxed
E. Used or consumed directly in industrial cleaning	E. Taxed	E. Taxed	E. Taxed
F. Commercial fishing	F.	F. Taxed	F. Taxed

The Supreme Court of Ohio, in interpreting the definition of retail sale contained in Section 5546-1, General Code, has reached the conclusion that the definition provides tests for the imposition of the tax and are not tests for the exemption of property from tax; and has enunciated the rule that in the construction of this segment of Section 5546-1, General Code, any doubts which exist will be resolved in favor of the taxpayer and against the taxing authority.[2] Under these circumstances, the burden is upon the taxing authority to establish that a transaction comes within the purview of the definition before the tax may be lawfully imposed. This situation adds to the difficulties encountered in the administration of the act.

In addition to the definitive exclusions, Section 5546-2, General Code, provides for numerous specific exemptions. These exemptions do not follow any fixed pattern. The number of specific exemptions has been increased from time to time by the legislature since the passage of the original act. During each legislative session many proposals are made to exempt additional classes of personal property. Although the majority of these proposals have been defeated, a substantial number have been adopted during the life of the act. The total potential tax yield of the act is further diminished by this large number of specific exemptions. In addition, these specific exemptions also add to the complexity of problems in the administration of the act.

The supreme court, in construing the act relative to the powers of the administrator to make assessments, has declared that estimations of tax due based on averages compiled by the Department of Taxation are improper.[3] To comply with this decision, the Department of Taxation would be required to examine each sale made

[2] See Note 1, *Supra.*

[3] Foster v. Evatt, 144 Ohio St. 65, 56 N.E. 2d 265 (1944).

by the vendor in order to ascertain the amount of tax which such vendor should have collected. Obviously, this is an impossible task. It has been estimated that it would require the full-time services of substantially all the employees of the Division of Sales and Use Taxes to keep abreast of the current sales of a single large Ohio retail merchant. As an alternate procedure, the Tax Commissioner is empowered to make audits and assess delinquent taxes against vendors under the provisions of Section 5546-12A. Ostensibly a three percent tax is levied upon gross receipts derived from retail sales, subject to the same exclusions contained in Section 5546-1, and exemptions provided by Section 5546-2, with relation to the retail sales tax levied against the ultimate consumer. The amount due under this levy, however, may be offset by the vendor by the amount of tax he has collected from his customers. This section does not provide for an independent levy of tax despite the language used by the legislature, but is merely a device to insure the collection of approximately the amount of tax levied by Section 5546-2.[4]

The vendor's report of tax collected from consumers, and taxes, if any, payable under Section 5546-12A, are combined in each regular semi-annual return and serve as an excellent means of detecting vendors who are not cancelling sufficient prepaid tax receipts. While audits and assessments may not be made based upon rates of tax collection established by the experience of the Department of Taxation, those same rates may be used in the office audit of the vendor's semi-annual return and will indicate whether or not a particular vendor is collecting tax from his customers at a normal percentage for the business in which he is engaged. When these discrepancies are noted, the Department of Taxation is in a much better position to determine whether or not the more expensive unit audit should be made.

In addition to the exclusions from taxation above referred to, the Ohio act contains numerous specific exemptions. The Ohio act has been compared with the laws of Michigan, Illinois and California and indicates that Ohio exempts more items from taxation than any of the states with which it is compared. The numerous specific exemptions contained in the act obviously make substantial inroads upon the potential yield of the act.

[4] Winslow-Spacarb Inc., v. Evatt, 144 Ohio St. 471, 59 N.E. 2d 924 (1945).

Application of Sales Tax in Michigan, Illinois, and California To Items Specifically Exempt in Ohio, 1947

Ohio	Michigan	Illinois	California
1. Sales to the state and its political subdivisions	1. Not taxed	1. Taxed (Sales to federal government incur tax liability)	1. Taxed
2. Food	2.	2.	2.
a. For consumption off premises	a. Taxed	a. Taxed	a. Not taxed
b. Sold by schools to students	b. Not taxed	b. Not taxed	b. Not taxed
3. Food and seeds Feeds	3. Not taxed	3. Not taxed if used in producing products for sale	3. Not taxed if used in producing products for sale or human consumption
4. Newspapers and magazines	4.	4.	4.
a. Newspapers	a. Not taxed	a. Not taxed	a. Not taxed
b. Magazines (subscriptions)	b. Not taxed	b. Not taxed	b. Not taxed
5. Ice	5. Taxed	5. Taxed	5. Taxed (except when used in packing and transporting food products out of the state)
6. Gasoline and Liquid Fuels which are taxed by the state	6. Taxed (state but not federal tax is deductible)	6. Taxed (state but not federal tax is deductible)	6. Not taxable
7. Cigarettes	7. Taxed	7. Taxed	7. Taxed
Brewer's wort	Taxed	Taxed	Taxed
Brewer's malt	Taxed	Taxed	Taxed
8. Beer	8. Taxed (state beer tax deductible)	8. Taxed	8. Taxed
Wine	Taxed	Taxed	Taxed
Spirituous Liquors (sold by department of Liquor Control)	Not taxed	Taxed	Taxed
9. Public Utilities	9.	9.	9.
a. Artificial gas	a. Taxed	a. Not taxed	a. Not taxed
b. Natural gas	b. Taxed	b. Not taxed	b. Not taxed
c. Electricity	c. Taxed	c. Not taxed	c. Not taxed
d. Water	d. Not taxed	d. Not taxed	d. Not taxed
10. Casual and Isolated Sales	10. Not taxed	10. Not taxed	10. Not taxed
11. Not within taxing power	11. Not taxed	11. Not taxed	11. Not taxed
12. Transportation of persons or property	12. Not taxed	12. Not taxed	12. Not taxed
13. Professional and Personal Service	13. Not taxed	13. Not taxed	13. Not taxed
14. Sales to charitable and religious organizations	14. Taxed (except religious organizations)	14. Taxed	14. Taxed
15. Nitroglycerine or explosives used in mining, etc.	15. Not taxed	15. Taxed	15. Taxed
16. Hearses and ambulances for use outside state	16. Taxed	16. Taxed	16. Taxed
17. Ships or vessels to be used principally in Interstate Commerce	17. Not taxed	17. Not taxed	17. Not taxed

In the administration of any tax law, the problem of evasion presents serious questions. This is especially true in the administration of sales tax acts such as Ohio's which contains a substantial number of exclusions and exemptions. Although the statute provides for the collection of the tax and the cancellation of the prepaid tax receipts in the proper amount at the time such sale is made,[5] an excellent opportunity to pocket the tax money is afforded the unscrupulous vendor and the vendor who is merely lax in this respect. Unless each sales tax receipt is cancelled at the time the sale is made, there is danger that the tax money collected by the vendor will not find its way into the public treasury.

In order to arouse the tax-paying public and to instill in them the desire to secure the tax receipts to which they are entitled at the time purchases are made, the legislature enacted Sections 5546-26a, 5546-26b, 5546-26c, 5546-26d and 5546-26e, which became effective February 28, 1939. These sections provide for the redemption of cancelled prepaid receipts by various organizations enumerated in Section 5546-26a and to individuals, as well, who furnish evidence that they have assisted the state in the collection of the tax. These provisions *potentially* increase the cost of administration of the present act by the rate of three percent at which sales tax receipts will be redeemed; however, that potentiality has not developed since the enactment of these provisions. The highest percentage of sales tax receipts redeemed in comparison with gross amount of sales tax collected occurred in 1944 when the redemptions amounted to 1.92 percent of the value of stamps sold. These sections provide for a voluntary method of policing by the buying public, thus minimizing the cost of sustained enforcement procedure by personnel of the Department of Taxation. The act provides for penalties to be enforced against vendors who fail, refuse, or neglect to cancel prepaid tax receipts in accordance with the provisions of the act. These penalties must be enforced through local courts after investigators have collected sufficient facts to justify prosecution. This procedure is slow and cumbersome and is not always productive of the desired results. In addition, local law enforcement officers have not always been sympathetic with the enforcement of the act and unsuccessful prosecution of violators is damaging to the enforcement of the act.

In evaluating sales or gross receipts tax acts, an important factor is the cost of administration. No accurate figures have been collected relating to the costs of administration of the Michigan, Illinois or California acts, so that it is impossible to make a comparison with Ohio's costs. For the sake of brevity, consideration will be given only to the costs of administration in Ohio for the calendar

[5] OHIO GEN. CODE § 5546-3 (Supp. 1949).

year 1948, which is the most recent year for which complete data is available.

Many factors enter into the cost of administration of the Ohio act. In addition to the payroll and travel expense of employees of the division charged with the administration of the act, other substantial expenditures are made. These include the cost of printing prepaid tax receipts, compensation paid by the Treasurer of State to agents who sell prepaid tax receipts, compensation paid to county treasurers who sell sales tax receipts, redemption of cancelled prepaid tax receipts and vendors' discounts. With respect to this last item, the Ohio act provides for a three percent discount to licensed vendors purchasing prepaid tax receipts, so that for each one dollar face value of prepaid tax receipts the vendor pays only ninety-seven cents.

In the year 1948 with a gross revenue of $143,909,301.00, the total expenditures in the above classifications amounted to $10,053,-631.00. Of this amount $1,708, 846.00 was allocated to salaries and travel expense, and includes $504,424.00, representing the cost of printing prepaid tax receipts. The vendors' discounts allowed amounted to $4,151,986.00, and redemptions of cancelled prepaid tax receipts amounted to $2,774,195.00. Treasurer's agents, other than county treasurers, received $823,419.00, and the county treasurers received $595,185.00, for handling the sale of prepaid tax receipts during 1948.

County treasurers' compensation amounts to one percent of the face value of prepaid tax receipts. The agents of the Treasurer of State, on the other hand, are paid on a sliding scale of one percent of the first $20,000.00 worth of stamps handled, three-fourths of one percent of the excess of $20,000.00 to $100,000.00, and one-half of one percent of all stamps in excess of $100,000.00. The compensation to these agents is computed each four weeks and not over the period of the entire year. During 1948 there were 235 such agents, 40 of whom were individuals and 195 of whom were banks. One agent of the treasurer during 1948 sold $10,083,056.33 worth of stamps and received $54,749.77 as compensation for handling these stamps.

In addition to the direct cost of redemption represented by the amount paid out to applicants during the year, a portion of the salaries included in the administrative expense allocated to the operation of the Sales Tax Division is chargeable to redemptions. During the calendar year of 1948 the Sales Tax Division processed 71,693 applications, of which 15,156 applications for redemption were filed in behalf of private individuals to whom a total amount of $257,918.21 was paid, and 56,537 applications for redemption were made by qualified organizations, total payment to them being

$2,516,276.43. Each application is verified by the Department of Taxation by weighing the stamps presented for redemption, from which the value of the stamps can be calculated.

From 1940 to 1948 the revenues produced by the Retail Sales Tax Act have approximately tripled. During the same period, total income payments to Ohio residents, both individuals and corporations, also have approximately tripled. In the following chart, tax revenues and income received by residents, including business entities, of Ohio, Michigan, Illinois and California are set out for the years 1940 to 1948, both inclusive.

Tax Revenue and Income Payments

	OHIO		MICHIGAN	
	Tax Revenue	Income	Tax Revenue	Income
1940	$52,771,563	$4,448,000,000	$66,638,061	$3,425,000,000
1941	65,246,532	5,646,000,000	82,907,746	4,271,000,000
1942	60,115,229	7,022,000,000	84,075,668	5,526,000,000
1943	63,342,743	8,417,000,000	90,531,206	6,924,000,000
1944	67,361,262	8,967,000,000	96,584,164	7,259,000,000
1945	75,780,571	9,122,000,000	105,732,434	6,902,000,000
1946	108,018,680	9,742,000,000	147,138,308	7,481,000,000
1947	129,007,346	10,945,000,000	178,979,872	8,646,000,000
1948	143,909,301	12,136,000,000	199,006,400	9,223,000,000

	ILLINOIS		CALIFORNIA	
	Tax Revenue	Income	Tax Revenue	Income
1940	$97,809,705	$5,746,000,000	$104,812,363	$5,606,000,000
1941	97,756,602	6,889,000,000	130,120,071	7,044,000,000
1942	82,298,156	8,267,000,000	132,617,507	9,348,000,000
1943	83,942,654	9,476,000,000	131,466,383	12,444,000,000
1944	91,089,474	10,297,000,000	143,746,430	13,739,000,000
1945	96,236,726	10,849,000,000	167,381,164	13,882,000,000
1946	129,231,187	12,153,000,000	224,958,495	15,184,000,000
1947	154,705,474	13,449,000,000	269,521,478	16,256,000,000
1948	172,109,572	15,167,000,000	292,139,168	17,099,000,000

It is difficult, if not impossible, to estimate the revenues realized in Michigan, Illinois, and California attributable to the fewer number of exemptions and exclusions contained in their respective acts, for the reason that other factors such as population and per capita expendable income also affect the amount of tax revenue produced by these statutes. It is safe to say, however, that the difference in the numbers of exemptions and exclusions has a very material effect upon the amount of revenue realized. It is to be noted that the revenues shown in the above chart are progressively larger as the number of exemptions and exclusions diminishes as between the states compared.

Sales taxes, because they provide substantial revenues, will in all probability remain a permanent part of the tax structure in many of the states. This is most certainly true of Ohio. Without the revenues produced by the Sales Tax Act, it is probable that the legislature would turn to the taxation of income as a substitute, since this lucrative source of income has not yet been tapped in Ohio.

The revenue produced by the act undoubtedly could be sub-

stantially increased by modifying or eliminating some of the exemptions or by narrowing the definitive exclusions. Such procedure, however, would entail the re-examination of the philosophy of the act, and the legislature, over the years, has consistently demonstrated its adherence to the theory that the ultimate retail sale should bear the tax burden.

As an alternate, the redemption of cancelled prepaid tax receipts could be eliminated in an effort to increase the tax yield. Substantial items of cost would thereby be avoided. It is questionable, however, whether such a step would increase the net yield of the act. The redemption feature was originally enacted to encourage the cancellation of prepaid tax receipts and thus increase tax revenue, and since this scheme has been in effect through several sessions of the legislature, it may be assumed that the legislature approves of it. Furthermore, it is likely that enforcement drives, just as costly, would be required to attain the same amount of net revenue.

Opponents of the Ohio Sales Tax Act assert that the use of prepaid tax receipts is costly and unnecessary. This viewpoint disregards the fact that this method of collection is a constant reminder to the citizens of Ohio of their role as taxpayers. Too many taxes are hidden today, creating the impression that someone else is bearing the burden of taxation. The ultimate consumer, however, bears many of these taxes without being aware of it. The problem is highly impersonal to him, and he does not realize how much of his income is taken for governmental uses and purposes.

In a period where government demands for revenue are expanding, the public generally should know the extent of the burden imposed upon them, and tax measures such as the Ohio Sales Tax Act accomplish that purpose.

State Sales and Use Taxes

By ROY G.* and GLADYS C. BLAKEY

AT PRESENT twenty-two states impose general sales taxes. Their geographical location is shown on the accompanying map. It will be noted that there is a concentration in the Middle West, South Atlantic, South Central and South Mountain divisions, and a scattering in the West. There seems to be no correlation between sales tax and income tax states. The following states have both taxes: Alabama, Arizona, Arkansas, California, Colorado, Iowa, Kansas, Mississippi, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Utah and West Virginia. A few have neither, namely, Florida, Maine, Nebraska, Nevada and Texas.

A few cities have imposed general sales taxes despite the obvious difficulty of administering them in a restricted area. New York and New Orleans are apparently notable examples of successful attempts. These will be mentioned further, below.

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Taxes on sales of selected commodities have been levied for many years by the Federal Government, by every state and by some municipalities. General sales taxes have been contemplated by the Federal Government but so far have not been enacted. In 1932 the Committee on Ways and Means proposed a manufacturers' sales tax but it was rejected by the House of Representatives. There is some talk of such a tax now, not only to raise needed funds but also to conserve strategic materials and to restrict spending in the effort to curb inflation. One of the arguments against it is that complexities would arise in the states now levying general sales taxes.

The present relative fiscal importance of sales and other taxes for state purposes is shown in Figure 1.

The Recent Sales Tax Movement

The adoption of general sales taxes by more than half of the American commonwealths in the middle 1930's was primarily the result of the great post war

States with Sales Taxes—January 1, 1942

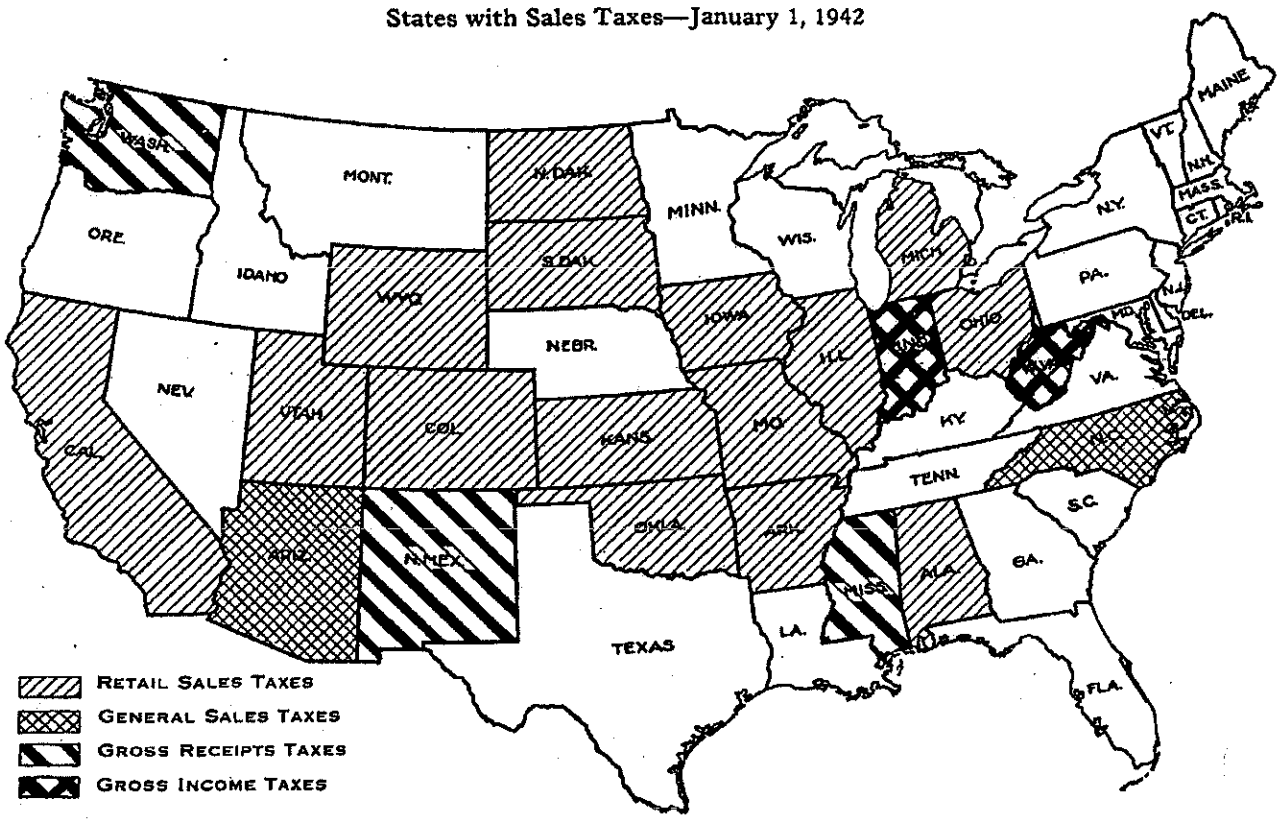
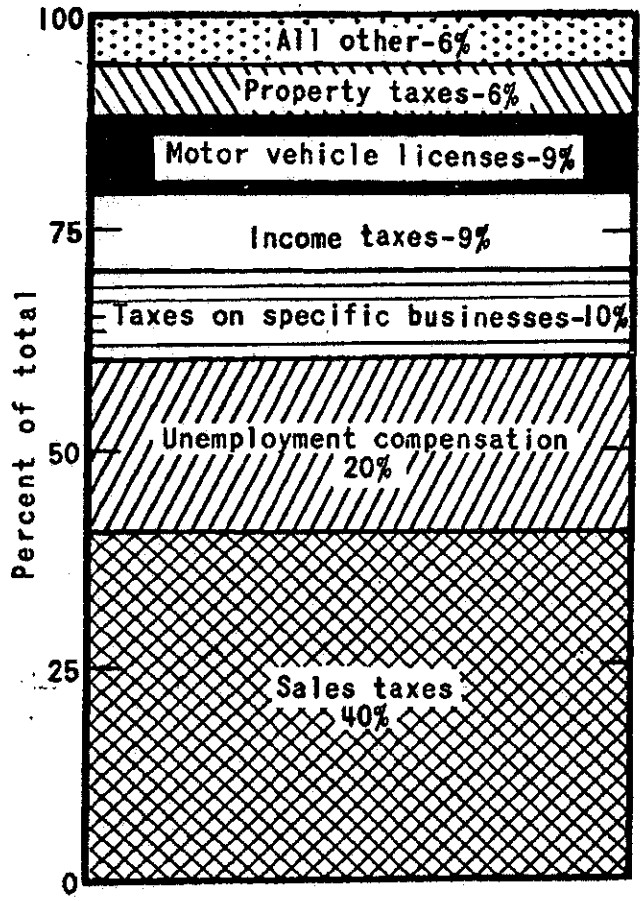


Fig. 1
Sources of State Tax Collections—1941 *



depression. The foundations of the formerly dependable revenues had been undermined or destroyed while the demands for former governmental services increased and, in addition, there were overwhelming demands for the national, state and local governments to come to the financial relief of great sections of the business and economic groups and to the rescue of millions of unemployed and partly employed individuals and families. Except for West Virginia, which started the movement in 1921, most of these taxes were adopted between 1933 and 1936. It is not a mere coincidence that this period covers the enactment of the Federal Social Security Act. Many administrators were apprehensive of the states' ability to meet federal grants to the aged but knew they must fall in line, especially as the Townsend Old-age Pension Plan was so favorably viewed by many of the voters and its proponents were so well organized in many states. At some time in this period general sales taxes have been imposed by thirty-one states. But no state has joined the movement since 1937.

* U. S. Census, *State and Local Government Study No.* 16, Oct. 6, 1941.

These sales tax laws have been repealed or have expired in nine states. Why? The Georgia law, a complex gross receipts tax in force only two years, was allowed to expire in 1931 as originally provided and was succeeded by a net income tax. This law is described as follows by a state officer:

"It was designed to relieve a temporary deficiency in the State Treasury. The rate was 2 mills for retail business, one mill for wholesale business and ½ mill for manufacturing business, applicable to gross receipts in excess of $20,000, thus the rate was so small that it could not be passed on to the consumer. The exemption was so large that all of the small businesses in the state were excluded entirely in the taxation and it proved to be more of a nuisance really than anything else. Therefore, when the date for the expiration of this tax expired the tax was allowed to die a natural death, having served to a certain extent its intended purpose." [1]

The Idaho law was rejected by the electors in March, 1937, after a two years' trial. This law was poorly drafted in that there was no provision for collecting the tax on articles selling for less than 50 cents, on which the tax would have been in fractions of a cent. Therefore the law was inequitable in that it exempted many stores selling low priced articles. The law met objection also from automobile dealers in towns on the borders of states that had no sales tax.

The Kentucky law was repealed in 1936 after the election of Governor Chandler who made the issue one of the leading planks in his campaign platform. As a result the legislature enacted a new fiscal program for the state in which a net income tax was an important part.[2] The Maryland 1 per cent tax that went into effect in April, 1935, was repealed in March, 1936, except for the tax on sales of automobiles which is still imposed. The New Jersey act was in effect only from July 1 to October 25, 1935. It was repealed by a special session of the legislature called for that purpose as the result of a campaign against the tax.[3] The New York state tax was an emergency measure in effect from May 1, 1933, to June 30, 1934. The Vermont law was declared unconstitutional in 1935, hence was repealed.[4] The Pennsylvania emergency relief tax was effective for only six months beginning August 19, 1932. It was unpopular with consumers and retailers, disappointing as a producer of revenue, and difficult to administer.[5] A constitutional amendment to prohibit a general sales tax in Louisiana was defeated at an election April 16, 1940, but the newly elected governor

[1] Letter of Mr. L. S. Radford, Auditor Income Tax Unit, Georgia Department of Revenue, to the authors, December 17, 1941.
[2] Martin, "Recent Kentucky Tax Legislation and the Farmer," *Tax Magazine*, 16:921, September, 1938.
[3] The State Commissioner wrote to the authors Jan. 2, 1942: "The available data indicate that the repeal of the law was entirely due to opposition by the people, which opposition, of course, included consumers and retailers. The data also indicate that during the time the law was in effect it was being successfully administered. After the initial steps were instituted the problems presented as to number and complication were about on a par with those which usually arise in the administration of other forms of taxation."
[4] *Great Atlantic & Pacific Tea Co. v. Harvey*, 177 Atl. 423.
[5] Letter of Ralph B. Umsted, Senior Counsel, Pennsylvania Department of Revenue, to the authors, January 7, 1942.

of that state promised to have the sales tax repealed. This was done and the law expired December 31, 1940.

Several of the sales tax laws were introduced as temporary measures. This was the case with the Georgia law mentioned above. In 1937, Alabama provided for the expiration of its law in 1939, but in the 1939 revision no limit was set. Similarly Arkansas' 1939 expiration provision was repealed. Missouri set December 31, 1939, as the expiration date, but in July, 1939, it was continued until December 31, 1941, and in 1941 again continued for two years. In 1939 North Carolina repealed the provision that the tax expire June 30, 1939. The law now reads that the tax shall continue "until otherwise provided by law." North Dakota and Oklahoma provided for the expiration of the tax in 1941 but their legislatures continued them. The new law in North Dakota sets June 30, 1943, as the expiration date. The Oklahoma law has no limitation. Illinois provided for reduction of the rate from 3 per cent to 2 per cent in 1941. This reduction was effected though the previous law made 1939 the date for this change.

An interesting trend in 1941 was shown by the reduction of rates in several states. Illinois has been mentioned above. South Dakota, Indiana, and New York City also lowered their rates. On the other hand Washington increased its rate from 2% to 3%.

The following seventeen states and the District of Columbia [6] have never imposed general retail sales taxes: Connecticut, Delaware, Florida, Maine, Massachusetts, Minnesota, Montana, Nebraska, New Hampshire, Nevada, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Virginia and Wisconsin. In three of these states measures passed by the legislature were defeated when referred to the people. Oregon voters refused to ratify such taxes in 1934, 1935 and 1938.[7] The campaigns, especially the first two, were vigorously conducted by both sides. Despite emphasis on needs of greater school aid for rural districts and well organized pleas for pensions for the aged, the voters protested that they already had as many different kinds of taxes as they cared to pay. In 1937, Maine defeated by a 2 to 1 vote a proposal to finance old-age assistance and a more extended educational program by a 1% sales tax. It was fought by merchants, labor and the Grange. The Republican governor and other administration leaders, joined by certain educational interests, worked for the tax.[8] The New Hampshire electors rejected a measure submitted in 1938 by the Constitutional Convention to impose sales, inheritance and a more general income tax.

[6] Between 1937 and 1939 the District of Columbia imposed a privilege tax on business measured by gross receipts; but the officials did not consider it a true sales tax. It was superseded by a net income tax.

[7] *New York Times*, May 27, 1934, October 13, 1935.

[8] *New York Times*, August 16, 17, 22, 1937.

As stated above, sales taxes are imposed by two important cities, New York and New Orleans. Several smaller cities especially in West Virginia [9] have also imposed sales taxes for some time. Philadelphia and St. Louis tried such taxes and discontinued them. The New York tax, 1% of retail sales, is one of several taxes imposed in the depression to raise funds for emergency relief. Fiscal results have been so great that state legislators fear the proceeds may be diverted to other purposes and the tax become permanent.[10] The New Orleans rate has recently been raised from 2% to 3%. This tax yielded about $1,470,000 in 1940, about 17.2% of total revenue.

Types of Sales Taxes

Fifteen of the twenty-two states impose the tax on retail sales only. The other seven provide for more extensive coverage. The Arizona law applies not only to retail sales but also to sales of manufacturers and that of North Carolina to sales of wholesalers as well as retailers. These taxes are sometimes classified as "general sales taxes" and are so indicated on the map.[11] They are, however, not so general or inclusive as taxes levied by five other states. Three states, Mississippi, New Mexico and Washington, extend the base to sales of all tangible property including oil, mineral products and gas to sales of services of utilities and transportation companies. Their levies are called gross receipts taxes. The laws of West Virginia and Indiana are the most inclusive and tax, in addition to sales of all tangible property, income from personal services, rent and other sources. Their levies are called gross income taxes. There are, however, many differences in the rates, exemptions and other provisions of sales tax statutes; therefore, the various laws will be analyzed briefly.

Retail Sales Taxes

(a) Rates.—The rate most commonly imposed, 2 per cent on retail sales, is that of Alabama, Arizona, Arkansas, Colorado, Illinois, Iowa, Kansas, Mississippi, Missouri, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, West Virginia and Wyoming. Alabama and Mississippi, however, have a lower rate for automobiles (.5 per cent) and Mississippi also

[9] Charleston, Huntington, Dunbar, Wheeling, Bluefield, Morgantown, Fairmont and Welch. These taxes are based on gross proceeds of business rather than sales hence avoid the problem of evasion from goods purchased outside the city.

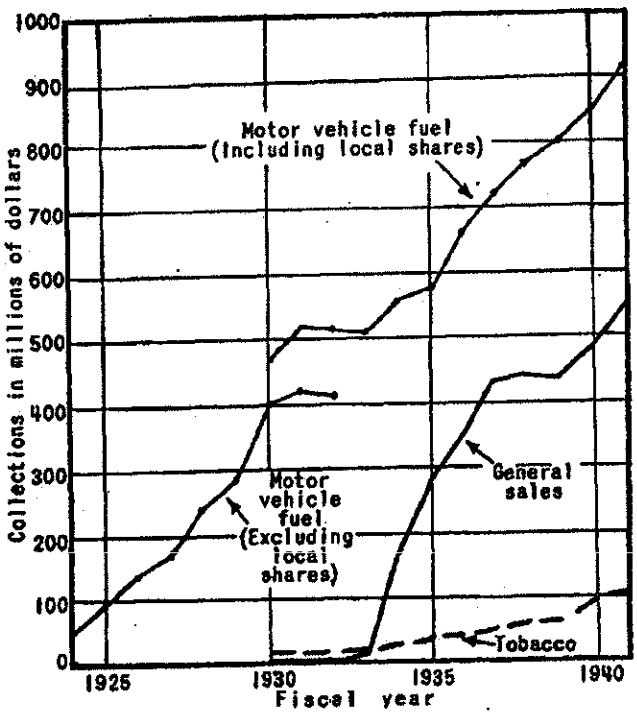
[10] *New York Times*, March 24, 1940; August 7, 1941.
The New York law exempts food except in restaurants. Sales of gas, electricity, steam, telephone service, wines, liquors and alcoholic beverages were formerly taxed at 3%. All were reduced to 1% in October, 1941.

[11] For further details of these classes see the discussion of general sales and turnover taxes below. The term "general sales taxes" is used in several ways. It is often applied to the whole category of retail sales taxes, gross receipts taxes and gross income taxes in contrast to excises on particular commodities such as liquors, tobacco, gasoline, etc. It is in this more inclusive sense that it is used in Figure 2 below.

has a low rate (1 per cent) for milk, while New York City has a rate of 1 per cent on all taxables. Five states impose a 3 per cent rate, namely California, Michigan, North Carolina, Ohio and Washington.[12] In 1941 the only state with a 1 per cent rate was Indiana but it became ½ of 1 per cent on January 1, 1942. The burden of the sales tax in Indiana is heavier, however, than some might infer from the low rate because that state has a very comprehensive gross income tax on income from almost every source; in fact, it comes nearer to a general turnover tax than that of any state. The Louisiana rate was also 1 per cent, but as New Orleans also imposed a 1 per cent tax on sales, the effective rate for many citizens of the state was 2 per cent.[13]

Fig. 2

Collections of State Motor Vehicle Fuel Sales, General Sales, and Tobacco Sales Taxes—1924-1941 *



(b) What Is Taxed.—California taxes sales of tangible property only. Most of the other states extend the base to include other sources, especially amusements and utilities. Those that tax amusements are Alabama, Arkansas, Iowa, Kansas, Missouri, North Dakota, Oklahoma, South Dakota, Utah, Washington, West Virginia and Wyoming. The states vary in their policies, however Alabama taxes even the athletic contests of schools and of all other organizations whether religious, municipal, or county while South Dakota exempts fairs, races, and contests by schools and charitable organizations. Iowa and Kansas exempt county fairs. Amusements are not mentioned in the laws of Colorado, Louisiana, Michigan and Ohio.

Sales of gas, electricity, and water by utilities for domestic use are taxed in Arkansas, Iowa, Kansas, Missouri, North Dakota, Oklahoma, South Dakota, Utah and Washington. Water is exempt, but gas and electricity are taxed in Michigan and Wyoming. The Illinois tax applies to gross receipts from transmitting telephone and telegraph messages or from distributing gas and electricity not for resale.[14] No mention is made of water in the Colorado law but other utilities are taxed. Michigan requires even municipal utility plants to secure a license and to pay the sales tax. Wyoming also taxes municipal plants.

Communications services—telephone, telegraph, and radio—are taxed in Colorado, Iowa, Kansas, North Dakota, Oklahoma, South Dakota and Washington. Radio is not mentioned, but telephone and telegraph services are taxed in Arkansas, Missouri, Utah and Wyoming. Colorado is unique among the retail sales tax states in applying a special sales tax to personal services.

Transportation of freight is taxed in Colorado, Michigan and Washington; Wyoming taxes it when intrastate, although even then farm products going to processing plants are exempt. When the purchaser pays delivery charges separately, certain states exempt freight. This is the case in California, Iowa, Kansas, Louisiana, Missouri, North Dakota and, when title to property passes f.o.b. factory, under the laws of Illinois, Louisiana, and Missouri. The laws of Arkansas and Oklahoma do not mention taxation of freight. Transportation of passengers is exempt in Alabama, California, Colorado, Iowa, Louisiana, North Dakota, Ohio, South Dakota, and West Virginia. Bus fares are exempt in Missouri and were in Louisiana. For school children, Oklahoma exempts fares of 15 cents or less.

Although states cannot, under the present law, levy a sales tax on national banks, the United States Supreme Court has upheld the Colorado tax on safety deposit boxes, as a tax on the user of the box.[15]

(c) Exemptions from Retail Sales Taxes.—Practically all states expressly exempt: (1) casual sales, (2) sales to the Federal Government and (3) sales in interstate commerce. The first exemption is primarily to facilitate administration. The second is because of Supreme Court decisions holding that such taxation infringes the sovereign power of the Federal Govern-

* U. S. Census, *State and Local Government Study No. 16*, Oct. 6, 1941.

[12] This rate was raised from 2% in 1941. The law stated that the 3% rate "may be reduced to 2% upon enactment and judicial approval of a net income tax law."

[13] When the Louisiana law was repealed, December 31, 1940, New Orleans increased the rate to 2%, and in 1941 to 3%.

[14] Taxation of utilities was included in the original Illinois sales tax law but, as the State Supreme Court held that electricity could not be taxed under a law taxing tangible personal property, a separate law was enacted.

[15] *Colorado National Bank v. Bedford*, 310 U. S. 41, (1940).

ment.[16] The third is because of Supreme Court decisions holding that such taxes infringe the authority of the Federal Government to regulate interstate commerce.[17] In order to obviate the difficulties arising from this latter doctrine sales tax states developed use taxes. These taxes are discussed below.

Food, except that sold in restaurants, is exempt in California, New York City and Ohio. Ohio also exempts food sold to students in dormitories, cafeterias and fraternity houses. Alabama, Arkansas, Oklahoma and Utah exempt school lunches, while Utah extends the exemption to meals served by churches and charitable institutions. A few states exempt a limited list of foods. North Carolina, for example, does not tax flour, meal, lard, milk, molasses, salt, sugar, coffee, bread and rolls. Alabama exempts a more extensive list—sweet milk, buttermilk, corn meal, flour, sugar, coffee, white meat (dry salt sides, salt fat backs, plates, bellies). Ice is exempt in Ohio and North Carolina. Washington exempts milk, fruit, vegetables, butter, eggs, cheese and bread. By a recent amendment West Virginia exempted from the retail sales tax bread, butter, eggs, flour and milk. Most states exempt sales to charitable organizations.

The relative importance of taxes on food is shown by reports of several sales tax states. Illinois estimates that, in 1940, $27,000,000 of the $90,000,000 revenue came from taxes on food. Michigan estimates that almost 28 per cent of the tax collected in the period 1933-1939 was on food; in 1940, $16,973,164 or 28.6 per cent, was collected from this source and in 1941, 27.48 per cent.[18] Such exemptions help the poor but are in disfavor in some quarters, not only because of considerations of revenue but, also, because of administrative complications. It should be noted, too, that no state exempts food sold in restaurants.

Several states exempt farm products sold by the farmer to the consumer. In Alabama, Arizona, Arkansas, Louisiana, Mississippi, New Mexico and North Carolina the exemption is by express provisions of the law; in Utah, by regulation. Arkansas exempts such products only if the products are sold on the farm by producer or grower; South Dakota and West Virginia, only if the sales are casual. Arkansas limits exemption of dairy products to farmers owning not more than five cows. Four states make no mention of such products—California, Iowa, Washington and Wyoming. Many other concessions are made to farmers. All or some of the following are exempt in most states: livestock, fertilizer, feed and seeds sold to farmers. Professor Ford has pointed out that the Michigan complexities and distinctions in classes of goods have really resulted in exempting the farmer. Poultry and livestock for sale and goods used by farmers in raising crops are exempt but those used in producing for their own consumption are taxable. Furthermore, the law requires the farmer to keep complicated accounts of goods sold, whether sold to the processors or to consumers. Frequently several rules apply to the farmer and "as a result it is very difficult to collect the tax legally due the state government on sales to the farmers and on sales by farmers direct to consumers".[19]

Resale of farm machinery taken in exchange for new machinery otherwise taxed is exempt in South Dakota. Cotton seed is exempt in Alabama, Arkansas and Mississippi.

Several states grant special exemptions for local industries. Ohio exempts "ships, gas-filled dirigibles, or vessels used in interstate commerce and repairs, fuel and lubricants therefor". California exempts gold and silver bullion, aircraft and aircraft parts sold to the United States. Louisiana exempted ship chandlers' supplies for use in coastwise and foreign commerce. North Carolina exempts sea food sold by fishermen. Kansas exempts sales of electricity, coal, gas, fuel oil for use in farming, processing, mining, drilling and refining.

General Sales or Turnover Taxes

The preceding discussion has been limited to retail sales taxes. States imposing more extensive sales taxes vary the rates according to the kind of business. Of the states imposing "general" sales taxes, North Carolina taxes sales at wholesale 1/20 of one per cent; Arizona taxes sales of manufacturers, poultry producers and meat packers ¼ of one per cent.

States imposing gross receipts taxes have long schedules of rates. Mississippi for example has almost thirty categories, with rates varying from ⅛ of one per cent for jobbers and feed manufacturers to 2 per cent for transportation, certain utilities and pipe lines. New Mexico's schedule ranges from ¼ of one per cent for gas and electricity, if used for irrigation and manufacturing purposes, to 2 per cent for produc-

[16] Prior to 1939 California taxed all sales to the Federal Government. This policy met such opposition that various agencies threatened to purchase all supplies outside the state. The state eventually made a few concessions and finally the legislature exempted all sales to the Federal Government. Meanwhile by the Hayden-Cartwright Act states were permitted to impose the gasoline tax on motor fuel sold on federal reservations. Sales tax states having large areas of federal parks, Indian reservations and military posts finally convinced Congress of the need for extending the privilege in order to impose their taxes equitably.

The so-called Buck Resolution, an Act passed Oct. 9, 1940, which became effective Jan. 1, 1941, gave the states power to collect selective or general sales taxes made on government property, except in quartermasters' stores, naval stores and post canteens, or on sales to the Federal Government.

[17] But see *McGoldrick v. Berwind-White Coal Mining Co.*, 309 U. S. 33 (1940), discussed below.

[18] Robert S. Ford and E. Fenton Shepard, *Michigan Retail Sales and Use Taxes*, Table V; *Annual Reports* of the Michigan State Board of Tax Administration. These Reports are particularly valuable because they analyze sources of tax by industry.

[19] Robert S. Ford and E. Fenton Shepard, *op. cit.*, p. 24.

The writers' experiences during summers in Michigan would lead one to think that the farmer makes little pretense of collecting the tax on products sold to consumers.

ing oil and natural gas, and for amusements, income from professions, brokers and real estate commissions, and public utilities.

Washington has a simpler schedule and lower rates. The minimum is 1/100 of one per cent of gross receipts of purchasers of wheat, oats and barley; the maximum is ½ of one per cent for "miscellaneous business and professions."

West Virginia follows the pattern of a long schedule. Rates are generally higher than those of the other states. The minimum .39 per cent applies to manufacturers, the maximum 7.8 per cent to producers of natural gas (over $5,000). In order to increase revenue in 1939 without disturbing the basic rates, the state imposed a surtax of 30 per cent of the normal tax on most businesses. Indiana has only three rates: ½ of one per cent for retailers, ¼ of one per cent for wholesalers and one per cent for all other business. Prior to 1942, Indiana retailers paid one per cent.

Three states grant some exemption. Washington exempts those whose gross sales are less than $600 for a bi-monthly period. Indiana grants an annual exemption of $3,000 for retailers and $1,000 for others. West Virginia permits a deduction of $25 in tax per year.

South Dakota imposed a gross income tax from 1933 to 1935 but changed to a retail sales tax. The gross income tax was a failure from the revenue point of view, partly because it was in effect during the period of drouth, grasshoppers, epidemics among the cattle and very low agricultural prices. It was a failure also because it required a voluntary tax from the agricultural population. On this point a state official wrote:

"This is extremely impractical insofar as South Dakota agriculturalists are concerned as the great percentage of farmers do not and will not keep adequate sets of records on which a voluntary tax payment of this nature could be made. They much prefer to let the tax payment be automatic and the records and returns be made by another person. The 1940 census revealed that 306,670 persons, slightly less than one-half the total population, lived on farms in South Dakota. It naturally follows that the enforcement of a gross income tax under these circumstances was extremely impractical as most farmers who have a small amount of tax to pay would be hard to contact and somewhat difficult to deal with on a business-like basis after they were contacted. The small tax which they would owe in each individual case would not seem to warrant the administrative costs in making the contact. In other words, from the standpoint of this type of administration, the cost of administration would be prohibitive." [20]

Finally, much of the impact of this gross income tax fell on the retailers, many of whom were operating at a loss. The law required payment of tax on gross income whether the business showed profit or loss.

[20] Letter of Gordon Feldhaus, Deputy Director of Taxation, to the authors, December 19, 1941.

Administration

In most states the retail sales tax is considered an excise on the privilege of engaging in business or selling; in six states the basis is the transaction, that is, the retail sale of tangible personal property, hence the merchant must collect the exact amount of tax from each purchaser. In either case the merchant is responsible for the collection of the tax.[21] In either case also the measure of the tax is gross proceeds of the business.

Several states require the merchant to add the tax to the sale price, and forbid him to absorb the tax. Such mandatory provisions have been held invalid in California by the state Supreme Court and in Arizona and New Mexico by rulings of their attorneys general. If a merchant in Illinois or Indiana includes the tax in the sale price, he is responsible for paying the tax on the entire amount. At least four states permit the sales tax to be passed on to the consumer.

Most states require all merchants to secure licenses; in fact, Indiana and Missouri seem to be the only ones that do not.[22] Six states require registration but exact no fee.[23] License charges range from a minimum of $.50 annually (Iowa, North Dakota, South Dakota) to a maximum of $2.50 (Colorado). The most common amount is $1.00.[24]

Michigan requires not only registration and a fee but, in certain cases, even a bond to insure sales tax payments. An amendment in 1939 permitted the sales tax administrators to require surety bonds of not less than $1,000 nor more than $25,000 to be filed by a taxpayer who had previously failed to pay the tax due.

In some states the auditing is a vast undertaking. In California there were 177,351 licensed taxpayers in 1939 and 881,088 returns were audited in the year. In Illinois the number of returns received in 1938 was 1,636,204; in Indiana, 433,148 (1939); in Michigan, 1,033,927 (1939); in Ohio, 415,268 (1938).[25]

The procedures of the states vary with respect to requirements for merchants' reporting. Nine states [26] require the tax to be computed on total amount of charge and cash sales and reported on the return sub-

[21] On this point the Deputy Director of Taxation of South Dakota wrote December 19, 1941: "With the gross income tax as a background, the retail sales tax has been on a more practical basis from the start and the fact that the retailer may pass the tax on to the consumer on all transactions has made it much more popular than the old gross income tax. In addition, the agricultural group pays the tax to the retailer when making a purchase and the retailer is bound by the law to handle all the book-work relieving the farmer from what he considers an unbearable nuisance."

[22] Indiana requires licenses from only those who pay the gross income tax.

[23] Alabama, Arkansas, Illinois, Kansas, Oklahoma, West Virginia.

[24] Arizona, California, Michigan, Mississippi, New Mexico, North Carolina, Ohio, Washington.

[25] The amount of tax paid per return in 1938 was $99.40 in California; $49.40 in Illinois; $46.10 in Indiana; $49.80 in Michigan; and $99 in Ohio (Ford, *op. cit.*, p. 60).

[26] California, Iowa, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Utah, West Virginia.

mitted immediately after the date of sale. Six require the tax to be computed on the amount of collections from such sales during the preceding taxing period.[27]

As to installment and conditional sales, six require the tax to be computed on the selling price [28] and nine on the collections in the period.[29] Three [30] allow the seller to report either according to selling price or collections.

Only a few states allow the merchant any compensation for collecting the tax. The 1941 law of Illinois favors the sellers to a slight extent by specifying that the tax shall be 2 per cent of 98 per cent of gross receipts. In Michigan there is a flat exemption of $600 a year from gross sales, applicable at the rate of $50 a month.[31] Arkansas permits the taxpayer to retain 2 per cent of the tax for prompt payment; Missouri, 3 per cent.

Ohio allows the merchant to keep a percentage. Prepaid tax receipts in denominations of 1¢, 2¢ and 3¢ are sold to the merchant at a discount of 3 per cent; half of each receipt is to be given to the consumer. This state has also a novel method of inducing the consumer to request his receipt. If presented in amounts of $100 or more by charitable, fraternal or similar organizations, the state will redeem them. The state administration justifies this contribution to such organizations on the theory that it encourages enforcement of the law.[32]

Neither the Ohio nor the Michigan method of reimbursing the merchant is satisfactory, according to Professor Ford. Costs to the merchant depend on the volume and type of business and are difficult to determine. Furthermore, "in the long run these expenses are included in the costs of doing business and will be shifted to the consumer".

Many complexities serve to make the sales tax a difficult one to administer. The definition of a retail sale is not simple. Each exemption adds to the problems. Personal services, exempt in most states, may complicate administration by being closely related to selling such is true, for example, of services rendered by beauty shops, automobile repair shops, optometrists, funeral directors, contractors and builders.

An example of one difficulty is cited in the 1941 amendment to the Colorado sales tax law. In the exchanges of used goods for new ones, especially farm machinery, tractors, trucks and automobiles, the sales tax might have been applied several times during the successive transactions. Therefore it was made to appear that the sale was from the owner of the used article to the next purchaser, thus eliminating the retailer. To prevent this evasion, the law was amended in 1941 to define the purchase price of the new article as exclusive of the value of the used article, provided the used article is to be sold later by the retailer.

Several states include among their exemptions a category of "goods for resale" or for further processing. Some articles are easily classified. Others, however, make administration complicated. Among such are goods purchased for use in offices and factories. Since 1935, Michigan has exempted goods used in industrial processing or in agricultural production. By regulation this state now exempts sales of tools, dies, patterns, and machinery used in manufacturing, but taxes sales of tangible personal property which becomes a part of a building, such as pipes and fixtures, and equipment and supplies used in the sales, purchasing and general administrative departments.

Illinois, Iowa, Oklahoma, North Dakota restrict exemptions for industrial processing to raw materials used in producing finished articles for resale. Ohio, which is not so strict, exempts equipment used by the retailer including cash registers and show cases.

Another type of goods difficult to classify is the container. Examples are bags, cans, barrels, or paper and twine. In some cases these containers are used by the purchaser; in others, discarded; in others, returned to the seller. State laws vary in their policies of taxing such articles.

Cost of Administration

Six states designate the maximum percentage of the proceeds that shall be expended for administering the sales tax. The amounts and percentages vary somewhat, but the most common percentage, 3, is that of Arkansas, California, Kansas and Oklahoma. New Mexico specifies 4 per cent; Colorado, 5 per cent. This limitation is not so common as formerly. In 1933 the California and North Carolina laws specified that 2 per cent of the proceeds be used for administration; South Dakota, 2.2 per cent; Iowa, Oklahoma and New Mexico, 3 per cent; and Arizona, 4 per cent. Until 1939 Wyoming permitted 5 per cent of the proceeds to be used for administration; then the law specified that the amount used should be what was necessary. In 1941 the legislature appropriated $140,000 for the biennium 1941-1943. North Dakota specified 3 per cent for administration until 1939. The Washington law at one time allocated $450,000 for the biennium. In 1940 Louisiana was the only state that specified a definite amount—not to exceed $400,000 per annum.

[27] Alabama, Colorado, Illinois, Indiana, Missouri, Wyoming.
[28] California, Ohio, Oklahoma, Utah, Washington, West Virginia.
[29] Alabama, Illinois, Indiana, Iowa, Missouri, North Carolina, North Dakota, South Dakota, Wyoming.
[30] Colorado, Kansas, New Mexico.
[31] Professor Ford advocates the elimination of this exemption because it does not reduce costs or otherwise simplify administration. On the contrary, it reduces yield and probably results in evasion. *Op. cit.*, pp. 39, 126.
[32] This plan has at least two advantages: (1) it lessens evasion because the only way the tax could be avoided would be by collusion between seller and buyer; (2) it permits the consumer to deduct the sales tax in computing federal income tax. (Ford, *op. cit.*, p. 125.)

The present laws of Ohio, Kansas, Alabama, Arizona, and California state that administrative costs or "the necessary amount" shall be deducted from the receipts.

As with state income and other taxes, costs of collection cannot always be ascertained because often several taxes are administered by the same officers and separate accounting is not made. From the evidence available, costs of collection seem to vary greatly. (See Table 1.) West Virginia may be cited as one with very low costs. In 1937 the cost of collecting the gross sales tax was .796 per cent of the yield; in 1938, .58 per cent, in 1940 and 1941, "less than one per cent." [33] In other states costs range from 2 per cent to 5 per cent. Besides having an inclusive base and some high rates which make for large yields and low percentage costs, the state of West Virginia has an advantage also in that the law has been in effect many years, hence the auditors know within a small percentage what each class of business within the state should pay. If the returns show that amount of tax due is less than the normal for that kind of business, an investigation is ordered. This includes an audit of the taxpayer's books as well as a periodical check on daily sales and a comparison with the federal income tax return. The staff includes 26 field deputies and 12 auditors.

Table 1

Sales and Use Taxes

Costs of Collection, 1940 [1]

State	*Administrative Costs* (In thousands)	*Per Cent of Receipts*
Arizona	$ 161.3	4
Arkansas	170.3	3
California	2,558.0	2.52
Colorado	.....	5 [2]
Illinois	1,788.1	1.9
Indiana	439.8	2.5
Iowa	200.1	2
Kansas	.....	3 [3]
Louisiana	400.0 [3]	...
Michigan	1,052.54	1.74
Mississippi	27.01	4.01
Missouri	480.0	1.98
New Mexico	.....	4 [3]
North Dakota	54.37	1.7
Ohio	.....	3 [3]
Oklahoma	192.5 [4]	1.9
South Dakota	.....	2.6
Utah	92.06	2.18
Washington	445.06 [5]	1.54 [6]
West Virginia	.....	... [6]
Wyoming	63.5 [7]	3.3 [7]

[1] Data from state laws and reports and letters of officials.
[2] Maximum set by law.
[3] Approximate.
[4] Estimate based on cost of Sales Tax Division plus share of General Enforcement Division.
[5] Includes sales, public utility, liquor, admissions and use taxes.
[6] Less than 1%.
[7] Includes income tax.
[33] Letter of H. G. Williamson, Research Assistant of the State Tax Commissioner, to the authors, Dec. 31, 1941.

California also has had low administration costs: in 1937 about 1.5 per cent of collections; in 1940, about 2.52 per cent. The counties of the state are grouped into 13 districts each in charge of an administrator, a certified public accountant, who has definite responsibility for locating retailers and checking their licenses. The state of Washington administered taxes on retail sales, business, public utilities, cigarettes, liquor, and admissions at a cost of 1.54 per cent of collections for the fiscal year ending April 30, 1940.

The costs for the gross income tax and store license in Indiana for 1934-1940 are shown in Table 2.

Table 2 [1]

Indiana Gross Income Tax

Cost of Collection

Fiscal year	*Amount*	*Per cent of receipts*
1934	$377,275	3.63
1935	488,173	3.58
1936	534,685	3.23
1937	602,472	2.93
1938	769,241	3.44
1939	737,409	3.69
1940	673,239	2.86

[1] Indiana Department of Treasury, *Tax Facts Review*, October, 1940, pp. 46-47.

Effectiveness of administration is difficult to analyze. One of the most complete studies of this problem is that by Robert S. Ford and E. Fenton Shepard of the retail sales taxes of Michigan and four other comparable states, California, Illinois, Indiana and Ohio. They conclude:

"Relative efficiency in sales tax administration is very difficult to determine because of the complexity of the economic factors affecting sales tax productivity and the differences in the rate of the tax, the scope of the tax base, and the exemptions allowed. Furthermore, it would be difficult to agree as to what constitutes administrative efficiency. That the percentage costs of administration are small is not conclusive as to efficiency. Certain it is that a tax is not efficiently administered unless the state collects, with a fair degree of equity among taxpayers, approximately the full amount of tax legally due the state. In view of the complex problems involved in sales tax administration, it might be reasonable to think that higher costs will, within limits, reflect more efficient administration. This seems especially true with respect to the number employed in auditing taxpayers' accounts. The large revenues from the California sales tax are probably caused, in no small measure, by the fact that California employs a larger number of persons in sales tax administration, particularly in the field, than do the other states." [34]

Professor Ford shows conclusively that the sales tax is not so simple to administer as some have contended. An adequate staff of auditors and field men is necessary to check compliance with the law. The necessary regulations and rules are complex and numerous. Each exemption from the law serves to complicate administration. Even though the Michigan law has been in effect for seven years it is not yet considered in satisfactory form.

[34] Ford, *op. cit.*, p. 62.

Complications Caused by Federal Excises

The Revenue Act of 1941 imposed many excises on consumers' goods, some of which are collected from the manufacturer, some from the retailer. These retail taxes have added complications to the administration of state sales taxes.

Except in New York City, federal taxes paid by the manufacturer on goods sold to retailers are not allowed as deductions for retail sales tax base in any jurisdiction. In this city such taxes must be separated from other charges to the retailer.

If the manufacturer sells directly to the consumer, "the situation is not so clear," according to the *State Tax Review*.[35] The following eleven states and two cities have announced that in such cases the federal excise may be excluded, if the tax is separately invoiced: Arkansas, Illinois, Kansas, Michigan, Missouri, West Virginia, New Mexico, North Carolina, North Dakota, Oklahoma, South Dakota, Wyoming, New Orleans and New York City. On the other hand, the following states require that the federal tax be included in the tax base in such situations: Alabama, Arizona, California, Colorado, Indiana, Mississippi, Utah and Washington.

Twenty-two jurisdictions have issued rulings on the treatment of the 10 per cent federal tax on retail sales of jewelry, furs and toilet preparations. Three (California, Indiana and Utah) have held that these excises must be included in the basis for state taxes. In the others the federal tax need not be included in the base upon which state sales taxes are computed.

In connection with the New York City decision to exclude the federal excise tax in computing city sales taxes, one tax service comments:

> "The new regulation may be a blessing to the consumer, but to the retailer it promises to be just another headache. The latter is already doing a lot of bookkeeping as a gratuitous collection agent for the city, and he will do a lot more if he attempts to compute sales taxes on net prices under the new rule. In the case of the federal taxes based upon the retail price the problem is simple, involving only a separate item on the sales slip or bill. But, where the tax was paid by a manufacturer with whom the retailer may have had no direct dealings, the latter may be wholly unable to ascertain the manufacturer's price and the amount of federal tax based thereon, even assuming that he is willing to go to the trouble of finding out." [36]

Use Taxes

Among the most important recent developments affecting the administration of sales taxes are: (1) the introduction and judicial validation of supplementary use and storage taxes, and (2) the new series of Supreme Court decisions making feasible the taxation of many sales whose taxation was formerly held to be an infringement of the commerce clause of the Constitution or of the clause prohibiting or limiting the state imposition of import duties.

Exemption from the sales tax of goods that had been bought in another state not only lessened state revenues but increased opposition of local merchants to the sales tax. Merchants without connections in non-sales tax states were at a disadvantage compared with those who had connections. The states were faced with several difficulties in meeting this situation. Most important was the provision of the United States Constitution that Congress shall have power to regulate commerce among the states. This had long been construed as meaning that the states could not tax interstate transactions.

In 1934 a group of states appealed to Congress for legislative remedy. Senator Harrison, Chairman of the Finance Committee, introduced a measure to permit a state to levy a sales tax on certain interstate sales. The bill was passed by the Senate but was not voted on in the House.[37]

Despite this failure to secure legislation, four states in 1935 and one in 1936 tried the device of imposing the levy on the use, storage or consumption of the property. This procedure had been followed in regard to imports of gasoline in certain states since about 1930. In 1937 the use tax of the State of Washington was validated by the United States Supreme Court.[38] Other states followed the precedents established and at present all but six sales tax states impose a use tax.[39]

Use taxes are somewhat similar in form in all states. They are imposed on the use, storage, or consumption of tangible personal property that would be subject to the sales tax if bought in the state. In Michigan it was imposed also on sales of electricity by municipally-owned electric plants which were formerly exempt from the sales tax.[40] Colorado applied the tax to radio stations which make contracts with out-of-state authors for continuous possession or use of radio scripts. Almost all states, either by law or regulation, exempt personal property brought into the state by non-residents for personal, non-business purposes.

Obviously such a tax can be easily evaded in many cases; hence most states realize that it can be enforced effectively only with respect to goods that cannot be easily concealed when brought into the state, for example, automobiles and gasoline. Recognizing this situation certain states exempt purchases of small amounts. Oklahoma allows a monthly exemption of $100; Washington, $50 bi-monthly; Kansas, $20 a

[35] October 13, 1941 (Commerce Clearing House, *State Tax Services*).
[36] Prentice Hall, *State and Local Tax, Report Bul. No. 16*, October 14, 1941.
[37] 73d Congress, Second Session, S. 2897.
[38] *Henneford v. Silas Mason*, 300 U. S. 577.
[39] Arizona, Arkansas, Illinois, Indiana, Missouri and West Virginia. Illinois, however, imposes a special fee of $15 for investigating the title to an automobile purchased outside the state.
[40] In February, 1940, the Michigan Supreme Court upheld the application of the sales tax to all municipal utilities.

month; North Dakota, $50 a quarter; Mississippi, $50 a month or $300 a year. In support of this large exemption the Director of Research of Oklahoma stated:

"The conscientious tax administrator must indeed shudder to contemplate the enforcement of a use tax without a reasonable exemption. The tax collector already has two strikes on him, and if he were required to enforce a tax with as high a nuisance value as the use tax, without an exemption, he would soon be in the position of the man who caught the bear by the tail and couldn't turn loose. One advantage a substantial use tax exemption gives tax administrators is that it takes us out of bear country.

"We find that, under the liberal $100 exemption allowed by law, most of the smaller articles of commerce can squeeze through, the principal objects remaining subject to tax in the hands of individuals for their personal use or enjoyment being hardware goods, machinery (farm and otherwise), musical instruments such as radios and pianos, and furniture. Farm machinery, if motorized, is subject to our 2% motor vehicle tax in the same manner as automobiles and other motor vehicles. These have to be registered and licensed, so the collection of the tax is considerably simplified." [41]

The State of Iowa, however, has adopted a policy that is very dissimilar. It endeavors to collect the tax on all purchases made through mail order houses and seems to be doing it successfully.

The use tax has been criticized as a serious hindrance to interstate commerce, one of the numerous methods adopted in recent years to set up tariff walls between the states. It has been characterized as offering "tremendous possibilities to create trade barriers that will be just as destructive to business in the United States as those which exist between the various countries of the world have proved to be." [42]

On the other hand this tax has been validated by the court and justified by numerous administrators and economists. Professor Traynor wrote:

"The commerce clause of the federal constitution has served the development of interstate commerce long and well. The security of commerce is now as firmly established as the unity of the nation. . . . The tables are now turned, with domestic commerce in the less secure position. The solution is not too grant special privileges to local business but to remove special privileges from interstate business." [43]

Professor Waters of the University of Kansas pointed out that

"use taxes followed the inequality that attended sales taxes and were designed to restore equality. . . . Use taxes do not represent a discriminatory obstruction and they bear upon interstate commerce only as a sales tax rests upon interstate commerce." [44]

The validation of these taxes by the United States Supreme Court resulted in a series of decisions that merit more than passing reference. But studies of use taxes have been made by others and can be only briefly noted here.[45]

Other contemporaneous and parallel decisions and developments with respect to sales and related taxes now make it appear, however, that it may no longer be necessary for states to employ use taxes to reach goods brought in from other states. Two cases will be cited, one involving the New York City tax on tangible personal property from outside the city, the other the Iowa tax on goods purchased through mail order houses. **[To be concluded]**

* * *

"I cannot agree with the superficially logical view that state and local taxes should be reduced in order to make it easier for taxpayers to bear the burden of increased federal taxes. It is natural for taxpayers to attempt to avoid a reduction in their standard of living, but taxes will not serve the essential purpose of helping to divert resources to defense production unless consumer expenditures are sharply reduced." *—Marriner Eccles, St. Paul, Oct. 14, 1941.*

[41] L. D. Melton, "Administration of the Use Tax in Oklahoma," *Proceedings*, National Tax Association, 1939, p. 259. Referring to the exemption of Oklahoma, Professor L. L. Waters wrote: "This had the effect of limiting the tax to the large taxpayers. At the same time it had the effect of eliminating much of the protection offered to local business interests. With the exception of unusually large purchases by individuals for consumptive purposes the source of the tax became chiefly business houses. *Use Taxes and Their Legal and Economic Background*, p. 50.

[42] Fred I. Kent, "Effect of Trade Wars upon Our Economic Life," *Proceedings*, National Conference on Interstate Trade Barriers, 1939, p. 53.

[43] Roger J. Traynor, "The California Use Tax," *California Law Review*, 24:175 (1936).

[44] L. L. Waters, *Use Taxes and Their Legal and Economic Background*, Kansas Studies in Business, No. 19, 1940, pp. 86-87.

[45] Maurice Criz, *The Use Tax*, Public Administration Service, 1941; L. L. Waters, *op. cit.*; R. J. Traynor, *op. cit.* and "Tax Decisions of the Supreme Court," *Proceedings* National Tax Association, 1939.

SALES TAXES AFFECTING MOTOR-VEHICLE OPERATION

AN ANALYSIS OF GENERAL SALES TAX REVENUES RESULTING FROM MOTOR-VEHICLE OPERATION

BY THE DIVISION OF CONTROL, PUBLIC ROADS ADMINISTRATION

Reported by WILLIAM L. HAAS, Assistant Transportation Economist

Motor-vehicle owners and operators contributed approximately $357,443,000 from 1932 to 1939 in the form of sales taxes affecting motor-vehicle operation. All but a very small part of this was directed to the general support of State governments and was not used for highway purposes. This amount was in addition to the regular highway-user tax contributions by motor-vehicle owners.

Collections from the various types of sales or excise taxes levied by the several States were very small in 1932, but increased rapidly in succeeding years. Although only 2 States levied sales taxes in 1932, 22 States were levying such taxes in 1939. In addition Kentucky and Maryland levied excise taxes specifically on motor vehicles.

Sales or excise taxes on new or used vehicles accounted for 64.5 percent of the total sales taxes levied on motor vehicles and allied automotive sales from 1932 to 1939. The next largest item was accounted for by the operations of filling service stations, parking lots, and auto hotels, whose contribution was 17.7 percent of the total. Garages and repair shops contributed 6.2 percent of the total while the sales of accessories, tires, batteries, and parts accounted for 5.7 percent.

Contributions of sales and excise taxes in 1938 averaged $4.40 per vehicle in the 24 States in which such taxes were levied. In the same 24 States the average highway-user taxes per vehicle were $35.22.

Sales taxes have not been initiated in recent years by any additional States but the increase in receipts from these taxes on motor-vehicle owners has been occasioned by the increase in motor-vehicle ownership, the increase in general price levels, and improved economic conditions.

SEVERAL KINDS of taxes are imposed on the ownership and operation of motor vehicles, the most productive being taxes on motor fuel and the fees and licenses levied annually on motor vehicles. These taxes, commonly known as highway-user taxes, have been imposed directly upon motor-vehicle owners for many years.

A special study of the extent of such taxes in 1932, made by the Public Roads Administration,[1] indicated that more than one billion dollars was collected in that year from State, county, and local highway-user fees and taxes, personal property taxes, Federal excise taxes, and public bridge and ferry tolls.

Data collected annually by the Public Roads Administration indicate that the receipts from such taxes have increased so that the State motor-vehicle and motor-fuel taxes alone yielded approximately $1,250,000,000 in 1939. At the time of the special study in 1932 the general sales tax was but little used in the United States and yielded only a small amount of revenue. The effect of such taxation on motor-vehicle operation in 1932 was too small to warrant its inclusion in the special study. The study reported herein was, therefore, undertaken to supplement the special 1932 study of other taxes affecting motor-vehicle operation and the subsequent statistical summaries of such other taxes that have been made and reported each year since 1932.

The general sales tax, evidently a product of the depression, has grown rapidly in importance since 1932 so that its relation to motor-vehicle operation can no longer be ignored in any analysis of the total extent of taxes affecting motor-vehicle ownership and operation.

From 1932 through 1939, approximately $357,443,000 was contributed by motor-vehicle owners through sales taxes affecting motor-vehicle operation. This amount constituted 17.2 percent of the total of approximately $2,077,836,000 which was collected in general sales taxes, use or compensating taxes, and motor-vehicle excises in the States that levied such taxes during that period. The contribution by motor-vehicle owners, essentially all of which was directed to the general support of State governments and was not assigned for highway purposes, was accounted for by:

1. Taxes on sales of motor vehicles, amounting to $230,418,000 or 64.5 percent.
2. Taxes on filling and service station sales, amounting to $63,309,000 or 17.7 percent.
3. Taxes on garage and repair shop sales, amounting to $22,311,000 or 6.2 percent.
4. Taxes on sales of accessories, tires, and batteries, amounting to $20,360,000 or 5.7 percent.
5. Taxes on the sale operations of the automotive and petroleum industries, amounting to $17,276,000 or 4.8 percent.
6. Taxes on the sale of other allied motor-vehicle goods and services, amounting to $3,769,000 or 1.1 percent.

Only two States had imposed general sales taxes in 1932 and the revenue was relatively insignificant. In that year revenues from sales taxes on automotive goods were less than $200,000. By 1937, when 30 States had adopted and 22 States still retained a sales tax, the automotive portion of collections exceeded $75,000,000. Although the automotive portion in 1939 dropped slightly below $74,000,000, it is expected that with improved economic conditions and the probable adoption of sales taxes by additional States, the motor-vehicle portion will increase.

STUDY MADE TO DETERMINE EXTENT OF TOTAL HIGHWAY-USER TAXATION

While the concept of special taxes on the highway user to finance road improvements has generally been limited to such levies as registration fees and gasoline

[1] Then the Bureau of Public Roads. Report was published as "The Taxation of Motor Vehicles in 1932," G. P. St. Clair, October 1934.

taxes, the amount of sales taxes paid on account of highway use is an important related problem. Some consideration has been given to the amount of highway-user taxes used for other than highway purposes but little thought has been given to the amount of these other taxes specifically resulting from motor-vehicle operation, of which only a small portion finds its way to the support of highways. Since all levies to which the motor-vehicle operator is subject because of his use of the highways directly affect the amount he is willing or able to pay for such highway services, the extent of all taxes affecting his use of the highways must be given adequate consideration in any taxing program.

Since the beginning of motor-vehicle transportation, almost every year has witnessed the imposition of a higher aggregate of specific taxes on the highway user. While the extent of direct taxation in the form of gasoline taxes and registration fees is largely a matter of general information, the public is not generally aware of the contributions, particularly in recent years, by the highway user in the form of other indirect but inescapable charges.[2] Legislators—Federal, State, and local—seeking new sources of revenue for various purposes, and undoubtedly impressed by the apparently inexhaustible source of funds which the highway user appeared to provide, soon cast covetous eyes in that direction for additional funds. The multiplicity of taxes now levied on the highway user is such as to make it almost impossible to determine the full extent of his contribution toward the support of government in the form of taxes resulting from his ownership and use of a motor vehicle.

The following summary of the principal taxes on motor-vehicle owners by the various governmental agencies outlines the types of taxes levied at the various levels of government.

1. Federal.
   Excise taxes on gasoline, lubricating oil, automobiles and motorcycles, trucks, tires and tubes, and parts and accessories.
2. State.
   a. *Special.*—Taxes on gasoline and lubricating oil; registration, title and operators' and chauffeurs' permit fees; gross receipts and ton-mile taxes; occupational and privilege taxes; road and bridge tolls.
   b. *General.*—Personal property and sales taxes.
3. County.
   a. *Special.*—Taxes on gasoline; registration fees and wheel taxes; operators' license fees; road and bridge tolls.
   b. *General.*—Personal property taxes.
4. Municipal.
   a. *Special.*—Taxes on gasoline; registration fees and wheel taxes, operators' license fees, operating and franchise taxes; road and bridge tolls and parking meter charges.
   b. *General.*—Personal property and sales taxes.
5. Other units.
   a. *Township, special road districts, etc.*—Personal property and special franchise taxes.
   b. *Special road and bridge authorities.*—Tolls.

These are by no means all of the taxes eventually paid by the motor user, but they illustrate the complexity of the problem. Partial figures on the various kinds and amounts of motor-vehicle taxation prepared by various governmental agencies, industrial organizations, and other interested parties are available, but these have been confined largely to State and Federal taxes.[3]

The report by the Public Roads Administration entitled "The Taxation of Motor Vehicles in 1932," published in 1934, is still the most comprehensive survey ever made of motor-vehicle taxation in the United States. However, that report purposely excluded indirect charges such as real property taxes on automotive properties (factories, garages, truck and bus terminals, etc.), State chain store and retail sales taxes, and income and similar taxes which are not levied directly on the ownership and operation of the motor vehicle.

SALES TAXATION AN IMPORTANT ELEMENT IN MANY STATE TAX SYSTEMS

Renewed attention has been directed recently to the problem of determining the extent of taxation, other than the specific highway-user taxes, imposed on motor-vehicle owners. Inquiry into State and local taxation has been made by field representatives of the Public Roads Administration in connection with the highway planning surveys. Efforts were directed toward making a general survey of conditions in each State relative to real and personal property taxes, special assessments, sales, and other special taxes on motor-vehicle ownership or operation, as well as on allied properties and businesses directly associated with the motor vehicle or its operation.

One of the primary facts disclosed by this investigation in several States is that general sales taxation has become an important element in many State tax systems. In 7 of the 22 sales tax States the tax has increased in importance until in 1937 it was the largest single source of revenue, displacing the gasoline tax which held this distinction for many years.[4] Moreover, examination of the reported collections from this type of tax indicated that motor-vehicle owners as a class contributed more than was ordinarily supposed. The magnitude of these contributions and the disclosure that these data were readily available prompted a Nation-wide survey to determine the approximate amount of sales taxes paid by the motor-vehicle owner.

The data were obtained by field representatives of the Public Roads Administration from the various State departments or sales tax department records, with the assistance of the highway planning survey personnel in many States.

Generally, sales tax data were available showing the amounts paid by the principal tax-paying groups. Though variations existed between the States in the business classifications followed, major groups were generally common to all States. In some instances it was necessary to use estimates provided by State officials or based on the previous or the following year's data. In the majority of cases, however, the desired information was available directly from the State records.

The data reported here vary in some instances from published figures, but these variations are the result of

[2] For recent trends in highway taxation, see Trends in Highway Financial Practices, a report of the Department of Highway Finance, Highway Research Board, Thomas H. MacDonald, chairman. Proceedings of the Nineteenth Annual Meeting, 1939, page 15.

[3] A special report, Local Imposts on Motor Vehicles in Missouri, by John H. Long and Bailey H. Mayes appeared in PUBLIC ROADS, May 1940, page 49.

[4] Ohio, Illinois, Michigan, Iowa, Missouri, North Dakota, and California; see Tax Systems, Eighth Ed., Tax Research Foundation, pp. 325-348.

necessary adjustments to allow for refunds, errors, and similar items. The amounts include penalties and interest, registration and permit fees, and merchants' or retailers' commissions. In some cases it has been necessary to present gross figures, but generally net figures are presented and all data are reconcilable to official published releases.

Although an attempt was made to obtain the sales tax data for the same fiscal period in each State, it was impossible to do so. Consequently, the data are presented for the fiscal period used in each State. The fiscal period applying to the data in the respective States is indicated in table 1. The period of this study extends from the year 1932, when the first retail sales tax was enacted, through the fiscal years ending during the calendar year 1939. For convenience of analysis and comparison, the States have been grouped according to the geographic divisions followed by the United States Bureau of the Census.

The sales tax employed by most States is a flat or ad valorem levy made upon the sale or gross proceeds derived from the sale of commodities, properties, or services. It may be imposed upon retailers, wholesalers, manufacturers, producers, public utilities, trades, occupations, or professions. It may be imposed upon the sales of a particular commodity or it may be restricted to sales of tangible personal property at retail for use or consumption. In any event the sales tax is usually paid by the ultimate consumer to the retailer or vendor, who pays the money to the State.

TABLE 1.—*Total collections from State general sales taxes, use taxes and motor-vehicle excise taxes, 1932–39*

Geographic division and State	Collections for fiscal year ending in—								Total	Data for fiscal year ending—	Sales tax effective—
	1932	1933	1934	1935	1936	1937	1938	1939			
Middle Atlantic:	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000		
New York [1]			23,156	2,023	[2] 15	[2] 20	[2] 15		30,335	June 30	May 1, 1933.
New Jersey [1]					5,437	[3] 167	[3] 81		7,175	June 30	July 1, 1935.
Pennsylvania [1]		9,122	[4] 442	[4] 240	[4] 65	[4] 61	[4] 20	[4] 4	9,954	May 31	September 28, 1932.
Subtotal		9,122	23,598	7,863	7,017	248	116	4	47,964		
East North Central:											
Ohio				48,105	57,979	52,015	49,969	47,911	246,979	December 31	January 27, 1935.
Illinois		36,833	39,694	58,912	71,855	83,281	79,193	87,137	451,013	December 31	July 1, 1933.
Michigan			34,872	38,796	40,366	55,309	51,700	51,598	273,784	June 30	July 1, 1933.
Subtotal		36,833	73,566	140,813	176,198	190,605	171,858	186,551	975,776		
West North Central:											
Iowa			[5] 44	11,366	13,442	15,041	15,698	15,810	71,343	June 30	April 1, 1934.
Missouri			4,237	6,602	11,008	17,302	20,224	22,568	83,401	December 31	January 15, 1934.
North Dakota				1,950	2,742	3,886	2,806	2,905	[6] 13,305	December 31	May 1, 1935.
South Dakota					2,458	3,076	4,033	4,211	[7] 13,778	June 30	July 1, 1935.
Kansas							[8] 11,294	9,804	21,098	June 30	June 1, 1937.
Subtotal			4,281	19,856	30,256	38,305	54,056	55,193	202,870		
South Atlantic:											
Maryland [1]				1,035	3,135	710	438	516	[9] 6,754	September 30	April 1, 1935.
West Virginia			1,709	7,012	8,311	9,447	9,020	8,590	[10] 44,179	June 30	April 1, 1934.
North Carolina			6,012	7,058	10,184	11,325	13,013	10,998	[11] 57,102	June 30	July 1, 1933.
Subtotal			7,781	15,025	21,630	21,482	22,471	20,104	108,123		
East South Central:											
Kentucky [1]				9,347	7,229	1,380	1,121	935	[12] 20,022	June 30	July 1, 1934.
Alabama						2,903	5,644	5,882	14,329	September 30	March 1, 1937.
Mississippi	1,371	2,596	3,840	5,365	6,128	5,874	6,515	5,208	35,208	December 31	May 1, 1932.
Subtotal	1,371	2,596	3,840	14,302	12,325	10,406	12,539	13,352	69,860		
West South Central:											
Arkansas					3,260	4,309	4,656	5,012	17,255	June 30	July 1, 1935.
Louisiana [1]					597	3,509	4,428	6,219	14,753	December 31	October 1, 1936.
Oklahoma			3,825	4,768	5,836	11,501	12,650	11,724	[13] 50,303	June 30	July 10, 1933.
Subtotal			3,825	4,768	9,701	19,369	21,733	23,055	82,411		
Mountain:											
Idaho [1]				1,825	[14] 1,852				3,577	December 31	July 1, 1935.
Wyoming					1,484	1,776	1,944	1,809	7,013	April 30	April 1, 1935.
Colorado				4,111	6,603	8,119	8,414	9,231	36,478	December 31	February 9, 1935.
New Mexico			1,112	2,151	2,697	3,649	3,491	3,535	16,636	December 31	June 1, 1934.
Arizona			1,190	1,687	2,929	3,703	3,898	3,509	16,916	June 30	July 1, 1933.
Utah		14	1,761	2,490	2,957	3,412	3,465	3,636	17,721	June 30	May 1, 1933.
Subtotal		14	3,973	12,280	18,472	20,650	21,126	22,058	98,531		
Pacific:											
Washington					9,051	12,278	12,703	11,772	46,407	April 30	May 1, 1935.
California			46,586	60,015	73,290	88,411	86,732	89,471	445,101	June 30	August 1, 1933.
Subtotal			46,586	60,015	82,340	100,689	99,435	101,243	491,508		
Total	1,371	48,575	167,619	276,991	359,943	403,642	403,947	421,945	2,077,856		

[1] States that have repealed sales tax or permitted law to expire. Louisiana subsequently repealed sales tax effective December 31, 1940.
[2] Delinquent assessments; law expired June 30, 1934.
[3] Delinquent assessments; law repealed October 25, 1935.
[4] Delinquent assessments, penalties and interest; law expired February 28, 1935.
[5] Amount estimated; largely permit fees.
[6] Includes highway privilege taxes.
[7] Includes original license fees for calendar year.
[8] Data for 13 months; law effective June 1, 1937.
[9] Includes excise tax on motor vehicles.
[10] Includes tax on certification of title for motor vehicles.
[11] Includes highway privilege tax on motor vehicles.
[12] Includes motor-vehicle usage tax effective May 15, 1936.
[13] Includes approximately $89,000 delinquent collections made subsequent to repeal of law in 1935.

STUDY INCLUDED BOTH GENERAL SALES TAXES AND SPECIAL USE TAXES

This study is confined to the States levying general sales or use taxes on the sale of commodities and services variously designated as "gross receipts," "retail sales," "occupation," "use," "compensating," or "retailers." A general analysis of the operation of the various sales taxes in the several States was necessary to a determination of the relation of automotive goods taxation to the total sales taxation structure. Therefore, discussion of the basic principles of the operation of general sales taxation has been included in this report because the taxation of automotive goods under the general sales taxes is not an independent part of the tax structure.

Twenty-two States levied general sales or use taxes on the sale of commodities during 1939. It should be noted that neither the business or occupation taxes of West Virginia and Washington, nor the retail sales taxes levied by several larger cities, notably New York City, are included.

Connecticut, Delaware, Pennsylvania, and Virginia at present levy a restricted sales or merchants' license tax, but, because of their limited nature, the data for these States have been omitted from this study. Data for the general sales taxes imposed by Pennsylvania for a 6-month period in 1932–33, however, have been included. The gross income tax of Indiana is in the same category as general sales taxes, but because of the fundamental difference from the predominating type of "sales" taxes studied, data for that State were also omitted from the study.

Vermont passed a gross retail sales tax law effective in 1934, but it was declared unconstitutional in 1935 and was repealed by the legislature. The tax was in effect for approximately a year and yielded only a small amount of revenue. Consequently, Vermont's sales tax data have not been included in this study.

Similarly, Rhode Island imposed a restricted sales tax in 1932 to help finance unemployment relief. The law provided for levy and collection by local township authorities but was loosely interpreted and failed to produce the desired amount of revenue. Data for the Rhode Island sales tax were therefore also omitted from this study.

To make the data for the various States comparable, it was necessary to include certain special sales or excise taxes. For example, the motor-vehicle excise tax levied by Oklahoma is in effect a tax on motor-vehicle sales and therefore has been included. Likewise, it was believed desirable to include in this study the automobile usage tax levied by Kentucky, which is 3 percent on the retail price of the vehicle with standard equipment the first time it is registered in the State, and the excise tax levied by Maryland for every original motor-vehicle certificate of title issued at the rate of 2 percent of the fair market value.

The highway privilege tax in North Dakota, the original license fee in South Dakota, and the privilege taxes in West Virginia and North Carolina, all of which are in effect special sales taxes, have been included in this study. Maine, Massachusetts, New Hampshire, and Washington impose special excises or permit fees on motor vehicles. However, these imposts are in the nature of property tax levies, or in lieu of property taxes; they are not special sales excises and, therefore, have not been included in this study.

The extensive use of general sales taxation in the United States is evidently a product of the depression. Of the States included in this study, the earliest general sales tax law was enacted by Mississippi in 1932 and the latest States to impose sales taxes were Alabama and Kansas in 1937. In almost all cases, the primary reason for the original enactment of the sales tax laws was a desire to bolster declining revenues as well as to provide for property tax relief. In most cases, too, the sales tax was adopted as a duration-of-the-emergency measure, usually for a 2-year period, under the belief that conditions might later become such that the impost could be dropped from the State's tax system.

STATE SALES TAX REVENUES 1932-39 EXCEEDED 2 BILLION DOLLARS

However, the startling success of the sales tax as a revenue producer has made an impression on legislators and even the severest critics of the tax have had to admit its success in that particular. In addition, the period during which sales tax laws were most widely adopted witnessed an increasing demand by the people that the States assume new functions and provide new services. The social security programs inaugurated by the Federal Government and several States in recent years, probably more than anything else, have led many States to seek other sources of revenues than those on which they had previously relied. The ease with which the sales tax could be collected, the large sums that could be derived therefrom, and the quickness with which the tax could be applied for emergency purposes were factors leading to the adoption of this particular form of taxation by many States.

The total revenue derived by the States from general sales taxation since 1932 is well in excess of 2 billion dollars. The annual income to the States from this source during the last few years has been approximately 400 million dollars, the proceeds during 1939 being $421,945,000. In that year the sales tax income constituted 22.5 percent of the State tax revenues in sales tax States, evidence of the importance of sales taxes in the taxation systems of those States.

The relative magnitude of sales tax revenues in so many States suggests that reliance has been put on this form of taxation. The continued failure of property and other taxes to meet governmental requirements, the inertia of long established tax systems and consequent inability to meet rapidly changing social and economic conditions, the growing disapproval of the property tax as a major source of revenue, and the changing attitude on the part of the public toward the sales tax may result in the sales tax becoming more than a temporary or emergency tax.

A summary of the sales tax collections by years and the per capita collections are shown in figure 1 and table 2.

Table 3 presents data by States showing the relative importance of the sales tax in each State's fiscal structure in 1937 and 1939. Sales tax collections in 1937 represented 25.2 percent of the total State tax revenues, and although this percentage was only 22.5 in 1939, receipts, as shown in table 2, were actually greater than in 1937. This change was caused by the increasing importance in more recent years of such imposts as the unemployment insurance taxes. Of all the States, Illinois derived the greatest percentage of its revenue from the sales tax—47.4 percent in 1937 and 34.2 percent in 1939—while Louisiana

obtained the least—5.1 percent in 1937 and 7.7 percent in 1939. Table 3 indicates that Maryland and Kentucky derive the lowest percentages of income from sales taxes; however, these States do not impose a general sales tax but only special excises on motor vehicles. The large proportion of total State revenues represented by sales taxes in many States indicates that there is probably no immediate prospect of

TABLE 2.—*Amount of annual sales tax collections, 1932–39* [1]

Year	Amount	Per capita [2]	Number of States imposing sales taxes [3]
	$1,000		
1932	1,371	$0.63	2
1933	48,275	2.35	9
1934	167,619	3.26	15
1935	276,094	4.23	24
1936	358,943	5.70	24
1937	401,642	6.58	22
1938	401,947	6.39	22
1939	421,945	6.71	22
Total	2,077,836		

[1] Includes motor-vehicle excises as well as general sales taxes.
[2] Based on United States Bureau of the Census 1940 population for sales tax States.
[3] In effect at end of calendar year.

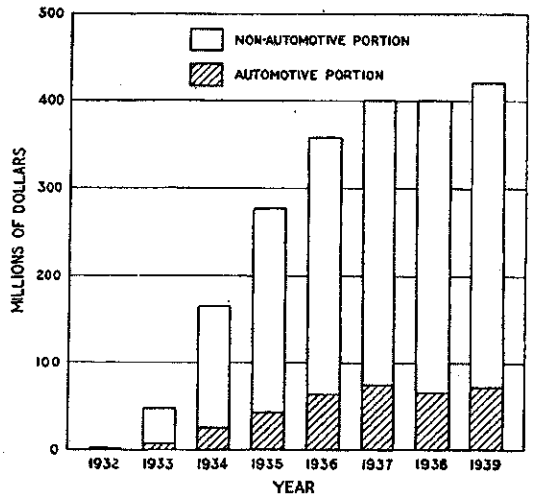


FIGURE 1.—ANNUAL REVENUE FROM SALES TAXATION SHOWING THE AUTOMOTIVE PORTION, 1932–39.

TABLE 3.—*Comparison of total State taxes and total sales taxes collected in 1937 and 1939*

Geographic division and State	Taxes collected in 1937			Taxes collected in 1939		
	Total State taxes [1]	Sales taxes		Total State taxes [1]	Sales taxes	
		Amount	Percentage of total		Amount	Percentage of total
East North Central:	*$1,000*	*$1,000*		*$1,000*	*$1,000*	
Ohio	235,632	52,015	22.1	255,588	47,911	18.7
Illinois	175,520	83,281	47.4	254,563	87,137	34.2
Michigan	148,027	55,309	37.4	169,944	51,503	30.3
Subtotal	559,179	190,605	34.1	680,195	186,551	27.4
West North Central:						
Iowa	65,149	15,041	23.1	69,092	15,810	22.9
Missouri	88,296	17,202	19.5	88,943	22,868	25.7
North Dakota	10,404	2,886	27.7	12,191	2,905	23.8
South Dakota	12,931	3,076	23.8	16,044	4,211	26.2
Kansas	25,515	[2]	...	41,501	9,504	23.6
Subtotal	202,295	38,205	18.9	227,681	55,598	24.4
South Atlantic:						
Maryland	33,942	[3] 710	2.1	44,721	516	1.2
West Virginia	46,603	9,447	20.3	52,626	8,590	16.3
North Carolina	73,300	11,328	15.5	77,453	10,998	14.2
Subtotal	153,845	21,485	14.0	174,800	20,104	11.5
East South Central:						
Kentucky	48,088	[4] 1,389	2.9	52,825	955	1.8
Alabama	41,992	2,903	6.9	48,978	5,882	12.0
Mississippi	27,020	6,123	22.7	29,580	6,515	22.0
Subtotal	117,100	10,406	8.9	131,383	13,352	10.2
West South Central:						
Arkansas	22,405	4,309	19.2	31,280	5,032	16.1
Louisiana	69,373	3,539	5.1	80,640	6,219	7.7
Oklahoma	59,712	11,501	19.3	61,210	11,784	19.3
Subtotal	151,490	19,349	12.8	173,130	23,035	13.3
Mountain:						
Wyoming	8,930	1,776	19.9	10,716	1,809	16.9
Colorado	29,964	8,119	27.1	35,589	9,231	25.9
New Mexico	13,120	3,649	27.8	15,492	3,813	24.6
Arizona	17,856	3,703	20.7	18,717	3,569	19.1
Utah	15,385	3,412	22.2	17,740	3,636	20.5
Subtotal	85,255	20,659	24.2	98,254	22,058	22.4
Pacific:						
Washington	67,730	12,278	18.1	65,767	11,772	17.9
California	253,628	88,411	34.8	319,953	89,471	28.0
Subtotal	321,578	100,689	31.3	385,720	101,243	26.2
Total	1,590,742	401,396	25.2	1,871,163	421,941	22.5

[1] From Tax Systems, eighth ed., The Tax Research Foundation.
[2] Sales tax effective June 1, 1937.
[3] Motor-vehicle excise tax only.
[4] Automobile usage tax only.

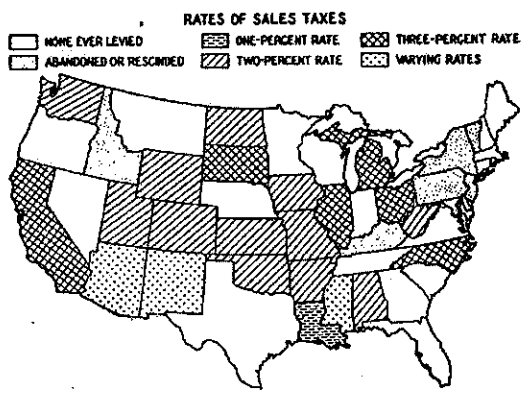


FIGURE 2.—STATUS OF THE STATE GENERAL SALES TAXES IN 1939.

eliminating such taxes from the revenue systems of those States.

The fact that 22 of the 30 States that have had sales taxes still retain them emphasizes the continued reliance by legislators on this tax to augment other sources of State revenue or to replace the decreasing revenues of certain out-moded taxes. Figure 2 shows that no region of the United States has escaped sales taxation entirely. Although eight States have discontinued their sales taxes, several others that do not now impose such levies have been seriously considering the adoption of this form of taxation. In Oregon sales tax proposals have been defeated twice by referendums and the Texas legislature has voted down a similar proposal. In several other States active sales tax blocs are continuing their campaigns for the adoption of such taxes.

It is significant, however, that none of the highly industralized States in the East now has a sales tax; the only area on the Atlantic seaboard north of North Carolina that has such a tax is New York City. It will be seen in figure 2 that six States in this area which at one time had sales taxes repealed them or allowed them to become ineffective. Only two other States in the rest of the country, Kentucky and Idaho,[5] discarded their sales taxes. The fact that none of the industrialized States on the eastern seaboard now has a sales tax may indicate the ability of those States to satisfy their revenue requirements from other tax sources, in contrast to southern and western States. However, the absence of such taxes may be caused by disapproval on the part of a public largely made up of wage earners, as compared with the larger portion of the population in southern and western States deriving relatively less of its total income from wages. Sales taxes normally would affect the wage earner more than the agricultural worker, since practically everything by which the former carries on the normal functions of living is subject to tax.

General acceptance of the sales tax appears to be based on the following principles:

1. Success and reliability as a revenue producer and ease of administration.

2. The fact that "everyone contributes a little." Although generally referred to as a "poor man's" tax, it is often defended on the grounds that the proceeds are usually earmarked for aid to the needy, aged, blind, dependent children, education, and such purposes.

[5] Louisiana subsequently repealed its sales tax, effective December 31, 1940.

USE AND COMPENSATING TAXES DESIGNED TO SUPPLEMENT SALES TAXES

Many sales tax States impose complementary taxes generally known as use or compensating taxes which are intended primarily to plug the loopholes of the sales tax acts. They are designed as companions to the sales tax to compensate the State for taxes that might be lost as a result of purchases made outside the State. A further purpose of the use tax is to enable local merchants to meet the competition of merchants in adjacent States which do not impose a sales tax.

In 1939, 18 of the 22 general sales tax States imposed special use or compensating taxes. In Arkansas, Colorado, and Louisiana, the use-tax features are incorporated into the sales tax laws. It can be expected that additional use taxes will be enacted in those States retaining or adopting a general sales tax inasmuch as merchants or retailers are likely to insist on the imposition of use taxes to meet competition in adjacent non-sales-tax States.

A more recent development in sales tax administration has been fostered by a United States Supreme Court decision which upheld the right of a State to tax sales made within the State on merchandise which is shipped to the buyer from a point outside the State. The Missouri Sales Tax Department subsequently issued a regulation requiring the payment of the sales tax on out-of-State purchases contracted for in Missouri. Other States are reported to have adopted similar regulations.

Another recent United States Supreme Court decision[6] held taxable under the use tax all sales made in Iowa including mail order sales filled from out-of-State mail order divisions. The Court ruled that companies may be compelled to collect use taxes provided they are registered to do business and maintain retail stores in the State. As a result of this decision, it is believed that sales tax States generally will attempt to collect taxes on sales made by mail order houses. Since a large percentage of these sales involve tires, batteries, parts and accessories, and other automotive equipment, it can be expected that the portion of the sales taxes attributable to the motor vehicle and its operation will show a substantial increase in the future.

Since the imposition of the first use tax by the State of Washington in 1935, the revenue produced by these taxes through 1939 amounted to $23,053,800. In 1939 the proceeds totaled $9,666,600 or 2.29 percent of the total sales and use-tax revenue. The use-tax receipts for the years 1936 through 1939 are shown in table 4.

TABLE 4.—*Collections from State use or compensating taxes, 1936–39* [1]

Tax year ending in—	Collections from use taxes	
	Amount	Percentage of total sales tax collections
1936	$2,169,300	0.06
1937	4,153,300	1.03
1938	7,004,600	1.76
1939	9,666,600	2.29
Total	23,053,800	1.45

[1] Includes merchant's commissions and deductions.

[6] *Nelson et al.* v. *Sears Roebuck and Company*, and *Nelson et al.* v. *Montgomery Ward and Company*, February 17, 1941.

A large portion of the use taxes is attributable to automotive sales. Of the total of $23,053,800 in use-tax proceeds in the period from 1936 through 1939, approximately $8,276,300 or 35.9 percent was assessed against motor-vehicle and allied sales.

Of the 22 States that levied general sales taxes in 1939, 6 had rates of 3 percent, 12 had a 2-percent rate,[7] and 1 State imposed a 1-percent tax. The remaining 3 States imposed taxes at rates varying from one-eighth of 1 percent to 2½ percent (table 5).

Although the various sales tax laws in general provide for taxation of approximately the same sales, many differences exist with regard to taxable sales which come within the scope of the sales tax law either specifically or through administrative interpretation.

For example, the Illinois tax law provides that sales for resale are generally not taxable. Under the law, sales of milk, cream, sugar, etc., to a company to be used in manufacturing ice cream are not taxable, since the sales tax department rules that "sales of goods which, as ingredients or constituents, physically enter into and form part of tangible personal property sold by the buyer" are not sales at retail. "The test of a sale at retail is whether the sale is to a purchaser for use or consumption and not for resale in any form as tangible personal property * * * In general, the tax is intended to be measured by receipts from a sale which constitutes the last actual transaction prior to ultimate use or consumption." It is evident that many difficulties could arise in the interpretation of this provision.

In Mississippi, sales include "barter or exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale."

In North Dakota, sales mean "any transfer, exchange, or barter, conditioned or otherwise in any manner or by any means whatsoever, for any consideration."

South Dakota defines sales as "sale of tangible personal property to the consumer or user thereof, or to any person for any purpose other than for resale."

The above examples of what is considered a sale subject to sales taxes are sufficient to indicate that the intent of the law is widely different in the several States. That the administration of the law varies considerably in the States is readily acknowledged by State tax administrators. At the eighth annual conference of the National Association of Tax Administrators held in St. Louis, Missouri, in May 1940, this lack of uniformity was admitted and a committee was appointed to draw up a uniform sales tax law for adoption by all States and a uniform set of regulations governing such a law.

EXEMPTIONS FROM SALES TAXATION DIFFER AMONG STATES

The sales tax laws usually state specifically the businesses or transactions which do not come under the provisions of the law. In all States, sales to the Federal Government and transactions in interstate commerce are not taxable. In some States exemptions are limited to the sales of gasoline and other items already taxed under another law. Other States extend the exemptions to include sales of real property, gas, electricity, and water, sales of food products for human consumption, etc.

Action has been taken by the Federal Government to prevent the imposition of State sales taxes on certain activities connected with the national defense program. The statement of the Government's position was given in a memorandum early in June 1941 from Acting

[7] Alabama's rate on automobiles is ½ of 1 percent on new motor vehicles. All other sales are taxed at 2 percent.

TABLE 5.—*States which have imposed general sales and use taxes, and status as of 1939*

State	General sales tax				Use or compensating tax	
	Year first effective	Status in 1939	Tax base	Rate	Tax in effect	Effective date
				Percent		
Alabama	1937	In effect	Gross receipts of sales	[1] 2	Yes	1937
Arizona	1933	do	Gross proceeds of sales	[2] Varying	No	
Arkansas	1935	do	do	2	Yes	1937
California	1933	do	Gross receipts of sales	3	Yes	1935
Colorado	1935	do	Gross proceeds of sales	2	Yes	1936
Idaho	1935	Repealed 1936				
Illinois	1933	In effect	Gross receipts of sales	3	No	
Iowa	1934	do	do	2	Yes	1937
Kansas	1937	do	Gross proceeds of sales	2	Yes	1937
Kentucky	1934	Repealed 1936				
Louisiana	1938	In effect [3]	Gross proceeds of sales	1	Yes	
Maryland	1935	Expired 1936				
Michigan	1933	In effect	Gross proceeds of sales	3	Yes	1937
Mississippi	1932	do	do	[2] Varying	Yes	1938
Missouri	1934	do	Gross sales receipts	2	No	
New Mexico	1934	do	Gross proceeds of sales	[2] Varying	Yes	1939
New Jersey	1935	Repealed 1935				
New York	1933	Expired 1934				
North Carolina	1935	In effect	Gross proceeds of sales	[4] 3	Yes	1938
North Dakota	1935	do	Gross receipts of sales	2	Yes	1939
Ohio	1935	do	Amount of retail sales	3	Yes	1936
Oklahoma	1933	do	Gross proceeds of sales	2	Yes	1937
Pennsylvania	1932	Expired 1933				
Rhode Island	1932	Abandoned	Retail sales	Varying	No	
South Dakota	1935	In effect	Gross receipts of sales	3	Yes	1939
Utah	1933	do	do	2	Yes	1937
Vermont	1934	Repealed 1935				
Washington	1935	In effect	Retail sales (selling price)	2	Yes	1935
West Virginia	1924	do	Gross proceeds of sales	2	No	
Wyoming	1935	do	Retail sales	2	Yes	1937

[1] Rate on new automobiles ½ of 1 percent.
[2] Rates from ½ of 1 percent to 2 percent.
[3] Subsequently repealed, effective Dec. 31, 1940.
[4] Rates from ½ of 1 percent to 2½ percent.
[5] Rates from ½ of 1 percent to 2 percent.
[6] Rates on wholesalers ½₀ of 1 percent.

Attorney General Francis Biddle to John H. Hendren, Jr., Chairman of the Committee on Uniform Sales Taxation, National Association of Tax Administrators.

The memorandum stated that the Department of Justice would resist in the courts the imposition of State sales taxes or use taxes on cost-plus-fixed-fee contractors on the national defense program with respect to purchases of supplies and materials made by them. These taxes, it was pointed out, were in effect taxes on the Federal Government since the contractors were "instrumentalities of the United States."

The validity of taxes levied solely on vendors and legally absorbed as part of the sales price, and of nondiscriminatory State taxes levied on fees paid to contractors by the Federal Government, would not be challenged for the present, the Department stated.

According to the Department the statement was occasioned by the delay that had already occurred as a result of the imposition of sales taxes in certain States. Since there was no authority for the Government's disbursing officers to pay such taxes, payments had been withheld, and stoppage in the flow of critical materials to the construction sites had been threatened.

A number of States, by administrative action or legislative enactment prior to the Department's ruling, had already exempted the Federal Government and cost-plus-fixed-fee contractors from State taxes. The Department suggested that other States follow a similar procedure wherever possible and that the assessment or collection of taxes levied on defense work be withheld until the United States Supreme Court had had an opportunity to consider their validity.

Agricultural States usually exempt farm produce and agricultural products. Southern cotton-raising States generally exempt sales of cotton and cotton products. Some western States exempt sales of water for irrigation, domestic, and industrial use. Although personal services, labor, repair work, etc., are exempt in most States, Colorado and West Virginia levy a service tax which subjects these items to taxation. While there are a number of exemptions common to all States, each State apparently has particular transactions which it exempts for one reason or another.

Special efforts are made in many States to tax motor-vehicle sales. Some States (Oklahoma, Maryland, and Kentucky) resort to special excises. Other States have adopted a use tax or use-tax features to insure tax collections from motor-vehicle sales. Inasmuch as the manufacture of motor vehicles is confined to a small number of States, use or compensating taxes which provide for a tax on "property used or brought into a State" are particularly adapted to the taxation of vehicles. Additional safeguards are utilized in a number of States by provisions of the law which require the payment of the sales tax before a certificate of title or license can be issued. The sales tax law in other States specifically covers the sale of motor vehicles, and in three States the law provides for a special rate to apply to the motor vehicle.

In addition to these special provisions to insure taxation of the vehicle, practices differ widely as to the extent of taxation. A few States tax the vehicle only once, in the form of a single excise on new vehicles. Other States collect the tax upon new vehicles when first licensed in the State, and upon used vehicles only at time of first transfer of title during a calendar year. Still others tax each and every sale regardless of the number of times a vehicle may be involved in sales during the year, resulting in multiple taxation.

Following is a brief discussion of methods employed by various States to tax the motor vehicle. These methods have been classified as privilege taxes and original license fees, motor-vehicle excises, special use taxes, special sales taxes, and general sales taxes.

South Dakota collects an "original license fee" under legislation which provides that "in addition to any and all other license fees, registration fees, and compensation for the use of the highways, there shall be paid to the county treasurer upon the application for the first or original registration of a motor vehicle, an additional and further license fee of 3 percent of the purchase price of such motor vehicle or the fair market value thereof, whichever is the greater; the payment of such 3-percent license fee shall be in full and in lieu of all occupational, sales, excise, privilege, and franchise taxes levied by this State upon the gross receipts from all sales of motor vehicles." The proceeds go into the State general fund.

North Dakota imposes a "highway privilege" tax enacted primarily to protect dealers against the competition of dealers in non-sales-tax States. The rate is "2 percent of the sales price of any vehicle purchased or acquired for use on the streets and highways of this State requiring registration thereof under the motor-vehicle laws of North Dakota." The tax is collected at time of first registration and no registration plates or certificate may be issued until the tax is paid. The proceeds are credited 50 percent to the State Highway Department and 50 percent to the counties for highway purposes.

In addition to the taxes levied by any other law, North Carolina imposes upon every person for the privilege of using the streets and highways of the State a tax of 3 percent of the sales or purchase price of any new or used motor vehicle purchased or acquired for use on the streets and highways of North Carolina and requiring registration under the motor-vehicle laws of the State. However, no tax payment may exceed $15 and it must be paid at the time application is made for certificate of title or registration of motor vehicle. No certificate of title or registration plates are to be issued unless and until the tax is paid. The tax is also imposed on trailers. The proceeds are used for school purposes.

West Virginia imposes a tax upon certification of title for a motor vehicle. The tax is imposed for the privilege of effecting the certification of title of each motor vehicle in an amount equal to 2 percent of the value of vehicle at the time of certification. The proceeds go into the State road fund to be expended for construction and maintenance of secondary roads.

Oklahoma imposes an excise of 2 percent upon the value of the vehicle, to be collected upon the first transfer of title of used vehicles during the calendar year, as well as upon every new vehicle when first licensed in the State. Proceeds go to State assistance and general funds.

Kentucky imposes an automobile usage tax which is a special levy on the privilege of using the automobile. This special excise levies a tax of 3 percent on the retail price of the vehicle with standard equipment at the time of its first registration in the State. The proceeds go into the State general fund.

Maryland levies an excise tax for every original motor-vehicle certificate of title at the rate of 2 percent of the fair market value. This tax was imposed

at a rate of 1 percent prior to September 30, 1939; after that date the rate was increased to 2 percent. The tax affects new cars primarily, but also affects used vehicles brought into Maryland from out of the State and registered in Maryland for the first time. The proceeds go into the general fund.

The Arkansas sales tax on motor vehicles is specifically collected under the use-tax law providing for the taxation of property purchased outside the State for use in Arkansas. Motor vehicles are specifically mentioned in the use-tax law. The proceeds are used for free textbooks, schools, homestead exemption, charitable institutions, and public welfare.

Iowa's use-tax law provides for a 2-percent excise on the value of motor vehicles and trailers to be collected by the county treasurer at the time the owner applies for a certificate of registration. No certificate can be issued until the tax is paid. The proceeds of the use tax go to the general fund.

The motor vehicle is taxed specifically in Mississippi under the general sales tax law at a special rate of 1 percent of gross proceeds of sale. Rates under the sales tax law vary from one-eighth of 1 percent to 2½ percent on specified transactions. Proceeds go into the State general fund.

The New Mexico sales tax law taxes the motor vehicle and allied businesses at the following rates:

	Percent
Car dealers (new and used cars)	½
Trucks and tractors	¾
All other businesses	2

Proceeds of this tax go into the school fund.

Sales of new motor vehicles are taxed by Alabama at the rate of one-half of 1 percent. All other sales are taxed at the 2-percent rate. The proceeds go into the State general fund.

In the remaining States, no specific provision is made to tax the motor vehicle, although it is subject to taxation under the general provisions of the sales tax laws. The proceeds are used for purposes of State general funds, relief, old age pensions, schools, and for similar purposes.

COLLECTION OF TAXES INSURED BY SPECIAL ARRANGEMENTS

A few States have special arrangements in tax collection procedure to insure the taxation of motor-vehicle sales. In Michigan, for example, the Secretary of State is made responsible for the collection of the sales tax on motor vehicles. The dealer is required to register the vehicle and secure title in the purchaser's name when the sale is made, and the application for registration must be accompanied by the sales tax payment. The Secretary of State renders an account of such collections to the proper administrative officials.

Likewise, Arkansas requires the sales tax on new automobiles to be paid before a license is issued even though the car may have been purchased outside the State. The law requires the commission to collect the tax before licensing a vehicle. Iowa's use-tax law provides for the collection of the sales tax on motor vehicles by the county treasurers at the time of application for certificate of title. No certificate can be issued until the tax is paid. Similarly, Oklahoma's motor-vehicle excise is collected on new vehicles at the time of first registration, and on used vehicles at the time of first transfer of title.

Other States are reported to have under consideration the adoption of similar provisions to secure the payment of sales taxes on motor vehicles.

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Gasoline for highway use is generally exempt from general sales taxation, but in some States where refunds of fuel tax or exemptions of the gas tax are permitted, special effort is made to impose the sales tax on tax-exempt gasoline sales.

In California motor-fuel sales for nonhighway purposes, which are subject to refunds, are liable for taxation under the sales tax act. The sales tax is collected by the State controller, who deducts the tax from the refund and transfers the amounts so collected to the sales tax fund. Iowa employs a similar method to collect the sales tax on refund gas sales. South Dakota also assesses sales taxes against refund-gasoline sales. The tax is collected by the State auditor at the time refunds are paid.

In North Carolina, there exists an unusual provision of the sales tax with regard to a tax on gasoline, whereby under certain conditions a tax can be levied on all gasoline sales. Apparently, it was not the intent of the law to exempt gasoline from the sales tax, nor was it considered expedient to levy a tax on the wholesale distribution of gasoline payable at the source of distribution. Therefore, to satisfy the intent of the law, a portion of the gasoline tax of 6 cents per gallon is to be determined and deemed in satisfaction of the sales tax as follows: The director of the budget, the chairman of the highway commission, and commissioner of revenue in the first 15 days of each quarterly period determine the total amount of gasoline sold in the State in the preceding 3 months, and the average retail price, inclusive of gasoline tax, and on this basis compute the amount of tax liability at the rate of tax levied on retail sales. The sum so computed shall be deducted from the tax of 6 cents a gallon and credited by the State treasurer to the sales tax revenue account.

These sums are made available only after full provision has been made for the expense of collecting highway revenues, for the administration of the highway and public works commission, for the service of the debt, and for reasonable maintenance of State and county highways. Nor is the money available to the general fund unless the director of the budget finds such sums to be reasonably necessary to meet appropriations from the general fund. The amount so allocated to the general fund shall not be transferred from the highway fund nor become a definite charge against it until the surplus in the general fund at the end of the fiscal year, together with current revenues, has been exhausted or until the director of the budget finds that such a transfer is necessary to prevent a deficit in the general fund or until the appropriations from the highway funds have been provided for. However, no gasoline tax receipts have been diverted to the general fund by the director of the budget in recent years.

EVASION OF SALES TAXATION BELIEVED PREVALENT

In the other sales-tax States no special effort is made to collect the sales tax on refund or tax-exempt gasoline sales presumably used for nonhighway purposes. Another problem which is part of the question of sales taxes on gasoline is the condition that exists in a few States where the tax on sales of gasoline constitutes a tax on the price of the gasoline plus the State and Federal gasoline taxes. This condition of multiple taxation can be avoided only by careful drafting of the enabling legislation, as it appears that it is not the legislative desire to enact laws that cause such multiple taxation.

Opinion is rather prevalent among tax officials that there is considerable evasion of sales taxes. The adoption of use or compensating taxes in many States was designed to plug the loopholes in the sales tax acts and to prevent "legal evasion" through interstate sales. The failure of the use taxes to accomplish this purpose is evidenced by the fact that use taxes have not been successful as revenue producers. However, failure of the use tax to produce revenue is not in itself proof of the failure of that tax to function properly. It may perform its function by decreasing the purchase of goods in non-sales-tax States with a resultant increase of purchases in the State of residence and a corresponding increase in the sales-tax collections. The latter increase takes the place of any increase in the receipts from use taxes but results directly from the presence of the use tax on the statute books.

Evidence of failure of the compensating tax is found in the admission of tax administrators. A typical comment on the subject is that of the State Tax Commission of Kansas.[8]

> Corporations and others that keep books or accounts have very little chance of avoiding this tax, but individuals purchasing motor vehicles, trailers, farm machinery, mechanical equipment, office furniture and fixtures, household goods and furnishings, radios, jewelry, etc., that do not keep records are not voluntarily declaring and paying the compensating tax. It is extremely difficult, takes a great deal of time, and is very expensive to locate purchases of this kind, assess and collect the compensating tax on them.

Because of the great number of retailers who are required to report the sales tax, there is undoubtedly a considerable number who fail either to collect or to remit the full amount of the tax as required by law. In some States this condition cannot be corrected because of the small administrative force available to enforce the sales tax. Unquestionably the lack of sufficient auditors to audit the records of such a large number of retailers tends to encourage the evasion of taxes.

It is the general opinion of tax officials that the motor vehicle often escapes general sales taxation entirely unless provisions are adopted to insure the payment of taxes such as requiring a sales tax receipt before a vehicle license can be issued. This condition, coupled with the belief that the ownership of a motor vehicle indicates a superior tax-paying ability, has caused the adoption of safeguards to insure the payment of the taxes on motor vehicles and has promoted zealous efforts in the collection of these taxes.

Sales tax officials also believe that the sales of tires, batteries, parts, and similar motor-vehicle accessory items through large mail-order houses largely escape taxation, notwithstanding the fact that the use taxes were designed to tax sales of this kind.

COLLECTION AND ADMINISTRATION COSTS UNUSUALLY LOW

Although no attempt was made in this study to determine the actual administrative and collection costs of the sales tax, it has been generally reported that these costs have been unusually low, in some cases less than 1 percent of the total collections. This unusually low cost has contributed much to the ready acceptance of sales taxation, and inasmuch as this item is an important reason for the remarkable showing of sales taxes, the subject warrants some consideration.

In most States, the retail merchants are made involuntary agents of the State in collecting the sales tax. The collection of this tax from the consumer population of each State is practicable only because the retailer or vendor acts as a tax collector. While the tax-paying group almost approximates the total population of the States, the tax is actually collected and paid over to the State by the relatively small number of retailers or vendors operating in each State. The administrative machinery of the State needs to function, therefore, only between the State and the retailers or vendors and not between the State and the hundreds of thousands or millions of tax-paying consumers. Thus, the expense of collection is borne by the merchants, who in the majority of cases are not reimbursed.

Another reason for the low cost of collection is due in part to the lack of effective enforcement. Legislators appear to be more than pleased with the revenue produced by the sales taxes, and as a result they have failed to appropriate sufficient funds for adequate enforcement. A typical official observation on the administrative side of the sales tax is given in the following excerpt from the Biennial Report of the Department of Revenue 1936–38 for the State of Arkansas, pages 56–57.

> Due to the great number of retailers required under the law to collect and remit the tax, there is found a considerable number who either neglect or fail to remit the tax as required by law, and it appears beyond a doubt that in many cases they do not collect the tax * * * the law itself was inducive to evasions in the beginning, and is to some extent at the present time. Act 233 of 1935 allowed so many exemptions that it was hard to administer when everything worked together because of the loopholes wherein retailers could claim exemptions to which they were not entitled. In the passage of Act 154 of 1937, most of the exemptions were removed but still there were insufficient restrictions left around the exemptions allowed, especially exemptions of items sold for resale. Through this avenue the State has lost many thousands of dollars it should have collected. The principal other difficulty is a result of not having had previous experience in collecting a tax of such wide spread in that sufficient administrative force was not provided, especially there were not sufficient auditors allowed to audit a very large percent of the retailers who were collecting the tax.

It should be mentioned that many States compensate in an indirect manner the merchants who collect the sales tax. The retailer or merchant collects the tax on each individual sale but is permitted to pay the State on a gross sales basis. The reimbursement would be small in most cases, especially in those States that collect the tax through the use of mill tokens. In those States in which a bracket system is employed, however, it is conceivable that there would be considerable difference between the tax collected on individual sales and the tax collected on a gross basis.

For example, assume a State imposes a 2-percent tax, or 1 cent for all sales from 15 cents to 65 cents. A business selling low-priced articles collects the tax on 100 individual articles costing an average of 25 cents each. The total tax collected from the individuals is $1. The tax settlement to the State, however, would be on the basis of gross sales of $25 at the tax rate of 2 percent which would be 50 cents. The merchant in this particular case would have profited to the extent of 50 cents as the result of the transactions.

It is obviously impossible to estimate the amount of deductions permitted in the above manner but it is evident that the amounts involved conceivably could reach large proportions. These legitimate collection charges are, of course, never included with the costs of administering the tax.

Since the adoption of the first general sales tax and

[8] Sixteenth Biennial Report of the Tax Commission, 1936-38. Pp. 14A and 15A.

until 1939 only five of the 28 sales tax States permitted commissions to merchants and agents for the collection of taxes.[9] Three States, Kentucky, Missouri, and Ohio, allowed a 3-percent deduction, while Louisiana and Colorado [10] both permitted 5 percent commissions on sales and use taxes, although the latter State allowed only 3 percent deductions on service taxes. The States of Oklahoma and Alabama subsequently compensated the merchants at a 3-percent rate effective June 1, 1939, and October 1, 1939, respectively.

The approximate total of merchants' commissions allowed during the period of this study in the five States was $11,549,800 or 3.1 percent of the total sales tax collections. These deductions are never reported as legitimate costs of collection; consequently, this fact has undoubtedly contributed much toward the popular belief that the collection and administrative costs of sales taxes are unusually low.

Inasmuch as these commissions properly should be included as tax collections in order to show actual collections, they have been added to the proper State totals. The estimated amount of these deductions attributable to the motor vehicle was determined by the relationship of the automotive portion to the total sales taxes contributed in the States permitting commissions to merchants. The amounts for each of the five States are shown in table 6.

TABLE 6.—*Approximate amount of merchants' deductions and commissions permitted for period 1935–39* [1]

Year	Colorado	Missouri	Louisiana	Ohio	Kentucky [2]	Total
1935	$219,900	.....	.....	$1,443,200	$280,400	$1,943,500
1936	327,000	.....	.....	1,739,400	226,200	2,292,600
1937	386,200	[3] $331,100	.....	1,560,400	25,400	2,305,100
1938	382,300	548,200	$97,800	1,229,100	22,700	2,280,100
1939	415,400	604,200	261,500	1,437,300	19,100	2,737,500
Total	1,730,800	1,483,500	359,300	7,409,400	576,800	11,549,800

[1] For fiscal years reported: Oklahoma and Alabama permitted commissions effective 1939 after close of fiscal period.
[2] Merchants retained 3 percent of gross receipts tax; clerks retain 2 percent of vehicle usage tax.
[3] Commission effective June 1937, estimated for 7 months.

COLLECTIONS SEGREGATED BY MAJOR BUSINESS CLASSIFICATIONS

Most of the sales tax laws require the administrative agency to keep records of the collections. As a result it was possible to obtain relatively satisfactory data for tax payments by major business classifications as follows:

Apparel.
Automotive.
Contractors–consumers.[11]
Farm and garden produce.
Food.
Furniture and fixtures.
General merchandise.[12]
Hotels, amusements, liquor stores.
Lumber and building.
Manufacturing, jobbing, trading.
Professional and personal service.
Public utilities.
Unclassified.[13]
All other.

[9] Kentucky permitted such commissions while its sales tax was in effect.
[10] 5 percent on sales and use taxes, 3 percent on service taxes.
[11] Includes construction, industrial, mercantile, governmental, public utility, private institutions, and miscellaneous individual consumers.
[12] Includes department and general stores, dry goods, hardware and paint, jewelry, sporting goods, five and ten, drug stores, etc.
[13] Includes amusements, hotels, newspapers, magazines, farm implements, liquor stores, recreation parlors, coal, fuel, ice, drug stores, hardware, theaters, barber shops, etc.

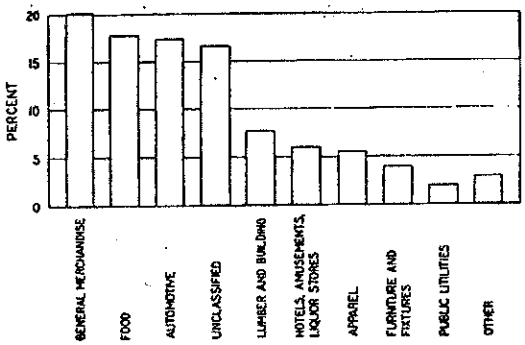

FIGURE 3.—PERCENTAGE DISTRIBUTION OF SALES TAX COLLECTIONS BY MAJOR BUSINESS CLASSIFICATIONS IN 1939.

These classifications were by no means uniform in the States, but they were sufficiently similar in their grouping to permit the arrangement of the data for general comparative purposes. While these classifications were generally maintained in most States, there were many differences in the States within a major business group. Obviously, it is practically impossible to obtain a standard classification of the thousands of businesses. Furthermore, a few States used more or less general classifications and it was impracticable to obtain the data in the desirable detailed form.

In order to establish the relative importance of the major business groups with regard to their contributions in sales taxes, the tax collections were compiled by the groups indicated above. Although data were obtained for a number of years for those States that have repealed as well as those that have retained a sales tax, it was believed little significance could be attached to data for States that no longer levy the tax. Consequently, the contributions by each major business group are presented for the fiscal years ending in 1939 for the present sales tax States. The detailed data by States for the various business classifications are given in table 7 and are summarized in table 8, which shows that in 1939 the largest sales tax contributions were made by the general merchandise group with 20.2 percent of the total. The second largest contribution was by the food group with 17.8 percent of the total. This group was closely followed by the automotive group with 17.4 percent of the total tax payments. The unclassified group represents 16.6 percent of the total. Payments by the remaining business groups range in importance from the lumber and building group with 7.7 percent down to the farm and garden produce group with an insignificant 0.1 percent. The relative importance of the several groups is also shown in figure 3.

The total collections by the 22 sales-tax States and the two States having motor-vehicle excises in 1939 amounted to $421,941,000 or $6.71 per capita.[14] The largest per capita payment was by the general merchandise group with $1.35. Second largest was the food group with $1.20 per capita, closely followed by the automotive and unclassified group representing $1.17 and $1.11, respectively. The remaining groups ranged from lumber and building with $0.52 to contractors–consumers and farm and garden produce with $0.01 per capita.

[14] Based on United States Bureau of the Census total for 1940 of 62,875,746.

TABLE 7.—*Sales, use, and motor-vehicle excise tax collections by major business classifications in 1939*

Geographic division and State	Apparel	Automotive	Contractors-consumers	Farm garden produce	Food	Furniture and fixtures	General merchandise	Hotels, amusements, liquor stores	Lumber and building	Manufacturing, trading, jobbing	Professional and personal service	Public utilities	Unclassified	All other	Total
East North Central:	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*
Ohio	6,100	9,358			5,402	2,426	12,969		3,614				8,532		47,911
Illinois	6,994	13,755		188	18,200	2,676	14,302	8,817	5,085				18,017		87,157
Michigan	3,606	10,257			13,008	1,660	7,187		3,157				10,028		51,569
Subtotal	15,899	33,370		188	36,700	6,762	34,458	8,817	11,959				37,197		186,551
West North Central:															
Iowa	845	2,373	244	67	3,420		3,126		1,361	552	84	1,265	2,046	[1] 392	15,810
Missouri	1,285	3,294		204	3,782	824	3,973		1,348		17	2,182	3,173	[2] 719	22,803
North Dakota	267	691		5	609	50	698		193	37	11	179	344	[2] 22	2,955
South Dakota	176	817		8	821	72	1,202		272	24	15	154	421		4,241
Kansas	449	1,505		24	2,891	265	2,050		586	324	69	1,004	984		9,834
Subtotal	3,012	8,680	244	308	13,293	1,200	10,046		3,757	936	196	4,944	7,968	1,133	55,583
South Atlantic:															
Maryland		512											4	[3] 516	
West Virginia	300	957			2,356	228	2,053		531		650	169	[2] 282		3,899
North Carolina	915	1,435			2,242	755	4,075		829			947			10,998
Subtotal	1,115	2,904			4,592	983	7,028		1,150		650	1,110	266	33,104	
East South Central:															
Kentucky		951											4	[4] 955	
Alabama	253	582			1,731	378	1,961		363			814		[5] 3,882	
Mississippi	202	975			1,388	130	1,609		411	580		436	732	[2] 72	6,315
Subtotal	455	2,508			3,119	308	3,570		774	580		436	1,546	76	13,352
West South Central:															
Arkansas	137	673	17		1,021	127	1,266		264			482	1,093		5,082
Louisiana	305	1,522			1,440	263	566		554				1,530		6,276
Oklahoma	526	2,416	44		2,517	332	2,703		727		630	1,176	928		11,784
Subtotal	982	4,611	61		4,978	727	4,531		1,545		630	1,658	3,552		33,035
Mountain:															
Wyoming	67	273			415	59	410		129	76	9	194	222	[3] 4	1,859
Colorado	514	1,368	143	50	1,933	223	1,661	189	453	429	561	564	828	[2] 243	9,361
New Mexico	75	320	134		698	85	1,028	68	220	199	229	198	4	[10] 355	3,513
Arizona		354	93		191			75		64		175	2,502	[11] 55	3,509
Utah	213	542			817	173	671	86	229			285	622		3,636
Subtotal	869	2,847	370	50	4,054	520	3,770	418	1,022	768	839	1,466	4,219	937	22,008
Pacific:															
Washington	671	1,818			2,888	691	1,942		1,442			2,130	[12] 230		9,772
California		16,892			6,041	5,402	19,745	[13] 15,723	11,464			12,822	[14] 5,812		88,471
Subtotal	671	18,710			6,429	6,093	21,687	15,723	12,906			14,952	4,042	101,243	
Total	23,205	73,500	675	546	75,235	16,553	85,140	28,953	32,493	2,284	2,305	8,434	76,154	6,424	[15] 421,941

[1] Includes taxed gasoline sales of $150,312; the balance is use tax.
[2] Includes admissions, news, advertising, and natural resources.
[3] Use tax $6,880 and penalties and interest $14,904.
[4] Excise tax on motor vehicles; includes $4,124 collections of delinquent assessments 1935 sales tax.
[5] Tax on liquors.
[6] Motor-vehicle usage tax; includes $3,732 collections of delinquent assessments 1935 sales tax.
[7] Tax on natural resources.
[8] License fees.
[9] Service tax business, rental, and custom service.
[10] Includes tax on natural resources of $347,710.
[11] Printing and publishing $36,426; other $18,808.
[12] Penalties and interest.
[13] Includes drugs, tobacco, confectionery, meals, and beverages.
[14] Includes books, stationery, musical instruments, and permits.
[15] Does not include $4,000 in delinquent collections in New York, which are included in table 1.

TABLE 8.—*Sales, use, and motor-vehicle excise tax collections in 1939 by major business classifications*

Business class	Amount	Percent	Per capita [1]
	$1,000		
Apparel	23,205	5.5	$0.37
Automotive	73,500	17.4	1.17
Contractors-consumers	675	.2	.01
Farm and garden produce	546	.1	.01
Food	75,235	17.8	1.20
Furniture and fixtures	16,553	3.9	.26
General merchandise	85,140	20.2	1.35
Hotels, amusements, liquor stores	24,953	5.9	.40
Lumber and building	32,493	7.7	.52
Manufacturing, jobbing, trading	2,284	.6	.04
Professional and personal services	2,305	.6	.04
Public utilities	8,434	2.0	.13
Unclassified	76,154	18.6	1.11
All other	6,464	1.5	.10
Total	421,941	100.0	6.71

[1] Based on data of the United States Bureau of the Census for 1940 showing population in the 22 sales tax States and two motor-vehicle excise States of 62,875,740.

TABLE 9.—*Comparison of total collections from sales taxes and automotive sales taxes by geographic divisions in 1939* [1]

Geographic division	Total sales taxes	Automotive sales taxes	Percentage automotive of total	Amount per capita [2]	
				Total sales	Automotive sales
	$1,000	*$1,000*			
East North Central	186,551	33,370	17.9	$3.30	$1.66
West North Central	55,508	8,550	15.4	5.91	.91
South Atlantic	20,104	2,904	14.4	2.76	.40
East South Central	13,352	2,506	18.8	1.70	.32
West South Central	23,035	4,611	20.0	3.45	.69
Mountain	22,058	2,847	12.9	7.46	.96
Pacific	101,243	18,710	18.5	11.71	2.16
Total	421,941	73,500	17.4	6.71	1.17

[1] For only the 22 sales-tax States and the 2 States having motor-vehicle excises.
[2] Based on 1940 population, United States Bureau of the Census.

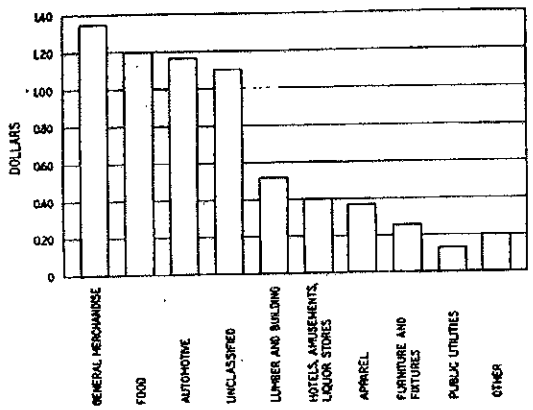

FIGURE 4.—PER CAPITA SALES TAX COLLECTIONS BY MAJOR BUSINESS CLASSIFICATIONS IN 1939.

The per capita total collections by geographic divisions varied from $1.70 in the East South Central to $11.71 in the Pacific region. A partial explanation of the low per capita figures for the South Atlantic and East South Central States is that the Maryland data in the former group and the Kentucky data in the latter group represent only motor-vehicle excise taxes and not general sales taxes (table 9).

The per capita payments of the automotive group totaled $1.17 (fig. 4). The per capita payments varied from $0.32 in the East South Central division to $2.16 in the Pacific group.

TAX COLLECTIONS FROM AUTOMOTIVE GROUP LARGE

In this study the automotive group was more thoroughly investigated than the other groups in order to determine the exact nature of the taxable transactions. Data were obtained and compiled by the following businesses within the automotive group:

New and used cars and dealers.
Garages and repair shops.
Accessories, tires, batteries, parts, etc.
Filling and service stations, parking lots, auto hotels.
Vehicles for hire, truck and bus lines.
Other automotive.
Motor-vehicle excise, original license fees, etc.
Petroleum and automotive industries, refund gas sales.

In order to determine the total contributions resulting from new and used car sales, that group and the motor-vehicle excises should be combined. The separation of these related items was maintained because in all cases the excises were special taxes levied on the motor vehicle, whereas the others were general taxes. "Other automotive" includes collections from automotive stores and miscellaneous sales not included in other classifications.

It should be noted that the taxes paid by the petroleum and automotive industries are not directly paid by the motor-vehicle owner or user; however, they are eventually paid by the owner, inasmuch as these taxes are passed on to the ultimate user.

Refund gas sales represent taxes collected on sales of gasoline on which refunds of the gasoline tax itself are permitted. Presumably the use of such gasoline is for nonhighway purposes in which case the sales taxes

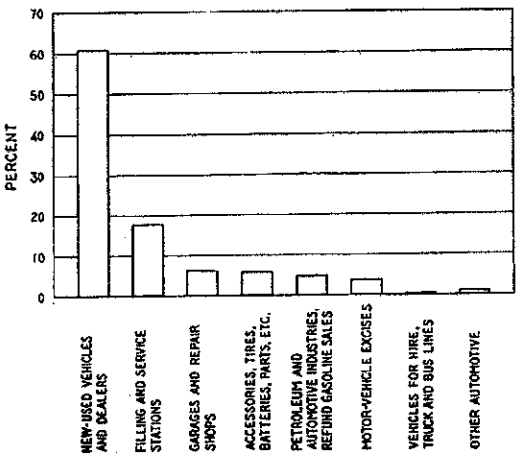

FIGURE 5.—PERCENTAGE DISTRIBUTION OF AUTOMOTIVE GROUP SALES TAXES BY MAJOR CLASSES, 1932–39.

collected should not be credited to the motor user. However, because of the close relationship to the automotive and petroleum industries and because it presents a special problem in some States, these tax payments have been included.

Although the business separation of the motor-vehicle group was generally maintained, some States failed to maintain a satisfactory breakdown and as a result it was necessary to resort to estimates. In such cases these were usually prepared with the assistance of the sales tax officials. In other cases, when only a particular year's or several years' data were not properly separated an estimate was prepared based on the previous or following year's data. As can be expected, the separations were not always maintained in a comparable manner and in a few instances a detailed segregation was not attempted in this study.

From the time of the imposition of the first general sales tax in 1932 through 1939, the total contributions in State sales taxes by the automotive groups were $357,443,000, or 17.2 percent of the total sales tax collections. The taxes levied on the motor-vehicle and allied businesses have increased from less than $200,000 in 1932 to an annual total in 1939 of more than $73,000,000. The highest contribution in a single year was in 1937 when the motor-vehicle group paid $75,703,000 in sales taxes, or 18.8 percent of the total collections.

The annual collections from taxes levied on motor-vehicle and allied automotive sales in each State since the first tax was initiated in 1932 are shown in table 10. It is anticipated that the total taxes of this kind for 1940 may exceed the previous high figure of 1937, due principally to the large sales of automobiles in 1940, an item which, as can be seen in table 11 and figure 5, accounted for almost two-thirds of the taxes collected on automotive sales.

All sections of the country represented in this study show approximately similar percentages of contributions of the total sales taxes credited to the automotive group. In 1939 the South Atlantic area showed the lowest percentage, with 14.4 percent of the total, and the West South Central area showed the highest, with 20 percent of the total (table 9).

TABLE 10.—*Total sales taxes collected from motor vehicles and allied automotive sales, 1932–39*

Geographic division and State	Taxes for fiscal year ending in—								
	1932	1933	1934	1935	1936	1937	1938	1939	Total
	$1,000	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*
Middle Atlantic:									
New York			4,330	1,707					6,037
New Jersey					[1] 650				650
Pennsylvania		[2] 1,368							1,368
Subtotal		1,368	4,330	1,707	650				8,055
East North Central:									
Ohio				6,698	10,225	11,331	8,659	9,388	44,301
Illinois		5,092	5,446	7,876	10,562	12,855	11,740	13,755	67,746
Michigan			5,771	7,258	10,136	12,753	9,856	10,257	56,031
Subtotal		5,092	11,211	21,772	31,243	36,939	28,251	33,370	167,988
West North Central:									
Iowa			0	1,439	3,008	2,414	2,477	3,373	10,711
Missouri			464	737	1,515	2,337	3,564	3,264	14,881
North Dakota					420	366	491	501	1,928
South Dakota					408	511	667	817	2,403
Kansas							1,850	1,505	3,355
Subtotal			478	2,176	4,351	5,722	8,049	8,559	29,291
South Atlantic:									
Maryland				485	901	594	397	[4] 512	2,889
West Virginia			35	506	1,097	1,256	1,077	987	4,959
North Carolina			782	995	1,324	1,475	1,432	1,495	7,501
Subtotal			857	1,986	3,322	3,325	2,906	2,994	15,349
East South Central:									
Kentucky				1,036	686	1,269	1,092	951	[4] 5,033
Alabama						267	472	592	1,331
Mississippi	191	336	497	549	753	883	828	975	5,012
Subtotal	191	336	497	1,585	1,439	2,419	2,392	2,518	11,376
West South Central:									
Arkansas					540	584	619	672	2,415
Louisiana					159	1,098	1,031	1,522	3,810
Oklahoma			956	1,894	1,443	2,825	3,053	2,446	12,667
Subtotal			956	1,894	2,142	4,507	4,703	4,641	18,892
Mountain:									
Idaho				293	429				722
Wyoming					242	336	321	273	1,171
Colorado				580	916	1,142	1,088	1,355	5,081
New Mexico			91	174	214	298	261	320	1,358
Arizona			130	194	331	431	418	354	1,858
Utah		2	203	432	475	512	518	542	2,684
Subtotal		2	524	1,673	2,607	2,718	2,606	2,847	12,877
Pacific:									
Washington					1,744	2,317	2,101	1,518	7,680
California			6,362	16,246	17,773	17,728	16,603	16,802	85,514
Subtotal			6,362	16,246	19,517	20,045	18,704	18,710	93,194
Total	191	6,798	25,217	42,478	65,305	75,763	67,591	73,699	357,443

[1] Data for three months only—July 1 to September 30, 1936.
[2] Estimated at 15 percent of total.
[3] Motor-vehicle excise 2 percent rate effective October 1, 1939; previously 1 percent.
[4] Includes motor-vehicle usage tax effective May 15, 1936.

Of the automotive sales taxes, the amount levied on the sales of motor vehicles constituted 64.5 percent of the total, or $230,418,000. This amount was composed of $216,619,000 in general taxes imposed on new and used car sales and $13,799,000 of special excises levied on the motor vehicle (table 11 and fig. 5).

UPWARD TREND IN AUTOMOTIVE SALES TAX COLLECTIONS INDICATED

Filling and service stations, parking lots, and auto hotels were assessed $63,309,000 or 17.7 percent of the total, while garages and repair shops paid $22,311,000 or 6.2 percent of the total. Accessories, tires, batteries, and parts produced 5.7 percent of the total or $20,360,000, and the amount attributable to the automotive and petroleum industries, including refund gasoline sales, was $17,276,000 or 4.8 percent. Vehicles for hire and other automotive contributed $968,000 or 0.3 percent and $2,801,000 or 0.8 percent, respectively (table 11).

In the period of study the automotive portion of the sales taxes averaged 17.2 percent of all sales taxes. The lowest percentage of the total, 13.9 percent, occurred in 1932 and the highest, 18.8 percent, in 1937. Table 12 and figure 6 indicate that there is apparently an upward trend in the motor-vehicle portions, but present conditions incident to national defense, including possible restrictions on the number of vehicles produced as well as increased taxes, make it difficult to forecast the future trend of the motor-vehicle portion of tax collections.

According to preliminary estimates by the Bureau of Foreign and Domestic Commerce, retail sales were 8 percent more in 1940 than in 1939. Certain commodity sales showed a considerable increase over the previous year, the most significant of which were sales in the automotive group, up 25 percent over 1939.

It has been noted earlier that 35.9 percent of the $23,053,800 collections from use or compensating taxes from 1936 through 1939 was derived from automotive sales. By far the larger portion of the automotive total of $8,276,300 was directly attributable to the

TABLE 11.—*Total collections from sales taxes levied on motor vehicles and allied automotive sales, 1932–39*

Geographic division and State	New-used vehicles, dealers	Garages, repair shops	Accessories, tires, batteries, parts	Filling-service stations, parking lots, auto hotels	Vehicles for hire, truck and bus lines	Other automotive	Motor-vehicle excise, original license fees, etc.	Petroleum and automotive industries, refund gas sales	Total
Middle Atlantic:	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*
New York	3,335		1,493					[1] 209	6,037
New Jersey	411	44	81	111		3			[2] 650
Pennsylvania	1,026					342			1,368
Subtotal	5,772	44	1,574	111		345		209	8,055
East North Central:									
Ohio	31,220	3,291	2,203	6,382		635			44,211
Illinois	24,142	8,112	2,537	22,960		1,132		6,763	67,746
Michigan	22,368	3,238	3,151	17,274					30,031
Subtotal	87,730	14,641	7,891	46,190		1,767		6,763	167,988
West North Central:									
Iowa	5,384	1,400	921	2,314	22	79		[3] 567	10,717
Missouri	6,041		[4] 2,544	1,992	238	60			10,881
North Dakota	576	171	212	621	8	8	42		1,638
South Dakota	861	154	95	604		4	690	[4] 120	2,468
Kansas	1,991	268	307	691		80			3,353
Subtotal	14,853	2,993	4,079	6,282	268	237	741	716	29,294
South Atlantic:									
Maryland			233				2,228	[3] 428	2,889
West Virginia	453	399	144	725	264		2,995		4,980
North Carolina	4,461	107	720	1,973		118			7,441
Subtotal	4,914	506	1,097	2,700	264	118	5,223	428	15,310
East South Central:									
Kentucky	37	1,215	97	222	6	5	3,476		5,058
Alabama	412		788			121			1,321
Mississippi	1,335	788	200	2,468	67	15		139	3,012
Subtotal	1,784	2,003	1,085	2,690	73	141	3,476	139	13,391
West South Central:									
Arkansas	1,431	177	203	604	1				2,416
Louisiana	1,087		704					[5] 1,350	3,140
Oklahoma	1,952	282	840	1,835	209	89	1,350	2,321	12,087
Subtotal	3,070	459	1,807	2,439	210	89	1,350	3,669	18,313
Mountain:									
Idaho	553	35	28	33				30	709
Wyoming	358	526	50	177		27			1,171
Colorado	2,771	1,216	386	622	3	28			5,028
New Mexico	283	360	124	316	150	22			1,256
Arizona	1,135		723						1,858
Utah	2,368		149	267		30			2,784
Subtotal	7,468	2,200	1,440	1,414	153	104		30	12,908
Pacific:									
Washington	5,125		1,378	1,477					7,980
California	84,093							[6] 2,111	86,204
Subtotal	89,218		1,378	1,477				2,111	94,184
Total	216,619	22,311	20,360	63,309	966	2,801	13,790	17,276	357,443

[1] Tax on lubricating oil.
[2] Data for 3 months only; July 1 to September 30, 1935.
[3] Tax on refund gas sales.
[4] Includes garages and repair shops.
[5] Tax on gasoline, $402,000; on lubricating oil, $25,000.
[6] Includes tax on gasoline of $759,000; on oil, $40,500; oil-field equipment, $248,500; and miscellaneous, $180,000.

TABLE 12.—*Taxes collected on automotive group sales, 1932–39*

Year	Amount	Per vehicle [1]	Percentage of total taxes
1932	$191,000	$1.26	13.9
1933	5,798,000	2.00	14.1
1934	25,817,000	2.53	15.4
1935	42,478,000	3.09	16.4
1936	55,365,000	4.43	16.2
1937	75,763,000	5.15	18.8
1938	67,501,000	4.40	16.8
1939	73,500,000	4.59	17.4
Total	357,443,000		17.2

[1] Based on private and commercial vehicle registration for the sales tax States including cars, trucks, buses, motorcycles, and trailers. From Public Roads Administration tables MV-1.

sales of motor vehicles. Tax collections on such sales amounted to $7,026,600 or 84.9 percent of the automotive portion during that period. Table 13 shows the automotive portion of the use taxes by principal businesses. In the 4-year period during which such taxes have been in effect, the $8,276,300 automotive portion represents 2.9 percent of the total of $282,159,000 collected for all sales taxes on the automotive group during that same period.

TABLE 13.—*Automotive portion of collections from use or compensating taxes, 1936–39*

Type of business	Tax collections	
	Amount	Percent
Vehicles and dealers	$7,026,600	84.9
Petroleum and automotive industries	968,300	11.7
All other	281,400	3.4
Total	8,276,300	100.0

Although it was possible to segregate the motor-vehicle portions of the sales tax payments in many

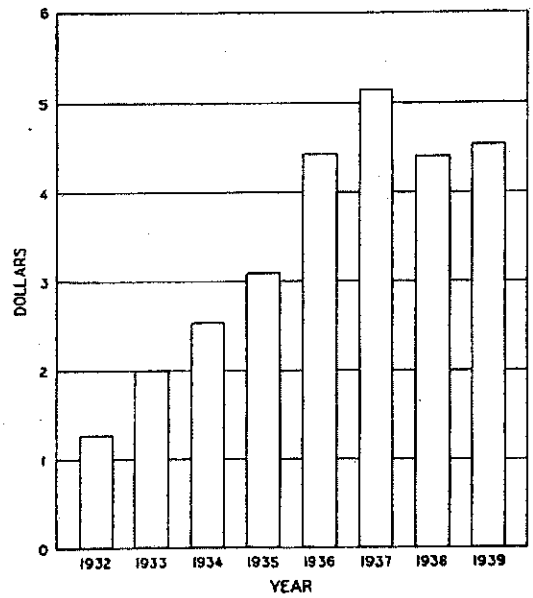

FIGURE 6.—COLLECTIONS PER VEHICLE FROM THE AUTOMOTIVE GROUP SALES TAXES, 1932–39.

States, the records in other States were such as to prevent a clear separation of the items desired. Consequently, the sales tax payments often do not include the contributions by certain related groups, or else include only a part of the payments by these groups.

The sales tax receipts generally excluded from the automotive classification are:

1. Payments for motor-carrier and general trucking operations, usually classed with the public utility or transportation groups and not readily separable.

2. The portion of department-store sales taxes attributable to the sales of tires and tubes, parts, batteries, accessories, etc. This is particularly true in the case of chain stores and mail order houses. This item undoubtedly is considerable and it has been variously estimated to approximate from 10 to 20 percent of the total sales of such concerns.

3. Sales taxes collected by tourist camps, auto hotels and courts, outdoor advertising concerns and others that cater primarily to the motor user. In many instances these items are included with other groups and no attempt was made to obtain their contributions.

4. Sales taxes collected by joint businesses such as combination units of store and filling station, lunch room and service station, etc. These are usually classed according to major business and are in other than the automotive groups. No estimate of the portion attributable to the motor vehicle was possible.

5. Other related payments such as those by road contractors for materials and supplies used in construction work, and oil well supply and equipment purchases by the oil industry upon which sales taxes were paid. These sales tax items were usually included in the contractor–consumer or in the unclassified group.

There are undoubtedly other items that might be attributed to the highway users or allied businesses or industries, but those mentioned above are sufficient to indicate that the amounts shown in this study as paid by the automotive group represent a conservative estimate of the total contributions of the highway-users' group to sales taxes on automotive goods and services.

It was not possible, of course, to select those business classifications that include only automotive goods and services. In some States, the motor-vehicle classification included bicycle and aircraft dealers, wagon manufacturers, and farm tractor sales. However, those States using such classifications estimated a relatively insignificant amount creditable to these businesses. Just as there are joint business enterprises such as filling station and grocery store which were not included, there are undoubtedly similar businesses whose tax payments rightly should be credited to other than the automotive group. Such payments are probably more than offset by those of similar character creditable to the automotive group.

AUTOMOTIVE SALES TAXES 12.7 PERCENT AS GREAT AS HIGHWAY-USER TAXES IN 1939

The yield from State highway-user taxes in 1938 for the United States was $1,174,887,000 or $38.30 per vehicle. For the same period the sales taxes paid by the automotive group were $67,591,000 or $2.20 per vehicle (table 14). In 1939 highway-user taxes increased to $1,249,356,000 or $39.13 per vehicle and automotive sales taxes rose to $73,500,000 or $2.30 per vehicle.

A more significant comparison is obtained when data are presented for sales tax States only. The collections for highway-user taxes and automotive sales taxes in 1938 were $541,528,000 or $35.22 per vehicle, and $67,591,000 or $4.40 per vehicle, respectively (table 15). Corresponding figures for 1939 (table 16) show motor-user taxes of $578,659,000 or $36.16 per vehicle and automotive sales taxes totaling $73,500,000 or $4.59 per vehicle. Thus, the yield from automotive sales taxes was 12.5 percent and 12.7 percent, respectively, as great as the highway-user taxes for 1938 and 1939.

The per-vehicle sales tax payments in 1938 ranged from a low of $2.30 in the South Atlantic group to $5.83 in the Pacific States. Illinois reported the highest per-vehicle collection with $6.49. In 1939 the per-vehicle automotive sales tax payments were again lowest in the South Atlantic division with $2.16 per vehicle, and the highest were in the East North Central States with $6.02. The highest per-vehicle collection was in Illinois with $7.31 (table 14). It should be noted that these per-vehicle figures are averages for all registered vehicles. Actually, a significant number of vehicle owners pay much higher amounts than these, in taxes incurred particularly in the purchase of vehicles. In such cases the tax on this item alone, exclusive of other automotive sales taxes paid, will amount to at least four or five times as much as the per-vehicle figures cited above.

Although this study was particularly designed to include the sales taxes levied by the various States, the Federal excises imposed on motor vehicles, parts and accessories, tires and tubes, oil, and gasoline, are also of interest for comparative purposes because such excises have far exceeded in amount those levied by the States. These excises are, in effect, identical to the sales taxes levied by the States. Even though the Federal excises are generally levied on manufacture or production, it is recognized that these taxes are eventually paid by the motor-vehicle owner.

The total amounts collected by these excises have

TABLE 14.—*Comparison of highway-user tax and sales tax revenue in States levying sales taxes in 1938 and 1939*

Geographic division and State	Taxes collected in 1938				Taxes collected in 1939			
	Highway-user taxes		Automotive sales taxes		Highway-user taxes		Automotive sales taxes	
	Amount	Per vehicle	Amount	Per vehicle	Amount	Per vehicle	Amount	Per vehicle
East North Central:	*$1,000*		*$1,000*		*$1,000*		*$1,000*	
Ohio	73,655	$37.11	6,659	$3.36	79,813	$39.22	9,365	$4.61
Illinois	58,479	32.31	11,746	6.49	63,752	33.89	13,755	7.31
Michigan	48,966	31.49	9,856	6.34	52,378	32.11	10,257	6.29
Subtotal	181,100	33.85	28,261	5.28	195,743	35.32	33,376	6.02
West North Central:								
Iowa	25,568	30.80	2,477	2.98	27,215	31.37	2,373	2.74
Missouri	21,567	24.72	2,564	2.94	23,254	25.45	3,264	3.57
North Dakota	[1] 3,824	21.86	491	2.63	[1] 4,372	24.50	591	3.32
South Dakota	[1] 6,243	31.19	667	3.33	[1] 6,191	29.24	817	3.86
Kansas	15,158	26.05	1,850	3.18	15,855	27.26	1,505	2.58
Subtotal	72,370	27.21	8,049	3.02	76,887	27.94	8,550	3.11
South Atlantic:								
Maryland	[1] 14,608	36.43	397	0.99	[1] 15,532	36.01	512	1.19
West Virginia	[1] 14,149	51.61	1,077	3.95	[1] 15,852	54.52	957	3.29
North Carolina	31,772	54.06	1,432	2.46	34,084	54.96	1,435	2.31
Subtotal	60,529	48.19	2,906	2.30	65,468	48.78	2,904	2.16
East South Central:								
Kentucky	[1] 16,595	39.96	1,092	2.63	[1] 17,990	41.04	951	2.17
Alabama	18,994	59.00	472	1.54	19,675	59.43	582	1.76
Mississippi	14,311	65.86	825	3.81	13,992	56.27	975	3.92
Subtotal	49,900	52.17	2,392	2.55	51,657	50.74	2,508	2.46
West South Central:								
Arkansas	13,001	50.26	619	2.68	13,885	54.95	673	2.66
Louisiana	21,530	62.99	1,031	3.02	22,865	64.40	1,522	4.29
Oklahoma	21,153	36.92	3,053	5.33	22,043	38.53	2,416	4.22
Subtotal	55,684	48.60	4,703	4.10	58,793	49.63	4,611	3.93
Mountain:								
Wyoming	3,299	36.16	321	3.52	3,450	36.71	273	2.91
Colorado	10,603	31.61	1,088	3.24	11,358	32.79	1,358	3.92
New Mexico	6,910	49.47	261	2.18	6,422	51.97	320	2.59
Arizona	5,485	40.99	418	3.12	5,767	42.27	354	2.59
Utah	4,584	35.81	515	4.05	4,864	36.32	542	4.05
Subtotal	29,881	36.98	2,606	3.23	31,861	38.19	2,847	3.41
Pacific:								
Washington	18,882	35.76	2,101	3.97	20,781	37.15	1,818	3.25
California	73,782	27.69	16,603	6.23	77,469	27.92	16,892	6.09
Subtotal	92,664	28.88	18,704	5.83	98,250	29.47	18,710	5.61
Total	541,528	35.22	67,591	4.40	578,659	36.16	73,500	4.59
United States total	1,174,887	38.30	67,591	2.20	1,249,358	39.13	73,500	2.30

[1] Does not include "Special titling taxes" reported in tables MV-2, 1938 and 1939, Public Roads Administration. These taxes are included here with automotive sales taxes.

TABLE 15.—*Comparison of total collections from highway-user taxes and automotive sales taxes by geographic divisions in 1938* [1]

Geographic division	Highway-user taxes	Automotive sales taxes		Amount per vehicle [2]	
		Amount	Percentage of highway-user taxes	Highway-user taxes	Sales taxes
	$1,000	*$1,000*			
East North Central	181,100	28,261	15.6	$33.85	$5.28
West North Central	72,370	8,049	11.1	27.21	3.02
South Atlantic	60,529	2,906	4.8	48.19	2.30
East South Central	49,900	2,392	4.9	52.17	2.55
West South Central	55,684	4,703	8.4	48.60	4.10
Mountain	29,881	2,606	8.7	36.98	3.23
Pacific	92,664	18,704	20.2	28.88	5.83
Total	541,528	67,591	12.5	35.22	4.40

[1] For the 22 sales tax States and the 2 motor-vehicle excise States.
[2] For private and commercial vehicles only.

TABLE 16.—*Comparison of total collections from highway-user taxes and automotive sales taxes by geographic divisions in 1939* [1]

Geographic division	Highway-user taxes	Automotive sales taxes		Amount per vehicle [2]	
		Amount	Percentage of highway-user taxes	Highway-user taxes	Sales taxes
	$1,000	*$1,000*			
East North Central	195,743	33,370	17.0	$35.32	$6.02
West North Central	76,887	8,550	11.1	27.94	3.11
South Atlantic	65,468	2,904	4.4	48.78	2.16
East South Central	51,657	2,508	4.9	50.74	2.46
West South Central	58,793	4,611	7.8	49.63	3.91
Mountain	31,861	2,847	8.9	38.19	3.41
Pacific	98,250	18,710	19.0	29.47	5.61
Total	578,659	73,500	12.7	36.16	4.59

[1] For the 22 sales tax States and the 2 motor-vehicle excise States.
[2] For private and commercial vehicles only.

increased steadily from $84,294,000 in the calendar year 1932, when the portion paid by highway users is estimated to have been $75,320,000 to the 1937 total of $359,948,000, when the highway users' portion was estimated to have been $324,494,000. Business conditions were such that the highway portion of the 1938 revenue decreased to $266,130,000 but rose again in 1939 to $322,221,000. Total collections of $453,872,000 in 1940 exceeded those for any previous year, and were greater than those of the previous 1937 peak by more than 26 percent. It is estimated that the highway-users portion of these 1940 collections amounted to

TABLE 17.—*Total collections from Federal excise taxes relating to motor vehicles and estimated highway users' share, 1932–40* [1]

Calendar year	Collections from taxes on—								Total collections	
	Gasoline		Lubricating oil		Motor vehicles and parts					
	Total	Highway users' share [2]	Total	Highway users' share [2]	Tires and tubes	Automobiles and motorcycles	Trucks	Parts and accessories	Total	Highway users' share [3]
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	$1,000	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*	*$1,000*
1932 [4]	62,840	56,870	7,068	4,964	7,545	4,221	720	1,000	84,294	73,320
1933	184,126	163,919	22,296	12,917	23,836	22,476	3,047	4,449	257,218	230,538
1934	178,109	153,940	24,844	14,658	24,704	31,534	5,301	5,886	292,538	255,992
1935	172,953	155,898	26,819	17,003	28,102	42,283	6,674	7,619	285,449	256,959
1936	186,542	168,821	29,985	19,522	33,942	50,475	8,045	8,748	307,937	296,853
1937	208,025	187,736	33,661	17,514	40,088	64,722	8,812	9,520	359,948	324,494
1938	200,893	181,797	30,496	15,858	38,772	39,805	5,240	7,008	330,861	266,136
1939	215,217	198,410	29,537	15,515	46,131	51,053	7,145	8,957	358,360	322,221
1940	281,654	250,657	33,420	17,896	45,981	71,275	9,285	13,147	453,872	416,853
Total	1,673,857	1,582,089	240,439	131,849	275,511	373,434	54,219	65,758	2,683,845	2,428,809

[1] Data supplied by U. S. Bureau of Internal Revenue.
[2] Based on material in Automobile Facts and Figures, 1941, published by the Automobile Manufacturers Association.
[3] Highway users' share estimated by Public Roads Administration.
[4] Sum of columns 3, 5, 6, 7, 8, and 9.
[5] Federal excises effective June 21, 1932.

approximately $415,353,000 or more than the total collections for any previous year. A summary of the annual collections since 1932 is shown in table 17.

With recent increases in the taxation of these motor-vehicle items to help finance the National Defense program, it is probable that, for the present fiscal year, the proceeds from Federal excises may exceed one-half billion dollars, resulting in part from the increased rates and in part from improved economic conditions. A comparison of the old schedule of rates and the new schedule applying to each commodity is shown in table 18.

TABLE 18.—*Comparison of Federal excise rates in effect before and after July 1, 1940*

Item	Rates in effect—	
	Before July 1, 1940	After July 1, 1940
Tires	2¾ cents per pound	2½ cents per pound.
Tubes	4 cents per pound	4½ cents per pound.
Trucks	2 percent	2½ percent.
Automobiles and motorcycles	3 percent	3½ percent.
Parts and accessories	2 percent	2½ percent.
Gasoline	1 cent per gallon	1½ cents per gallon.
Lubricating oil	4 cents per gallon	4½ cents per gallon.

The data obtained from this analysis indicate that the total tax contributions by highway users cannot be measured alone by the direct highway-user taxes such as the gasoline taxes and registration fees. In the 8-year period from 1932 through 1939 the collections from State taxes on automotive sales amounted to more than 357 million dollars or 3.4 percent of the total of all State and Federal highway, motor-vehicle excise, and general sales taxes on automotive goods and services (table 19). In all States levying sales taxes, the revenue obtained from the taxes are generally used for other than highway purposes. Only the proceeds of the West Virginia certificate of title excise and the North Dakota highway privilege tax are used for highway purposes. These revenues constitute considerably less than 1 percent of the total sales tax collections from the automotive group.

In none of the remaining States is any of the sales tax revenue used for highway purposes. Increasing attention has been directed in recent years to the problem of the use of highway-user taxes for other than highway purposes. Since there has also been an annually increasing levy on the highway user in connection with his purchase of automotive goods, it is evident that he is increasingly contributing to other governmental functions not only by that portion of his highway-user taxes which are not expended for highway purposes but also by those State sales taxes paid in connection with the purchase of automotive goods. A summation of these items is given in table 20 and illustrated in figure 7 which shows that from 1932 through 1939 the total of these taxes used for other than highway purposes amounted to $1,458,194,000, of which 24.3 percent resulted from sales taxes on automotive goods. In this figure the small amount of State automotive sales taxes used for highway purposes ($3,037,000) is included with the State highway-user taxes used for highway purposes.

TABLE 19.—*Tax contributions by motor-vehicle owners, 1932–39*

Year	Annual collections from—			
	Federal excises [1]	State highway-user taxes [2]	State automotive sales taxes	Total
	$1,000	*$1,000*	*$1,000*	*$1,000*
1932	[3] 75,320	838,412	191	913,923
1933	230,538	820,719	6,798	1,058,055
1934	235,992	883,709	25,817	1,145,608
1935	256,959	950,971	42,478	1,250,408
1936	296,853	1,066,341	65,365	1,428,559
1937	324,494	1,176,964	75,703	1,577,161
1938	266,130	1,174,887	67,591	1,508,608
1939	322,221	1,249,356	73,500	1,645,077
Total	2,008,507	8,161,449	357,443	10,527,399
Percent	19.1	77.5	3.4	100.0

[1] From table 17.
[2] Public Roads Administration tables MV-2, G-1, and MC-1.
[3] Federal excises effective June 21, 1932.

The highway user is evidently contributing annually to the support of governmental functions other than highways to a greater extent than is ordinarily realized. In the past the amount of such contributions has increased rather than decreased. From 1932 through 1939 the diversion of State highway-user taxes to other than highway purposes has increased from 9.2 percent to 14.5 percent of the total State highway-user taxes. Increased collections from State sales taxes in the period studied have also resulted in a larger amount of such

TABLE 20.—*Sales taxes collected on automotive goods and highway-user taxes that were used for other than highway purposes, 1932–39*

Year	State automotive sales taxes	State highway-user taxes not used for highways [1]	Total
	$1,000	$1,000	$1,000
1932	191	76,747	76,938
1933	6,708	91,577	98,375
1934	25,317	122,150	147,967
1935	42,301	147,143	189,444
1936	64,636	169,344	233,980
1937	74,859	161,413	236,272
1938	66,894	[2] 155,942	222,836
1939	72,910	[3] 179,472	252,382
Total	354,406	1,103,788	1,458,194

[1] The "highway privilege tax" of North Dakota totaling $42,000, and West Virginia certificate of title excise amounting to $2,965,000 are not included.
[2] Tables DF, Public Roads Administration, adjusted for motor-vehicle excises in South Dakota, Maryland, and Kentucky.

taxes on the highway user being diverted to governmental functions other than highways.

SUMMARY

In addition to the millions of dollars paid annually by motor-vehicle owners in the form of direct highway-user taxes, these same motor-vehicle owners paid more than 350 million dollars during the period 1932–39 in general sales and use taxes and motor-vehicle excises occasioned directly by their ownership and operation of motor vehicles.

Collections from sales taxes on automotive goods were exceeded in 1939 only by collections from taxes on food and general merchandise. Since many States have come to rely so greatly on sales tax collections, attention should be given to the extent to which these sales taxes constitute an additional tax burden on a specific group of the population.

The revenue obtained by the State governments from such sales taxes are almost entirely used for non-highway purposes. The highway user, therefore, is contributing to the support of general government not only through the ordinary taxes which he pays such as property and income taxes, but also through taxes which result directly from his operation of a motor vehicle. Such contributions are derived from those portions of the direct highway-user taxes, such as motor-vehicle fees and motor-fuel taxes, which are used for other than highway purposes and from those portions of the sales taxes, substantially all of which go to

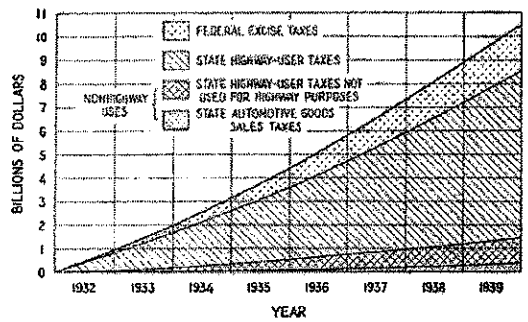

FIGURE 7.—TOTAL CUMULATIVE TAXES ON HIGHWAY USERS, 1932–39.

the support of general government, which result from motor-vehicle operation.

Any taxation program that affects the motor-vehicle operator primarily or solely because of his operation of a motor vehicle must be carefully analyzed with reference to the motor-vehicle operator's ability or willingness to pay. While there is no indication that the present tax schedules have reached a point where increased rates will reduce motor-vehicle use and possibly reduce the total revenues, this possibility must always be considered.

It is evident that an analysis of the effect of any tax schedule or governmental policy on the motor-vehicle owner must give full consideration to all taxes to which the motor-vehicle owner is already subject. Similarly, the effect of any changes in tax rates must be carefully watched in order to determine the motor-vehicle owner's willingness and ability to pay at increased rates and the effect which his reaction may be expected to have on total governmental revenues.

The data obtained in this study indicate the relative importance of sales taxes in the governmental economy of almost half of the States, and the portion of these sales taxes that constitute additional levies on the highway user as an immediate result of his ownership and use of a motor vehicle.

Present trends indicate the possibility of the increased use of and dependence on the sales tax as a source of revenue. Sales tax officials anticipate the possible decrease in the importance of the property tax as a revenue source and the substitution therefor of such taxes as the sales tax. This possibility further emphasizes the need for careful examination of the tax structure as it affects the highway user.

STATUS OF FEDERAL-AID HIGHWAY PROJECTS

AS OF AUGUST 31, 1941

STATE	COMPLETED DURING CURRENT FISCAL YEAR			UNDER CONSTRUCTION			APPROVED FOR CONSTRUCTION			BALANCE OF FUNDS AVAILABLE FOR PROGRAMMED PROJECTS
	Estimated Total Cost	Federal Aid	Miles	Estimated Total Cost	Federal Aid	Miles	Estimated Total Cost	Federal Aid	Miles	
Alabama	$ 1,266,060	$ 628,140	57.9	$ 6,290,477	$ 3,122,905	200.6	$ 1,923,600	$ 956,000	50.8	$ 1,369,238
Arizona	358,113	257,663	13.9	1,418,169	986,705	64.4	705,196	456,280	15.6	1,151,076
Arkansas	2,170,060	992,377	25.4	1,268,783	632,941	46.7	690,164	344,038	14.0	382,732
California	1,308,316	738,100	27.3	8,234,402	4,421,954	112.9	2,517,797	1,346,896	54.6	2,104,034
Colorado	1,015,358	576,577	39.6	1,975,083	1,147,229	164.2	1,458,815	823,594	81.9	2,016,576
Connecticut	216,382	106,530	2.8	2,023,642	986,420	22.1	880,736	409,043	10.5	737,230
Delaware	32,514	16,257	.2	927,286	465,341	22.6	333,402	166,703	11.7	964,421
Florida	213,440	106,720	24.9	1,034,599	513,629	34.8	2,239,046	1,088,783	27.5	2,598,732
Georgia	1,379,165	689,728	53.2	6,107,803	3,064,151	237.0	4,836,377	2,418,192	206.1	4,967,853
Idaho	638,947	393,670	40.2	1,326,743	819,178	61.4	559,404	338,568	12.7	1,314,471
Illinois	1,594,726	798,113	43.0	7,712,762	3,856,381	144.8	2,624,119	1,411,293	24.8	3,269,767
Indiana	1,342,874	670,437	21.4	7,389,293	3,160,631	118.4	1,251,656	625,828	16.3	1,447,985
Iowa	804,960	377,950	31.2	5,273,503	2,909,958	164.2	1,631,914	747,190	82.4	121,911
Kansas	1,137,025	587,680	47.4	5,662,672	2,854,062	335.2	3,454,920	1,517,110	143.1	3,354,895
Kentucky	1,148,524	578,105	46.3	6,104,432	2,907,760	157.8	3,085,532	1,524,678	37.4	1,017,934
Louisiana	655,635	327,796	15.8	2,175,129	1,079,147	46.2	2,568,596	1,259,096	56.3	3,018,012
Maine	388,000	194,750	13.6	1,834,538	938,169	22.0	606,289	303,112	10.9	387,117
Maryland	1,073,200	536,000	15.7	3,972,162	1,875,878	22.9	628,000	14,000	.5	1,152,839
Massachusetts	373,530	186,304	8.9	3,979,690	2,024,370	20.9	969,024	481,306	7.5	2,761,686
Michigan	2,560,310	1,280,155	50.9	5,932,210	2,953,505	128.6	3,183,900	1,591,950	36.1	1,021,100
Minnesota	1,580,427	790,011	137.2	9,366,253	4,818,095	468.3	2,091,168	1,012,309	129.0	1,200,883
Mississippi	783,600	391,800	48.6	7,417,112	3,643,706	416.4	733,900	365,200	37.3	686,561
Missouri	2,939,939	1,452,342	83.0	9,727,204	4,596,949	216.3	4,224,672	1,207,765	75.7	3,120,672
Montana	983,311	555,111	52.5	2,524,180	1,431,432	111.9	1,366,422	776,918	90.0	3,392,163
Nebraska	513,976	256,988	74.4	6,621,370	3,331,066	623.8	1,920,436	760,218	90.5	2,243,732
Nevada	356,406	310,712	28.8	2,122,754	1,849,612	85.0	330,763	287,053	12.7	489,986
New Hampshire	93,185	46,120	1.9	1,112,514	562,195	25.2	183,812	86,090	2.4	792,432
New Jersey	2,348,574	1,174,287	20.5	3,549,038	1,774,439	22.2	35,880	17,940	-	1,754,818
New Mexico	349,483	210,469	23.8	1,280,754	805,004	64.3	369,980	234,765	47.1	1,710,445
New York	2,991,904	1,495,497	50.6	11,161,860	5,653,279	133.4	1,926,105	773,627	17.1	2,888,274
North Carolina	858,300	413,855	38.0	4,056,244	2,039,465	173.1	1,503,637	744,015	49.3	2,604,954
North Dakota	1,551,027	890,547	130.8	3,764,623	1,979,375	301.1	2,485,020	1,249,695	216.7	2,979,223
Ohio	906,475	453,337	6.1	17,723,038	8,708,663	146.7	3,768,180	1,161,750	30.3	2,595,831
Oklahoma	589,200	311,215	23.3	3,271,074	1,689,256	113.8	2,408,120	1,244,720	63.9	4,247,682
Oregon	706,897	427,246	25.9	4,512,318	2,333,080	91.9	505,893	217,610	24.6	537,305
Pennsylvania	1,642,175	817,916	20.3	13,861,456	6,828,018	111.6	2,955,420	1,466,928	21.8	1,909,910
Rhode Island	146,505	73,245	1.6	1,236,490	617,282	10.4	443,912	221,949	2.6	780,826
South Carolina	300,440	144,915	38.0	4,037,067	1,847,929	122.6	1,516,753	279,826	33.1	1,858,391
South Dakota	1,123,020	660,940	126.4	4,085,203	2,551,043	461.7	1,633,960	1,014,080	211.7	1,927,736
Tennessee	682,698	341,349	21.5	5,650,466	2,825,218	116.2	1,110,846	555,423	34.6	2,883,564
Texas	2,524,115	1,253,865	115.6	13,534,195	6,663,504	567.5	3,582,248	1,592,895	149.6	5,440,676
Utah	68,825	52,475	16.2	2,438,573	1,716,722	56.6	271,296	171,075	12.9	482,077
Vermont	213,233	105,219	6.5	1,746,313	868,736	41.1	61,624	30,812	2.0	67,517
Virginia	898,115	450,222	21.3	4,839,444	2,259,586	84.8	1,289,782	644,641	19.5	1,225,310
Washington	197,670	105,700	4.7	3,133,925	1,673,994	42.9	785,589	392,185	9.5	769,014
West Virginia	892,070	444,455	27.8	3,569,751	1,744,544	44.5	414,970	207,485	3.7	1,432,888
Wisconsin	633,404	314,830	36.6	4,051,091	2,109,428	142.0	3,181,292	1,303,000	90.6	2,809,813
Wyoming	82,696	53,482	20.1	1,819,009	964,770	142.3	666,645	383,082	58.5	950,295
District of Columbia	308,832	154,231	1.9	533,602	266,209	.4	395,468	167,000	2.0	302,734
Hawaii	148,028	70,395	1.2	461,052	277,311	6.6	276,002	258,536	3.2	1,494,819
Puerto Rico	11,602	5,585	.5	1,580,477	783,260	17.7	650,000	318,250	4.4	551,005
TOTALS	47,099,751	24,270,129	1,779.0	235,999,818	119,891,198	7,089.6	79,016,016	37,315,578	2,525.0	91,251,957

STATUS OF FEDERAL-AID SECONDARY OR FEEDER ROAD PROJECTS

AS OF AUGUST 31, 1941

STATE	COMPLETED DURING CURRENT FISCAL YEAR			UNDER CONSTRUCTION			APPROVED FOR CONSTRUCTION			BALANCE OF FUNDS AVAIL. ABLE FOR PROGRAMMED PROJECTS
	Estimated Total Cost	Federal Aid	Miles	Estimated Total Cost	Federal Aid	Miles	Estimated Total Cost	Federal Aid	Miles	
Alabama	$ 558,374	$ 277,768	22.6	$ 1,042,082	$ 524,690	60.3	$ 366,700	$ 177,280	10.7	$ 311,858
Arizona	67,371	48,972	4.5	110,210	104,087	.8	53,969	39,230	8.7	354,133
Arkansas	192,695	95,884	15.4	228,758	111,250	16.2	278,694	139,847	12.3	165,081
California	204,080	119,500	5.6	1,340,298	935,288	16.7	129,976	74,930	3.6	410,088
Colorado	63,585	35,348	3.7	155,808	78,154	18.9	50,140	28,478	.2	260,002
Connecticut	105,156	49,907	1.8	458,822	202,361	9.1	-	-	-	74,196
Delaware	-	-	-	306,002	150,387	12.3	102,873	37,618	3.9	150,458
Florida	112,906	56,163	4.4	1,056,052	522,576	7.4	-	-	-	241,186
Georgia	112,946	56,473	11.2	901,252	529,176	53.4	1,067,298	533,649	97.4	711,977
Idaho	106,084	62,208	6.7	189,796	116,706	10.4	105,582	41,410	11.7	196,424
Illinois	332,400	166,200	7.3	1,554,910	777,455	83.6	254,600	111,600	20.5	292,329
Indiana	46,400	23,200	1.8	1,591,405	768,516	81.1	101,900	50,950	3.3	598,134
Iowa	299,158	142,850	81.6	375,454	159,238	80.5	164,983	77,375	27.9	380,463
Kansas	239,335	122,533	15.0	1,739,038	873,781	112.8	746,889	361,003	68.2	660,173
Kentucky	137,166	53,595	7.0	1,251,710	307,893	66.0	730,791	196,128	15.1	204,713
Louisiana	372,100	134,080	5.7	192,608	96,219	14.9	289,362	138,761	21.5	146,100
Maine	-	-	-	69,250	34,625	3.9	193,170	92,491	8.1	40,967
Maryland	54,000	27,000	2.0	635,000	317,325	17.6	113,000	56,500	2.9	200,051
Massachusetts	114,492	56,927	3.4	680,624	357,185	10.8	-	-	-	364,952
Michigan	122,600	61,300	8.9	1,278,960	639,180	70.7	336,800	166,400	18.5	382,054
Minnesota	221,768	110,884	37.7	1,618,698	829,907	175.7	738,328	393,760	87.6	222,942
Mississippi	76,200	38,100	10.5	1,260,934	610,282	54.2	772,021	335,261	32.8	285,542
Missouri	161,282	80,641	13.7	605,214	286,223	55.2	458,462	173,971	75.8	707,971
Montana	118,516	84,252	23.3	317,528	188,511	37.7	57,223	32,537	13.9	630,735
Nebraska	69,657	34,529	12.7	641,123	325,839	60.1	77,778	38,889	17.6	379,063
Nevada	83,816	72,853	10.7	38,626	33,662	2.1	196,013	171,030	15.8	56,995
New Hampshire	-	-	-	346,681	170,620	8.2	-	-	-	87,606
New Jersey	203,250	101,545	4.4	516,792	276,990	9.9	277,160	134,145	14.2	331,146
New Mexico	66,762	42,126	13.7	483,988	265,777	32.5	106,603	66,929	11.6	112,712
New York	301,720	150,860	4.8	1,156,713	601,055	29.2	325,000	131,110	4.9	516,500
North Carolina	68,690	34,345	7.0	622,889	341,798	47.9	261,738	107,020	21.2	252,852
North Dakota	27,520	14,750	2.4	25,466	15,218	-	808,060	793,860	42.7	183,046
Ohio	187,140	215,570	15.2	1,814,210	955,295	16.8	270,200	119,550	3.5	817,752
Oklahoma	216,780	130,349	9.7	116,046	61,212	11.9	856,416	482,224	64.6	761,010
Oregon	190,907	80,654	15.0	427,676	233,989	30.0	305,875	135,830	26.5	142,165
Pennsylvania	316,262	272,631	12.1	1,962,397	970,132	35.9	-	-	-	41,831
Rhode Island	84,274	42,089	.9	130,744	68,871	1.7	-	-	-	63,989
South Carolina	18,217	7,500	5.6	626,450	241,666	38.0	353,000	135,124	11.5	164,818
South Dakota	21,680	12,316	9.0	14,072	9,182	6.2	1,113,130	1,017,600	111.5	169,671
Tennessee	118,804	59,402	5.5	1,432,638	716,319	38.3	388,698	194,349	20.8	499,680
Texas	379,960	188,919	42.1	1,127,671	547,467	100.8	195,190	95,050	23.5	1,313,938
Utah	17,470	7,796	5.7	231,725	148,387	13.8	-	-	-	208,507
Vermont	34,027	17,013	1.2	2,192	1,096	-	-	-	-	85,313
Virginia	102,350	45,300	2.1	605,590	278,214	18.0	41,350	12,500	3.8	371,087
Washington	2,165	2,165	-	519,615	258,739	21.4	119,371	58,700	16.2	195,175
West Virginia	-	-	-	706,324	351,519	26.2	-	-	-	323,700
Wisconsin	501,608	250,750	22.3	1,111,380	675,998	52.6	659,605	257,960	16.9	132,858
Wyoming	253,617	112,283	15.7	255,193	100,915	17.5	209,292	65,100	13.1	99,112
District of Columbia	56,011	28,000	.6	2,192	1,096	-	28,024	13,590	.3	74,394
Hawaii	-	-	-	2,375	2,375	-	-			269,260
Puerto Rico	45,960	22,305	2.5	185,104	90,590	8.1	-			134,587
TOTALS	7,835,962	3,877,131	517.1	34,309,360	17,255,180	1,789.6	13,517,719	7,289,925	1,052.1	16,574,533

STATUS OF FEDERAL-AID GRADE CROSSING PROJECTS

AS OF AUGUST 31, 1941

STATE	COMPLETED DURING CURRENT FISCAL YEAR					UNDER CONSTRUCTION					APPROVED FOR CONSTRUCTION					BALANCE OF FUNDS AVAIL. AND TO BE PROGRAMMED PROJECTS
	Estimated Total Cost	Federal Aid	NUMBER			Estimated Total Cost	Federal Aid	NUMBER			Estimated Total Cost	Federal Aid	NUMBER			
			Grade Crossings Eliminated by Separation or Relocation	Grade Crossings Separated by Grade Crossing Protection	Grade Crossings Protected by Signals or Other Devices			Grade Crossings Eliminated by Separation or Relocation	Grade Crossings Separated by Grade Crossing Protection	Grade Crossings Protected by Signals or Other Devices			Grade Crossings Eliminated by Separation or Relocation	Grade Crossings Separated by Grade Crossing Protection	Grade Crossings Protected by Signals or Other Devices	
Alabama						$ 339,139	$ 337,339	6	3	3	$ 159,657	$ 159,435	2	2	6	$ 795,809
Arizona						179,211	179,211	1			137,517	117,513		2	2	116,365
Arkansas	$ 44,761	$ 42,761				571,664	571,664	6		1	25,827	25,827			3	238,709
California	373,546	188,129	1			1,315,838	1,305,665	9	1		23,290	21,290			6	1,474,004
Colorado	5,648	5,646				595,603	588,370	6								569,236
Connecticut	166,222	165,416	2			61,712	60,676		1		231,174	222,740		1		351,983
Delaware						94,135	94,135	1			697,074	508,721	3	1	1	67,869
Florida	13,313	13,313			2	386,875	385,886	4		12	505,946	501,690	4		25	709,591
Georgia	164,528	164,528	2	1	1	1,084,904	1,084,904	8	6	1	1,029,969	1,029,969	4	5	23	1,156,547
Idaho	11,301	11,301				302,225	293,553	3	1		34,621	34,621	1		4	252,614
Illinois	70,842	58,755			26	2,209,791	2,002,366	9	1	51	426,856	403,044	2	1	21	1,571,511
Indiana	2,033	2,033			2	793,948	781,461	6	1	7	120,944	315,235	1		50	707,938
Iowa	69,809	66,400	1			1,838,947	994,070	10	2	7	526,431	513,009	2	1	64	251,776
Kansas	10,974	10,914			1	593,707	593,707	9		1	219,236	218,921	2		13	942,952
Kentucky	98,070	95,525	2			1,136,282	1,129,128	8	1	1	306,574	306,574	1			46,196
Louisiana						454,657	454,657	6			609,236	604,128	6		1	610,731
Maine						113,072	113,072	1			278,010	278,010	1		1	117,217
Maryland	270,000	270,000	2			536,299	508,166	2	2	7	598,193	452,355	2		15	204,759
Massachusetts						686,691	685,053	3	1		1,148,135	1,147,880	5	2		909,853
Michigan	146,900	146,900			4	1,210,955	1,210,955	3	4	1	501,974	471,814	2		18	821,137
Minnesota	214,162	214,162	1	2	1	1,151,579	1,151,579	8	4		183,755	183,755		2		732,578
Mississippi	175,200	175,200	1			590,574	590,574	8	1	1	232,800	232,800	2		10	455,338
Missouri						2,034,922	1,579,502	6	4		73,526	73,526		1		1,291,724
Montana							232,790	1			6,645	6,645			2	458,382
Nebraska	122,502	122,502		1	5	1,121,534	1,121,534	22		6	105,601	105,601	1		14	109,716
Nevada	64,346	64,346	1			56,484	56,484	2			71,448	71,448	1		5	107,895
New Hampshire	51,862	52,862	2			303,989	303,689	4	2		3,817	3,817			2	291,594
New Jersey	214,360	214,360	2			1,057,883	932,333	4	2	1	496,190	436,725	2	1		608,512
New Mexico						2,560	2,560				316,427	311,393	4		1	344,481
New York	331,658	324,685		2		3,627,806	3,573,185	5	16		717,445	614,285		2		2,538,455
North Carolina	43,620	43,620		1	5	916,743	916,743	2	6	5	223,893	223,893	1		28	897,097
North Dakota	83,460	83,460	2			697,230	684,293	8			223,120	223,120	2			382,278
Ohio	118,214	118,214		1		3,651,853	1,570,810	16			545,437	286,280	2		8	1,056,652
Oklahoma	100,000	96,584	1		7	91,125	89,638	1		7	1,192,299	1,132,337	8		24	1,119,977
Oregon	14,610	14,192			2	412,433	348,820	5			4,733	4,733			3	390,976
Pennsylvania	334,565	334,565	3			3,621,559	3,583,800	21			1,293,606	1,288,759	8			1,337,188
Rhode Island						206,703	206,703		1							178,256
South Carolina	60,046	60,046	1		4	371,332	358,932	6	2	6	333,858	203,584	1	2	21	726,427
South Dakota	301,900	301,900	6			440,842	440,842	10			313,573	297,623	6		9	587,095
Tennessee	98,670	83,670	1	2		1,240,014	1,240,014	7	1		162,925	162,925	1	1		652,311
Texas	213,600	213,300	3			2,169,454	2,144,170	21			192,780	179,930	4		2	1,392,560
Utah	15,986	15,986			6	85,742	85,000	1		13	79,401	79,401			28	232,399
Vermont						328,164	310,299	2		4						1,482
Virginia						807,675	807,435	5	5		77,869	58,369	1		5	590,516
Washington	55,443	55,443		1	1	333,418	333,418	3	1		9,672	3,672			3	652,150
West Virginia						623,242	617,622	8		6	287,240	287,240	1	1	2	504,681
Wisconsin	34,568	34,568			8	874,811	644,886	5	2	6	148,951	148,951			34	1,196,114
Wyoming	451,586	451,586	5			28,520	28,519				5,322	5,322			5	290,911
District of Columbia						3,655	3,655				298,213	273,744		1		
Hawaii	192,574	192,567	2		1	214,170	213,695	2								179,950
Puerto Rico						782,969	735,456	10								337,988
TOTALS	4,745,036	4,521,640	43	11	75	41,541,654	40,078,402	298	71	147	15,377,622	14,231,554	85	26	466	31,305,753

THE TAX STRUCTURE OF THE STATE OF OHIO

L. EDWIN SMART, SR.*

The last major revision of the tax structure of the State of Ohio took place during the 1930's. This came as a result chiefly of two factors: (a) an amendment to the constitution in 1929;[1] (b) the Great Depression which began in late 1929 and continued without surcease throughout the decade of the Thirties. Each of these will be discussed in turn.

Prior to the changes made in the property tax law in 1931 Ohio had been known as a "uniform rule" state. This goes back to an act passed by the General Assembly in 1846 which was introduced by Alfred Kelley, Representative from Cuyahoga County. This legislation provided for taxation by a uniform rule.[2] Five years later (1851) the members of the Constitutional Convention wrote an entirely new article into the constitution.[3] This was Article XII bearing the title "Finance and Taxation." There were only six sections in the document submitted to the electorate in 1851 and ratified by it. One of these has been repealed while seven others have been added.

The ink was scarcely dry on the new constitution when the court was called upon to interpret the second section of Article XII.[4] The court held that "a corporate franchise, therefore, being a mere privilege or grant of authority by the government, is not *property of any description*". It follows that such taxes did not come under the limitations upon the legislative power expressed in section two.[5] It also set forth a

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[1] Article XII, §2 effective January 1, 1931.

[2] 44 Ohio Laws 85. Also Curwen's Revised Statutes, Volume II, page 1260. Actually the words "uniform rule" do not appear in the Kelley act.

[3] A slight exception should be made here in the interest of accuracy. The Constitution of 1802 in Article VIII, Bill of Rights, §23, did place one limitation upon the power of the General Assembly to levy taxes. This section provided "that the levying of taxes by the poll is grievous and oppressive; therefore, the legislature shall never levy a poll tax *for county, or state purposes*" (emphasis added.). This section became section 1, Article XII of the Constitution of 1851. The wording was changed slightly in 1912 so as to include all governmental units. Furthermore, only Maryland, Ohio, Utah, and Oregon have poll tax prohibitions written into their constitutions at the present time. One can follow the stream of migration westward in this section.

[4] Exchange Bank of Columbus v. Hines, 3 Ohio St. 1 (1853). The opinion was written by Chief Justice Thomas W. Bartley. Earlier, Chief Justice Bartley had written the opinion in Teaff v. Hewitt, 1 Ohio St. 511 (1853) wherein the Court defined chattels and fixtures. The latter case is basic to recent decisions with respect to the classification of tunnel kilns, oil refineries, blast furnaces and the like as chattels rather than fixtures.

[5] In Lewis Baker v. Cincinnati, 11 Ohio St. 534 (1860), the Court held that the legislative power was vested in the General Assembly by the first section of Article II and that "the power of taxation is included in the legislative power.

definition of the term "uniform" as applied to taxation. It is worth while to quote the court on this point.[6]

> Taxing by a uniform rule requires uniformity, not only in the *rate* of taxation, but also uniformity in the *mode* of the assessment upon the taxable valuation . . . . But this is not all. The uniformity must be coextensive with the territory to which it applies. . . . But the uniformity in the rule required by the constitution, does not stop here. It must be extended to *all property* subject to taxation, so that all property may be taxed alike, equally—which is taxing by a uniform rule. . . . There must be uniformity in the tax upon all the different articles of property, as well as uniformity in the tax upon each.

It should be clear from this statement by the Court that the legislature had little leeway in devising a tax system so far as property was concerned. In spite of this very severe limitation upon the taxing power, no immediate attempt seems to have been made to amend Section two of article XII. The Constitution of 1851 did, however, provide both for its amendment and for calling a convention "to revise, alter or amend it."[7]

The question of calling a Convention was submitted to the voters in 1872 and the electorate acted favorably upon it. The proposed constitution was submitted to the people on August 18, 1874 and rejected by a vote of 250,169 to 102,885.

The proposed constitution of 1874 contained "Article XIII, Revenue and Taxation" very similar to Article XII of the constitution of 1851. Section three read as follows:

> Laws shall be passed taxing, by a uniform rate, all real and personal property, according to its value in money, to be ascertained by such rules of appraisement as may be prescribed by the General Assembly, so that all property shall bear an equal proportion of the burdens of taxation, provided, that the deduction of debts from credits may be authorized.

In our former (1802) constitution it was limited in one particular, the prohibition of a poll-tax. In the present, (1851) it is regulated in other particulars. Section 2, of Article 12, [sic] is not a grant of power, but a regulation of the power already granted in the first section of the second article. The expression is, 'laws shall be passed,' not that the 'general assembly shall have power to pass.' So of every provision in the twelfth article, they either prohibit or regulate the exercise of the powers of taxation in specified instances." This is only the earliest among a long series of opinions by the Court that the legislative grant of power, including that of taxation, is found in the first section of Article II. For a more recent opinion in support of this see Haefner v. Youngstown, 147 Ohio St. 58 (1946). This case is also important with respect to the preemption doctrine; see Glander and Dewey, *Municipal Taxation: A Study of the Pre-emption Doctrine*, 9 OHIO ST. L. J. 72 (1948).

[6] Exchange Bank v. Hines, 3 Ohio St. 15 (1853).

[7] Article XVI.

This section appears to give the General Assembly somewhat greater latitude in tax legislation than the corresponding section of the Constitution of 1851. As a result of its rejection by the electorate there was, of course, never an opportunity to discover just how great this difference was.

In 1889 another attempt was made to amend section two.[8] It provided, among other things, that "the general assembly shall provide for the raising of revenue for the support of the state and local governments; *but taxes shall be uniform on the same class of subjects*" (Emphasis added). The remainder of the section was concerned with the possible exemptions from taxation. Had this amendment been ratified by the electorate it would have permitted the General Assembly to classify property for purposes of taxation.[9]

In accordance with the requirement of section 3, Article XVI of the Constitution of 1851 the question of calling a convention "to revise, alter or amend" the Constitution was submitted to the electorate at the general election in 1891. Only 99,784 electors favored holding such a convention while 161,722 were against it. At the same election an amendment which would change section two of article XII was also placed before the electorate.[10] It too was defeated. Although those voting on the amendment favored it by 303,177 to 65,014, it lost because the total vote cast at the election was 795,031 and thus required an affirmative vote of 395,516 in order to be ratified.

The rapid development of the business corporation as well as the perennial need for revenue made it seem desirable to be able to impose franchise taxes. The amendment of 1891 would have permitted the General Assembly to enact such legislation. The pertinent part of section two as proposed is worth quoting:

> Laws *may* be passed which shall tax by a uniform rule all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise; and all real and personal property according to the true value in money. *In addition thereto, laws may be passed taxing rights, privileges, franchises, and such other subject matters as the legislature may direct.* . . . (Emphasis added).

The remainder of the section contained the earlier provisions relating to exemptions.[11] It is notable that this amendment, had it been ratified,

[8] Senate Joint Resolution No. 52, 86 Ohio Laws 726 (1889).

[9] The Constitution of 1851, Article XVI, §1, required a majority of those voting at the election to favor the amendment in order to ratify it. There were 780,304 votes cast at the election thus requiring an affirmative vote of 390,152 to ratify the amendment. The total vote on the amendment was 518,706 of which only 245,438 favored ratification. Thus the amendment failed by a vote of 144,714.

[10] House Joint Resolution No. 63, 88 Ohio Laws 935 (1891).

[11] The usual provision for the power to exempt personal property of individuals to an amount not exceeding two hundred dollars was omitted. Apparently this was to be left to the discretion of the legislature.

would have given the General Assembly much greater freedom in the enactment of tax legislation.

In 1893 the General Assembly resubmitted the proposed amendment of 1891 to the electorate.[12] This amendment suffered the same fate as that of 1891. Although a majority—322,422 to 82,281—of those voting on the amendment favored it by nearly four to one it failed to receive the necessary majority of the total vote of 835,604 cast at the election.

Many individuals felt that no change could be made in the Constitution unless it was supported by one or both of the great political parties.[13] In response to this point of view the General Assembly enacted the Longworth Law.[14] This act permitted a political party to take a position for or against a proposed amendment. Following this action in state convention it was to be certified to the Secretary of State who was to print this on the party ticket. As a result, if an individual voted a straight ticket, he would also be favoring the position of the state convention on amendment. The act was held to be constitutional by the Supreme Court.[15]

In spite of the many failures to amend section two an attempt was made again in 1903.[16] This time it had the advantage, if any, of the provisions of the Longworth Act. In all, five amendments were submitted to the electorate at that time. The Republicans, in their platform, endorsed the taxation amendment but did not place it on their ticket. The Democrats, on the other hand, not only endorsed it but placed it on their ticket. As the total vote cast at the election in 1903 was 877,203 it required a favorable vote of 438,602 in order to become effective. Although the vote on the amendment was 326,622 to 43,563 or nearly seven and a half to one in favor, it failed by almost 112,000 to receive the necessary votes. Since the Republicans were in control at the time the resolution was submitted, it seems a little strange that it was not certified to the Secretary of State in order to have it placed upon their ticket.

The amendment of 1903, had it been ratified, would have gone far toward restoring the situation which existed prior to the adoption of the Constitution of 1851. While it retained the 1851 provisions with respect to exemptions, the first two sentences gave the General Assembly

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[12] House Joint Resolution No. 44, 90 Ohio Laws 384 (1893). It may be of interest to note that the same General Assembly passed House Joint Resolution No. 53 (90 Ohio Laws 385) which provided for "appointing a committee to investigate the subject of taxation." This committee submitted the now famous Tax Commission Report of 1893.

[13] See EVANS: A HISTORY OF TAXATION IN OHIO 163 (1906).

[14] 95 Ohio Laws 352 (1902).

[15] State v. Laylin, 69 Ohio St. 1 (1903).

[16] Senate Joint Resolution No. 28, 95 Ohio Laws 962 (1902).

broad discretion with respect to the taxation of property. They are worth quoting:

> The general assembly shall provide for the raising of revenue for all state and local purposes in such a manner as it shall deem proper. The subjects of taxation for state and local purposes *shall be classified* [emphasis added], and the taxation shall be uniform on all subjects of the same class, and shall be just to the subject taxed.

Had the amendment been ratified it would have been mandatory for the General Assembly to classify property for purposes of taxation.

The proponents of a change in section two did not give up easily. At the very next session of the General Assembly another attempt was made to amend the section.[17] This time, however, the change was limited to broadening the exemptions. After making the usual provision that laws shall be passed taxing real estate and personal property, both tangible and intangible, by a uniform rule, it stated that "bonds of the state of Ohio, bonds of any city, village, hamlet, county, or township in this state, and bonds issued in behalf of the public schools of Ohio and the means of instruction in connection therewith, which bonds shall be exempt from taxation." The electorate ratified this amendment at the election in 1905 by nearly four and three-fourths to one or 655,508 to 139,062. This provision continued to plague us for nearly a decade. The injustices arising from the assumption that all forms of property are homogeneous for purposes of taxation were not attacked by this amendment. In 1851 most wealth was in the form of tangible property, real and personal, and wealth and income therefrom were fairly equally distributed. By 1900 the picture had changed markedly. The large business corporation had become a reality. One need only call to mind that one of the great corporations of all time—the Standard Oil Company—was organized by an Ohioan, John D. Rockefeller. Obviously, intangible personal property had become far more important in our economy.

A recognition of the growing importance of personal property, particularly intangible, led many to question the general property tax. To tax the tangible property—both real and personal—and the documentary evidence—intangible personal property—of the ownership seemed to be double taxation. More specifically, to tax a farm and also the mortgage on that farm did seem to be taxing the same thing twice. Some would exempt such property altogether; others, recognizing the fact that the mortagor and the mortagee, for example, might live in different taxing districts of the state or even in different states which must raise revenue through taxation, favored low rates on intangible personalty. This would, of course, lead to the classification of property as one way out of the situation.

In 1908 the General Assembly decided to submit a classification

[17] House Joint Resolution No. 19, 97 Ohio Laws 652 (1904).

amendment to the Constitution.[18] The exemption of bonds of the state of Ohio and its local governments which was added to section two, Article XII in 1905 was included as were those contained in the original section. The real difference appeared in the first part of the section which read as follows:

> The general assembly shall have power to establish and maintain an equitable system for raising state and local revenue. It may classify the subjects of taxation so far as their differences justify the same in order to secure a just return from each. All taxes and other charges shall be imposed for public purposes only and shall be just to each subject. The power of taxation shall never be surrendered, suspended or contracted away.

Had this amendment been ratified the taxpayers of Ohio would not have had to wait for nearly a quarter of a century for relief from the general property tax. Although the vote on the amendment was 339,747 affirmative to 95,867 negative it failed to receive the necessary majority of the votes cast at the election and was, therefore, defeated.

It will be recalled that the Constitution of 1851 required that the question of calling a convention "to revise, alter or amend" was to be submitted in 1871 and every twentieth year thereafter.[19] In accordance with this provision, the question was submitted to the electorate at the November election in 1910. The vote was overwhelmingly in favor of such a convention.[20] The delegates were elected the following November. The Convention met January 9, 1912 and was in session eighty-three days. It did not rewrite the Constitution in its entirety but, instead, submitted fory-one amendmens, including a schedule. Involved were seventy-five sections, not including the schedule. Eight of the amendments were rejected and, of course, thirty-three approved by the electorate at the special election held September 3, 1912. Of the sections ratified, forty were new, twenty-six amended existing sections, and one repealed an existing amendment.

So far as the original six sections of Article XII were concerned the first, second and sixth were amended. Five new sections—seven through eleven—were added. Sections seven, eight and nine related to income and inheritance taxes. Section ten made it possible for the General Assembly to enact franchise, excise, and severance taxes. The state and its local governments were required to levy sufficient taxes to pay interest on and to redeem any bonded indebtedness by the eleventh section.

Section two of article twelve returned, for all practical purposes,

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[18] Senate Joint Resolution No. 53, 99 Ohio Laws 629 (1908).

[19] Article XVI, §3.

[20] Out of a total vote of 932,262 cast at the election, 693,263 favored calling a convention while only 161,722 opposed.

to what it had been prior to the amendment of 1905. In other words, the exemption of state and local bonds granted by that amendment was now removed. Of course, those bonds which were issued during the period when that amendment was in effect and still outstanding continued to be exempt under the provisions of the new amendment. The removal of this exemption was a step in the right direction. It is difficult to understand why a group of men which wrote the initiative and referendum, the permission to impose graduated income and death taxes, and an article on municipal corporations could not see the defects of the second section of Article twelve and seek to remedy them. It could be argued that, if a graduated income tax is imposed, a tax on personal property, and in particular, on intangible personalty is absurd and unjust.

One small change was made in the exemptions. Formerly, the legislature might grant an exemption not to exceed two hundred dollars on personal property. This was changed to five hundred dollars.

For a considerable time there had been a realization that the taxation of intangible personalty involved a form of double taxation. This seemed clearest in the case of real estate and the mortgage thereon although the same would hold true of a chattel mortgage. The legislature resolved to give the electorate the opportunity to vote on an amendment permitting the solution of this problem.[21] It provided:

> Laws may be passed to provide against the double taxation that results from the taxation of both the real estate and the mortgage or the debt secured thereby, or other lien upon it . . .

It left untouched the same problem with respect to stocks and bonds of corporate enterprises.

Throughout the Twenties the difficulties with the general property tax had continued to increase. While it is possible, without too much difficulty, to assess real estate and tangible personalty and place it upon the tax list and duplicate, it is quite another matter to find and assess intangible personalty.

The proponents of the classification of property for purposes of taxation decided to make another attempt. They were able to convince the General Assembly to submit an amendment to the electorate in 1925.[22] Again it was the first part of the section which was to be amended. Otherwise there was only a slight change from the amendment ratified in 1918.[23] The first paragraph provided that

> Laws shall be passed, taxing by a uniform rule all real estate and improvements thereon and all tangible personal property,

[21] House Joint Resolution No. 34, 107 Ohio Laws 774 (1917).

[22] House Joint Resolution No. 27, 111 Ohio Laws 539 (1925).

[23] The electorate had earlier (1921) ratified an amendment to Article VIII in the form of §2(a) providing for the payment of a "bonus" to the veterans of World War I. It was necessary to issue $25,000,000 in bonds. These were exempt from state and local taxation by the provisions of Article VIII, §2(a). This exemption was carried in the proposed amendment of §2 of Article XII.

> according to their true value in money, excepting motor vehicles which shall be taxed as may be provided by law. *All moneys, credits, bonds, stocks and all other intangible property, shall be taxed as may be provided by law.* (Emphasis added.)

Although this proposal left much to be desired from the point of view of freedom of the legislature to design a sound tax system, it was a decided improvement over the existing provisions. Certainly intangible personalty could be classified and low rates applied. Unfortunately the electorate did not see fit to make the change and the amendment was defeated.

Four years later (1929) another attempt was made to change the section. This time, however, it was drawn in such a manner that it represented a compromise. Complete classification was not permitted under the terms of the amendment since "land and the improvements thereon shall be taxed by a uniform rule." The permissive exemption of five hundred dollars of personal property of each individual was removed and left to the discretion of the General Assembly. Other exemptions which the legislature might grant were unchanged. Perhaps the most noteworthy restriction in the amendment was the fifteen mill limitation. For two decades the State of Ohio and its local subdivisions had operated under the Smith One Per Cent Law.[24] This had broken down repeatedly during the period. The proponents of the general property tax had insisted on this restriction on the legislative power. This was an attempt, and a successful one among many, to write legislation into the constitution. It is the writer's opinion that if a legislative body or a governmental executive consistently refuses to heed the wishes of the electorate, the latter will find a way to write what it desires into the constitution. An excellent witness to this is the present proposal to set a maximum limit on federal income and death tax rates.

As implied above, the change in section two of Article XII appeared at the beginning. It will not be out of place to quote the first part of the amendment:

> No property, taxed according to value, shall be so taxed in excess of one and one-half per cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and the improvements thereon shall be taxed according to value.

This amendment was ratified by a vote of 712,538 to 510,874. As a result the General Assembly meeting in 1931 would have an opportunity to rewrite our property tax law. Furthermore, it would be

[24] Senate Bill No. 4, 101 Ohio Laws 430. The act became law without the signature of Governor Harmon on May 24, 1910.

possible to classify personalty if the legislature should so desire. It is necessary to note, however, that although the General Assembly could not classify "land and the improvements thereon" it did have the power to place them on the tax list and duplicate at any percentage of value which it cared to do. Without laboring the point the careful reader will note that, while the amendment of 1918 carried the phrase "according to its *true* value in money," the amendment of 1929, with respect to lands and improvements, merely states "acording to value." The term "true value" appears only in connection with the fifteen mill limitation. For example, if the legislature provided that real property must be placed upon the assessment rolls at fifty per cent of its true value in money it would follow that the total tax must not exceed thirty mills which, of course, would not be in excess of fifteen-mills of one hundred per cent of its true value in money. The very fact that "true value" appears in the first part of the amendment and not in respect to land and improvements indicates that those drafting the amendment were aware of the distinction.

A slight change in the wording but a great change in its effects upon legislation was the amendment of 1933. The words "one per cent" were substituted for "one and one-half per cent."[25] This change came as a result of an initiative petition.[26] It was submitted to the electorate at the general election on November 7, 1933. The vote in favor of the "ten-mill limitation" was approximately one and one-half to one or 979,061 affirmative votes to 661,151 negative. In only two counties—Hamilton and Vinton—did the votes against the amendment exceed those for it. This is the last change that has taken place in section two of Article XII. Nearly a quarter of a century has elapsed since then with no attempt to amend it.

The second important factor which has influenced our tax system during the last three decades (nearly) was the Great Depression which began in 1929. Very shortly thereafter state and local revenues began to decline. It became more and more difficult to finance the various functions of government. To make a bad situation worse certain functions, particularly welfare, could no longer be supported by private charitable and religious organizations. They found it more and more difficult to raise funds for such purpose. Nothing was left to do but turn this function over to government. Along with this people began to be more aware of the seriousness of unemployment, child welfare and financial insecurity of the aged to mention a few of the problems. There was a demand—a very insistent one—that there "ought to be a law" to take care of these things. The upshot was a need for greater

[25] 115 Ohio Laws, Part 2, 446 (1933).

[26] Article II, §1(a), sets forth the requirements for an initiative petition to amend the constitution.

revenue which meant either increased rates in the case of existing taxes or new taxes.

The fifteen-mill limitation, and later the ten-mill limitation, placed local governments at the mercy of the electorate in order to raise the rates on property. To make the situation worse the assessed valuation of property declined as a result of the depression. This, of course, meant lower yields even with existing rates. Many property owners were unemployed or their businesses were showing losses and they were unable to pay their taxes. In some urban centers tax delinquency ran as high as seventy per cent. New sources of revenue had to be found. With one or two exceptions our present tax system was constructed during the period 1931-1935.

It was pointed out above that the amendment (section two of Article XII), ratified in 1929, became effective January 1, 1931. Except for the changes required by the constitutional limitation of a rate of fifteen-mills on property, no other legislative changes were necessary.

The Eighty-Ninth General Assembly met in January, 1931. It was confronted with the problems resulting from depressed economic conditions and the new amendment. Senator Reynolds introduced a resolution, shortly after the session opened, providing for the appointment of "a special joint taxation committee."[27] It provided for the appointment of three Senators, three Representatives, "and if the governor so desires three others to be appointed by him." Governor White did not take advantage of this opportunity and the committee was made up of six members. State Senator Robert A. Taft was elected Chairman. That the legislature was not then aware of the effects which the Depression was having and would continue to have is clear from the resolution. It read, in part, as follows:

> By far the greatest and most important question to be considered by this General Assembly is what legislation, if any, is necessary and should be passed pursuant to the tax amendment to the state constitution adopted at the election held in November, 1929, and to bring our statutes into harmony with that amendment. . . .
>
> . . . . A special joint taxation committee, who shall prepare and introduce . . . such bills as they may agree upon, to provide for the raising of revenue from or by means of sales taxes, income taxes, or taxes on intangibles, or any other form or system which may seen desirable, and which will give to the people of this state an efficient, economic and just system of taxation as defined by the state constitution and the amendment of 1929.

The Reynolds resolution was adopted February 4, 1931. Near the end

[27] Amended Senate Joint Resolution No. 7, 114 Ohio Laws 867 (1931).

of the session Senator Lewis introduced a resolution to continue the Joint Taxation Committee.[28] In less than five months after the Reynolds resolution was adopted the effects of the Depression were beginning to be felt. It is worth quoting, in part:

> The taxing districts of the state face a serious situation arising out of the reduction of the general property duplicate and the reduction of their revenues for 1932, and . . . many other problems will arise during the putting into effect of the tax program enacted by this General Assembly, which will require supplemental corrective legislation, and . . . a permanent system of distribution of revenues from intangible property and motor vehicles must be adopted not later than 1933.

The Taft Committee took the ratification of the so-called Classification Amendment as a mandate to rewrite the whole property tax law. The results of their labor were embodied in Amended Senate Bill No. 323.[29] It was a seventy page document which brought about for the first time in the history of the State of Ohio the classification of personal property. The legislation contained in the statute was permanent except for the distribution sections. These were temporary, and the Committee was instructed to study the problem and bring before the Ninetieth General Assembly a solution. This was accomplished by Amended Senate Bill No. 30 in 1933.[30] It is little short of remarkable that the property tax acts of 1931 and 1933 have remained fundamentally unchanged for a quarter of a century.[31] They helped us weather, governmentally, the Great Depression of the nineteen thirties and have been flexible enough to yield greatly increased revenues to help meet the sky-rocketing demands of local governments since World War II.

By the end of the regular session of the Eighty-Ninth General Assembly it was clear that more revenues would be needed than could be obtained from property. This led to a new group of excises which were levied during the period beginning in 1931 and ending in 1935.

Although excises such as the corporation franchise, the public utility excise and the inheritance tax had been part of the state tax system, a new form of them appeared as the economic depression became more severe. These were selective sales taxes and, finally, a general sales tax. The gasoline tax, which is an example of the former, had been in existence since 1925 as a means of financing highways.

The General Assembly in 1932 evidently believed that the Depression and, consequently, the need for poor relief, would soon end. It

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[28] Senate Joint Resolution No. 36, 114 Ohio Laws 892, Adopted June 25, 1931.

[29] 114 Ohio Laws 714, approved by Governor White, June 29, 1931.

[30] 115 Ohio Laws, 548.

[31] The change in section 2 of Article XII from a fifteen-mill to a ten-mill limitation did involve some changes such as the mandated levy for schools to mention only one. There have been some changes in the distribution sections as well as slight changes made to facilitate or improve administration.

decided to permit the counties to issue bonds to finance such relief.[32] The legislature passed a temporary state-collected public utility excise tax.[33] The revenues from this source were distributed to the counties and had to be used to service the relief bonds, if issued.

Economic conditions did not improve and it was necessary to raise more money for relief. Again it was decided to permit the counties to issue poor relief excise bonds. To service the debt the General Assembly turned to selective sales taxes. Included were taxes on cosmetics and toilet preparations,[34] bottled beverages,[35] brewer's wort and malt,[36] and admissions.[37] These were new to the tax system of Ohio.

The repeal in 1933 of the Eighteenth Amendment to the Federal Constitution paved the way for new taxes on liquor and those operating establishments which produced and sold it.[38] The new liquor control act carried a number of new taxes on beverages which contained alcohol in excess of 3.2%.[39] This was fortunate from the point of view of revenue requirements because the electorate of the state had, by initiative petition, proposed a law to "provide for granting of aid to aged persons in the State of Ohio under certain conditions."[40]

The problem of keeping the public schools open became extremely serious. In fact some difficulty had been experienced in the period following World War I. The state government had a constitutional mandate to "encourage schools and the means of instruction."[41] As a result of the declining revenues from property taxes and the pressure on the state General Revenue Fund additional sources of revenue had to be found. The state had, many years earlier, set up an "educational equalization fund" for aid to weak school districts.[42] To support this

[32] This was done to circumvent the necessity of proposing in amendment to Article VIII which would take considerable time. The first section of this Article permits an aggregate state indebtedness of only $750,000. To change this requires an amendment. The electorate has amended this Article five times since World War I. Four of these have taken place since World War II. Three have provided "adjusted compensation" for veterans of World War I, World War II and the Korean "affair." The other two provide funds for highway construction and institutional and educational buildings.

[33] Amended Senate Bill No. 4, First Special Session, 114 Ohio Laws, Part II, 17.

[34] Amended Senate Bill No. 410, 115 Ohio Laws 649 (1933).

[35] House Bill No. 4, First Special Session, 115 Ohio Laws, Part 2, 5 (1933).

[36] House Bill No. 5, First Special Session, 115 Ohio Laws, Part 2, 5 (1933).

[37] Amended Senate Bill No. 411, 115 Ohio Laws 657 (1933).

[38] Repealed by the Twenty-first Amendment to the Constitution of the United States in 1933. Section 9 of Article XV of the Ohio Constitution prohibiting the manufacture and sale of intoxicating liquors was repealed November 7, 1933.

[39] House Bill No. 1, Second Special Session, 115 Ohio Laws, Part 2, 118 (1933).

[40] 115 Ohio Laws, Part 2, 431 (1933).

[41] Article I, §7. Also Article VI, §2, and Ordinance of the Northwest Territory, Article III (1787).

[42] Equalization of educational advantages appears first in 108 Ohio Laws,

fund a sales tax on cigarettes was enacted in 1931.[43]

By 1933 it was clear that aid to weak school districts was not enough. Practically every district in the state was in financial difficulty. A temporary solution was found by 1) decreasing each of the gasoline taxes by one-half cent and enacting a liquid fuel tax and 2) distributing the tax receipts from state situs intangibles—chiefly from financial institutions—to the schools on the basis of average daily attendance.[44] The receipts from the taxes on cigarettes, liquid fuel and state situs intangibles were later used to help finance the School Foundation Program.[45]

The ratification of the "ten-mill amendment" in 1933 meant a drastic reduction in tax rates unless levies were voted outside the limitation. This the electorate were unwilling to do in many instances. The General Revenue Fund of the state was pushed to the limit. The General Assembly provided for a study of the problem.[46] The Joint Legislative Taxation Committee carefully investigated the situation with respect to the finances of the State and its local governments. It examined the various existing sources of revenue as well as the possibility of tapping new ones.

Among the existing sources was an additional excise tax on public utility companies to sop up the gain of such establishments from lower property tax rates under the ten-mill limitation.[47] A graduated income tax on individuals was given thorough consideration and rejected for, at least, two major reasons. In the first place the progression would have to be inordinately steep to yield sufficient revenue. Secondly, the constitutional mandate that fifty per cent of the revenue must remain in the district of origin placed the legislature in a straight jacket.[48] About all that was left was a general sales tax of some sort.

A tax on retail sales had been considered by legislative committees and private organizations for several years. It had been rejected on the ground that it was very deflationary and, therefore, would aggravate an

Part 2, 1303 (1919). The "educational equalization fund" was created by Substitute Senate Bill No. 160, 109 Ohio Laws 146 (1921).

[43] Amended Senate Bill No. 324, 114 Ohio Laws 805 (1931).

[44] On changes in the gasoline taxes and the enactment of the liquid fuel tax see Amended Senate Bill No. 62, 115 Ohio Laws 630 and Amended Substitute Senate Bill No. 354, 115 Ohio Laws 631, respectively. For the permanent distribution of the revenue from state situs intangibles see Amended Senate Bill No. 30, 115 Ohio Laws 582 (1931).

[45] House Bill No. 466, 116 Ohio Laws 585, approved June 12, 1935, effective January 1, 1936.

[46] Amended Senate Joint Resolution No. 3, First Special Session, adopted August 24, 1933, 115 Ohio Laws, Part 2, 102. It provided for eleven members: three senators, three representatives, and five citizens to be appointed by the Governor.

[47] House Bill No. 134, Second Special Session, 115 Ohio Laws, Part 2, 321, approved December 13, 1934.

[48] Article XII, §9 was amended in 1929. This section prevents the General Assembly from designing either good income taxes or death taxes.

already bad economic situation. As a last resort, however, the General Assembly did enact a retail sales tax.[49] After certain specific appropriations were made out of the receipts the remainder was to be divided between schools and local governments in the ratio of sixty per cent to forty per cent.

Although many of the excises mentioned above were to expire by limitation, this turned out to be a fiction as practically all of them continue to be a part of our tax system. Two fairly important revenue producers so far as the General Revenue Fund is concerned have been repealed. They are the liquid fuel tax,[50] and the admissions tax.[51] The yield of the retail sales tax was markedly reduced by a constitutional amendment ratified in 1936 which made it necessary to exempt "the sale or purchase of food for human consumption off the premises were sold."[52]

There are three other taxes which were enacted during the first half of the Thirties. Two of them have never been and are not great revenue producers while the third—the racing tax—has only recently become a real money yielder. The franchise tax on domestic insurance companies really formed a part of the new classification act of 1931.[53] The change in the date at which the lien attached to personal property from the day preceding the second Monday in April to January first made necessary some changes in such property as grain. The grain handling tax was enacted in 1935.[54] The horse racing tax became law in 1933.[55]

The rapid increase in the number of motor vehicles following World War II brought a demand for new and better roads and streets. In order to meet this situation as quickly as possible the General Assembly proposed an amendment to Article VIII by adding a new section 2(c).[56] It would permit the issuance of revenue bonds in the sum of five hundred million dollars. The required revenue was to be raised from "fees, excises or license taxes . . . relating to registration, operation, or use of vehicles on public highways, or to fuels used for propelling such vehicles." This amendment was ratified at the November 3, 1933, election.

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[49] House Bill No. 134, Second Special Session, 115, Ohio Laws, Part 2, 306, approved December 13, 1934.

[50] Ohio Constitution, Article XII, §5(a) and Amended Senate Bill No. 358, 122 Ohio Laws 807, approved December 31, 1947. At the same time the two gasoline taxes were increased from one and one half cents each to two cents by House Bill No. 500, 122 Ohio Laws 809 (1947).

[51] House Bill No. 398, 122 Ohio Laws 459, approved June 20, 1947, effective October 1, 1947.

[52] Article XII, §12, effective November 11, 1936.

[53] 114 Ohio Laws 714, 753 (1931).

[54] 116 Ohio Laws 64 (1935).

[55] 115 Ohio Laws 171 (1933).

[56] Amended Substitute Senate Joint Resolution No. 5, 125 Ohio Laws 1082,

The legislature anticipated the ratification of the amendment and proceeded to enact two new taxes.[57] One was an additional one-cent motor vehicle fuel tax and the other a "third structure tax" on commercial motor vehicles popularly known as the "axle-mile tax." The revenues from these two sources were earmarked for "the state highway construction and bond retirement fund."

To sum up, a major change took place in the state's tax system during the early Thirties. This was the result of many factors among which were a desire to relieve property of the enormous burden which it carried in supporting the State and its local subdivisions; a new sense of social welfare as witnessed by aid for the aged and unemployment insurance; the economic depression which reacted upon the preceding and brought new problems such as the financing of relief and education. The ten-mill amendment practically compelled the state government to give up the property tax for state purposes. Education and relief had to be financed in some way and local property taxes were insufficient. The State was forced to aid local governments. To finance its own activities and, at the same time, give assistance to local units it turned to excises, chiefly consumption taxes. In some instances the State made outright grants but in others shared the receipts.

The tax system of Ohio has been roundly condemned, from time to time, as being regressive in its effects. No doubt this is true but to the "we owe it to ourselves" group it might be pointed out that we also pay highly progressive federal income taxes which must be considered. In any event the tax system which "jest growed" to meet the needs of the Depression has thus far met the requirements of prosperity.

The State of Ohio and its local subdivisions appear to have reached the point where more revenues will be required. Can this be done with the present system which has been in existence for a quarter of a century? The answer appears to be in the affirmative. Following are a few suggestions:[58]

(1) Place all motor vehicles used in business on the general tax list and duplicate. This will yield considerable revenue to local governments.

(2) Increase the driver's license fee to an amount which will meet a larger share, if not all, of the fiscal requirements of the Department of Highway Safety.

(3) Remove the discrimination in the franchise taxes between domestic and foreign insurance companies.

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adopted July 9, 1953.

[57] Amended Substitute House Bill No. 619, 125 Ohio Laws 369, approved July 16, 1953.

[58] All suggestions are those of the writer and are not to be construed as the views of the College of Law or of the Ohio State University.

(4) Increase the franchise tax on business corporations.

(5) Reenact the admissions tax. After administrative costs have been deducted the remainder of the revenue should go to the municipality where the place of amusement is located or if outside a municipality to the county general fund.

(6) Repeal section nine of Article XII to permit the General Assembly to collect and distribute inheritance and income taxes as it sees fit.

(7) Amend sections seven and eight of Article XII by removing the constitutional requirements as to exemptions.

(8) Urge Congress to repeal the estate tax thus leaving it to the states. If this is not feasible then urge Congress to grant the eighty per cent credit of the revenues under the annual revenue bill to the state where the tax originates. The difficulty with the second method is that Congress may fail to make changes to meet changing requirements of the states as a whole.

(9) Rewrite in its entirety the act taxing the sales of tangible personal property sold at retail. Change from a tax on transactions to one on the gross receipts from sales at retail. Abolish the consumer's receipt. Eliminate so far as possible the exemptions and exclusions. This would permit the rate to be reduced to two or two and one-half per cent and yield as much or more revenue than now is being obtained. It would also be much easier to administer which would mean lower total cost and greater net revenue.[59]

Earmarking of a part of the revenue from the sales tax for local governments should be abolished and the appropriation from the General Revenue Fund substituted. If this is not deemed feasible then earmark the revenue from some sales tax group, such as the automotive, for these subdivisions. This would require very careful definition of the group designated. If accessories and the like are included it will lead to some administrative difficulties in the case of department stores, mail order houses and the like. These are not insurmountable. The revenues originating from this source in any given county would be turned over to the county budget commission for distribution among the local governments, excluding schools, according to need. This would give the localities a stake in the administration of the sales tax.

(10) Repeal the protected levies as required in section 5705.31, Revised Code. The hands of the county budget commission have been tied for nearly a quarter of a century. Greater flexibility in setting rates inside the ten-mill limitation is required.

(11) The power of a local government to contract debt within

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[59] See also Reports of the Department of Taxation of the State of Ohio, 1945, part II.

the ten-mill limitation should be denied. It will be argued that this power is needed in case of emergency. There is little reason to believe that local legislative bodies are actually doing this. Furthermore, it does not take much time to call a special election to place the question before the electorate. A much sounder method would be to set up some sort of state insurance fund in the custody of the Treasurer of State.

(12) The One Hundred Third General Assembly should, by resolution, provide for a commission to study revenues and expenditures of the State and its local governments. This commission should have the power to require detailed financial reports from the local units to be enforced by withholding state funds from any subdivision failing to cooperate.

THE NATURE AND OPERATION OF THE OHIO RETAIL SALES TAX*

FRED PICARD

OHIO WAS ONE of the early states to adopt the sales tax. This was done in 1934, and the tax was expected to be a temporary measure lasting for one year. However, like most states, Ohio made the sales tax a permanent levy. And by 1949 the Ohio retail sales tax was the principal source of revenue for the state.

The state of Ohio uses a very elaborate administrative framework to collect the sales tax. The Ohio retail sales tax is fundamentally a 3 per cent tax levied upon the consumer and collected by the retailer for the state. Although the tax is nominally 3 per cent, the law provides tax brackets as follows: no tax if the transaction is below $.41; 2 cents if the sale is more than $.41 and less than $.71; and 3 cents if the transaction is more than $.71 but less than $1.09.

The Ohio retail sales tax is levied upon the retail sale of tangible personal property. As such it exempts all sales of services and real property. The non-taxable transactions of the Ohio retail tax fall into two categories. The first group is composed of transactions which are excluded because they are defined as not being retail sales. For the most part, goods that are purchased to become part of another product are exempt by reason of being ingredients. In addition, property used "directly" in the production of goods and services is generally exempt by reason of not being a retail sale. This provision in the law has caused much confusion and considerable litigation, because there is no definitive policy as to what constitutes direct use.

The second group of transaction not taxable under the Ohio sales tax are certain exempt retail sales. These transactions are exempt for many reasons. Food, for example, is not taxed because of the heavy burden upon the lower income groups. Cigarettes, gasoline, and other commodities are exempt because selective sales taxes are imposed upon these goods.

The sales tax in Ohio has grown from a temporary measure to a permanent levy. As such it has become the principal tax of the state. The revenue from the Ohio sales and use taxes has shown a tendency

* A dissertation completed at Syracuse University in 1953.

to increase (since 1935) relatively more than any other tax in the state, and sales tax revenue has increased relatively more than total expenditures and revenue by the state. Thus the sales tax has accounted for some flexibility in the state fiscal system.

Since 1935 the revenue from both the sales and use taxes in Ohio has increased about the same percentage as income payments to individuals, that is, on the average a change of 1 per cent in income payments to Ohio citizens results in a 1 per cent change in the yield from these taxes. Thus, it appears that the Ohio sales tax is neutral with respect to counter-cyclical fiscal policy.

The sales and use taxes in Ohio have shown a tendency to impose lighter burdens upon Ohio citizens than the sales taxes of other states. Not only is the per capita burden generally lower in Ohio, but the proportion of income payments to individuals taken by these Ohio levies is significantly lower than in most states. Furthermore, from 1937 through 1949 the annual revenue from the Ohio sales and use taxes has increased proportionately less than that of most other states. This is probably because food is exempt in Ohio and food prices increased considerably in this fifteen-year period.

The state of Ohio has made an about face with respect to the use of the revenue from the sales tax. The original intent of the legislature (in 1934) was to allocate most of the revenue to the local governments for relief, education, and general use. Throughout 1935, 1936, 1937, and 1938 most of the sales tax revenue was distributed to the local governments. However, from 1939 through 1949 the state legislature distributed most of the sales tax revenue to the general fund of the state, and small yearly amounts were allocated to the local governments. From 1935 through 1949 the state of Ohio allocated part of the annual revenue from the sales taxes to the local government fund. The amount set aside was determined by the legislature, and it depended upon the annual revenue produced by the sales tax, the needs of the state, and the needs of the local governments. This local government fund, in turn, was allocated to the counties which distributed their shares to the local governments within each county. The share that each county received was originally determined by the amount of real property in each county as related to the total in the state.

From 1935 through 1949 the state of Ohio made annual appropriations to the local government fund. In a sense this meant that the state returned to each county a part of the revenue collected in that county. In this study the proportion of total sales tax collected in

each county was compared with the proportion of the local government fund allocated to each county from 1935 through 1949. No apparent pattern is discernible. The wealthier counties did not receive a greater relative share than they contributed. The poorer counties did not receive a greater relative share than they contributed. It appears that the distribution pattern of the Ohio sales tax is neutral. This pattern does not favor either the poor or wealthy counties.

The Ohio sales tax has often been criticized as being costly. Actually the cost has been about 7 per cent of the annual yield, which, by accepted standards, is fairly high. In this study the costs of collecting the Ohio sales tax have been divided into three categories; (1) costs of maintenance and personal service, (2) costs that are incurred because of the stamp method of collection, and (3) discounts allowed to vendors for collecting the tax. When the costs of the Ohio sales taxes are so classified the costs in category (1) amount to about 1 per cent of the annual yield, those in category (2) amount to about 3 per cent of the annual yield, and those in category (3) to about 3 per cent of the yield.

Many states do not count the vendors' discount as costs to the state. Rather they take the sales tax collected as a net figure. Therefore, it may be that the actual costs (for comparative purposes) of the Ohio sales tax appear to be about 3 per cent too high. If this 3 per cent were deducted from the 7 per cent the actual costs of the Ohio sales tax would be only 4 per cent of the yield. Most (3 per cent) of this 4 per cent is caused by the stamp system of collection. Therefore, the state of Ohio incurs a cost of only 1 per cent of the yield for maintenance and personal services. This appears to be less than the accepted average of 2–3 per cent.

Conclusions

In summary, the Ohio sales tax has not proved to be as good as its supporters contend nor as bad as the enemies claim. The tax has been fairly productive and fairly equitable. Since this tax exempts many necessities the burden imposed upon the lower income groups is not so great as that imposed by the sales taxes of most states, and the exemption of property used in further production minimizes pyramiding. Furthermore, the Ohio sales tax has shown a tendency to impose a relatively light burden on Ohio citizens because of the many exemptions.

The yield of the tax is fairly flexible as compared with annual changes in income received by individuals. While this flexibility trait

is partially desirable the Ohio sales tax is not flexible enough to fit the accepted ideal of exacting a smaller proportion of income during periods of declining economic activity and a larger proportion of income during periods of increasing economic activity.

Possibly the good points outweigh the bad. Certainly the stamp system employed by Ohio is costly and cumbersome; it is also of dubious value in enforcement. The number of exemptions makes the tax difficult to administer. The fact that no other state employs the stamp method of collection may be ample evidence of the low esteem held for this method. Thus, the Ohio sales tax is one example of a typical compromise with many good features, yet some serious defects.

Full Leased Wire Report of The United Press

THE CHRONICLE-TELEGRAM

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AIM TO STRENGTHEN BANKING STRUCTURE

WAY CLEARED FOR RECOVERY PROGRAM

PRESIDENT MEETS WITH LEADERS IN FINANCE

Situation Viewed As Hopeful, President Is Anxious That Banks Be in Position to Extend Credit.

WASHINGTON, Sept. 13—The mysterious White House conference Monday with administration financial leaders was revealed today as a discussion aimed at strengthening the nation's banking structure.

President Roosevelt, it was explained, is moving swiftly to keep as many banks going as possible and is extremely hopeful in view of the encouraging economic situation that all will be going strong by January 1.

Extension of further credit also was taken up in the conference between the President, officials of the Reconstruction Finance Corporation, the treasury department and the new insurance of deposits corporation.

Would Ease Credit

In connection with the banking situation generally, it was said that the President looked first for communities to come to the aid of all banks needing assistance. If sufficient funds were not obtained then the administration policy will be for the RFC to assist them through the purchase of preferred banking stock.

The President believes the administration policy a helpful one in pushing out credit and thus strengthening his drive for economic recovery.

He was represented as feeling that such a policy was good assurance to the banking interests that the government was prepared to see them through and that there was little excuse for them not lending.

In the cases of banks that prove an economic handicap to a community the administration policy is that they be absorbed through mergers with other financial institutions.

STRIKES SPREAD OVER NATION

100,000 Workers on Strike in Widely Separated Industrial Centers.

(Copyright, 1933, by the United Press)

NEW YORK, Sept. 13.—Approximately 100,000 American workers were on strike today in widely separated industrial centers. While the National Recovery Administration worked toward peace, mediation boards struggled with warring capital and labor factions on many fronts.

New York contributed 45,000 of the total. The New Jersey silk dyeing centers were tied up in a general strike and lock-out affecting 35,000 workers. In the Pennsylvania coal mining districts, 6,000 miners were striking in protest against long delays in formulating an NRA code regulating the soft coal industry.

In Philadelphia 1,200 were out

(No. 1, continued on Page 3)

The Weather Forecast

OHIO—Showers tonight and Thursday; slightly warmer in extreme west portion tonight.

Weather conditions last 24 hours:

An offshoot from the southwest low-pressure area is now advancing slowly northeastward over the Mississippi Valley, being now centered over Missouri. Kansas City 29.30 inches. This area is causing unsettled weather with moderate to heavy rains from Texas to the Ohio Valley and northward into Iowa. Elsewhere, as a rule, the weather is fair and the sky generally clear over the northwestern portions of the country. The prevailing temperatures, except in limited areas are still somewhat above normal. The maxima over Ohio yesterday ranged from 66 to 84 and the minima this morning from 50 to 55. The further eastward drift of the Missouri low will be favorable to unsettled showery weather with little change in temperature over the Ohio Valley during the next 36 hours; hence, in this vicinity showers may be expected tonight and Thursday.

County Solons Meet With Engineer

An effort to straight out a possible misunderstanding between county commissioners and the State Highway Department relative to improvements in the county is to be made by county commissioners today, when they meet with Divisional Engineer I. A. Ault at Ashland.

Concerned over the noticeable absence of any Lorain county improvements in recent listings by the State Highway Department, the commissioners decided today to find out what may be the cause for the delay.

The local board is particularly anxious to have the state pave Route 58 from Oberlin to Wellington, which improvement has been listed as one of the state departments' projects for Lorain county this year.

29 STATES HAVE JOINED WET PARADE

Seven More States Needed to Remove the Eighteenth Amendment From the Constitution.

(By United Press)

The approval of only seven more states was needed today to remove the 18th Amendment from the Constitution. Substantial returns from Colorado and Minnesota, which with Maryland voted yesterday, indicated good majorities for repeal. Maryland was wet by an overwhelming majority. They were the 27th, 28th, and 29th states to join the unbroken wet parade.

With more than three-fourths of the state's precincts counted, repeal led in Colorado by more than two to one. With more than half of the precincts counted in Minnesota, the repealists were maintaining the same lead. In Maryland the repeal victory was expected to approach the proportions of 3 1-2 to 1.

Yesterday's landslide for repeal, following close on a wet victory in the prohibition pioneer state of Maine Monday, placed repeal within reaching distance of actuality. Ten states vote between now and November 7. Wets are confident of winning all, but need to win only seven for victory.

New Mexico and Idaho vote next Tuesday. Virginia votes October 3, Florida October 10, and Ohio, Pennsylvania, North and South Carolina, Utah and Kentucky, November 7. The last repeal convention will be held December 6 and if the wets are victorious, the 18th Amendment will die on that day.

Two Dry Counties.

Two of Maryland's eastern shore counties apparently were dry, resisting the overwhelming repeal sentiment of the rest of the state. But this will not keep the repeal convention from being unanimously wet, it was believed. Three delegates were elected from each of the six congressional districts, and six were elected at large. All districts seemed safely wet, and Baltimore's almost 21 to 1 majority for repeal seemed to assure election of wet delegates at large.

Rural section holding true to traditional dry allegiance, made the wet victory less overwhelming in Minnesota, but the state's cities proved themselves no different from cities elsewhere. Minneapolis was almost 3 to 1 wet; St. Paul about 1 1-2 to 1.

Every urban center of Colorado was wet, while rural communities displayed dry tendencies. Denver's wet majority was 50 to 1. Lake county, in which is the old mining camp of Leadville, celebrated for moonshine, cast 1,028 votes for repeal and 61 against.

Rankin Condemns Use Of Scrip

Firm in his condemnation of scrip, Councilman O. E. Rankin declared today that he intends to bring a suit against the city for council fees, which he recently refused because two of the $5.06 which was his compensation for half a month was scrip.

"I'll make a test case of this business to see if the city can force its officials, elective officers and employees to accept scrip," Rankin said.

He promised further thrills by saying that he would exercise his Constitutional right and be his own attorney, though he is not a member of this profession.

Rankin defended himself before a common pleas court jury about two years ago in a $25,000 damage suit and was victorious.

TOLEDO GOLFER SLAIN BY BANDIT

Robber Steps Out of Woods Near 15th Tee and Robs Sixsome, Fatal Shooting Results.

TOLEDO, O., Sept. 13.—Police here today sought a robber and killer who turned the scene of a golf game into one of violence and death.

City detectives, deputy sheriffs and Sylvania, O., constables sought a youth who late Tuesday afternoon shot to death J. L. Parker, 32, insurance agent of Toledo and Hudson, Mich., as he stood on the 15th tee of the course of the Sylvania Golf Club.

Parker was playing in a sixsome with Bryan S. Picton, insurance man; Dr. Thomas Heatley, physician; Andrew Dangler, druggist; George Laher, and William Cavanaugh, a partner of Picton.

Dangler had just driven his golf ball from the tee when a masked bandit appeared out of the woods, which come close to the course at that point, and told the group "This is a stick-up."

Rifled Pockets.

The bandit lined the men up and rifled the pockets of each in turn. He was scrupulously polite. He got $65 from Picton and $10 from Dangler. He also took a ring from Picton, but returned it when the insurance man told him it had sentimental value.

While the bandit's back was turned, Dr. Heatley ran into the woods to get the license number of the bandit car which was parked among the trees. Dangler followed him.

Suddenly the bandit turned. He began to fire. Dr. Heatley dropped on the far side of the fence surrounding the course. Dangler ran behind trees.

Parker leaped at the bandit. They grappled a moment. The bandit shot Parker through the right eye.

He lived only half an hour after being rushed to Mercy Hospital.

While Parker lay bleeding on the smooth-clipped tee, the bandit reached down and lifted a package of cigarets from one of the wounded man's pockets.

"I guess I'll take these," he said. "I could use one of them."

He then backed into the woods, got into the car in which a companion was waiting and fled.

BIRTHDAYS OF SIX ROTARIANS ARE CELEBRATED

Birthdays of six Elyria Rotary Club members were celebrated at the weekly meeting of the club yesterday at the Elks' Club.

The six Rotarians who have birthdays during September are S. H. Squire, Kellogg Day, A. M. Hannaford, Charles Crabore, S. R. Nichols, and L. C. Hecock. These men occupied a special table at the meeting, cut the big birthday cake, and presented a number of stunts as their part of the program.

A report on the recent intercity golf tournament staged by Rotarians of Elyria, Lorain, Lakewood, and Vermilion at Lorain was given by Hannaford, chairman of the golf committee. William Williams, visiting Vermilion Rotarians, announced that the fourth of the series of tournaments will be held next Wednesday at Vermilion.

A report on his recent trip to the east was given by J. B. Thomas, secretary of the club.

A musical program was presented by John Mearns and James Mearns, of the Oberlin Conservatory of Music.

The crippled children's committee, which is to visit the patients at the Gates Hospital during the coming week, was named, with Dr. T. F. Cushing, H. D. Detter, and Frank Eckler as members.

MARYLAND WET BY OVERWHELMING VOTE

BULLETIN.

BALTIMORE, Md., Sept. 13.—Nearly complete returns from Maryland's repeal election today placed the state in the repeal column by approximately a 4 1-2 to one majority.

A total of 1303 out of 1379 polling places in the state gave: for repeal 19,620; against, 41,216.

Diamond Valued At $91,600 Stolen

LONDON, Sept. 13.—A diamond valued at $91,600 was stolen today from the show window of a Hatton Garden diamond shop in a "smash and grab" raid.

The street, world famous as a diamond market, was crowded with workers on their way to offices. The thief smashed the plate glass window and grabbed the stone.

Four men participated in the theft. They escaped by automobile.

The stone was called the Polar Star. It weighed 33 3-4 carats and was one of the world's famous stones. It was the property of Samuel H. Harris and Sons, leading jewelers and bullion merchants.

ENROLLMENT IN SCHOOLS GOES TO 4,841

Enrollment of 61 additional students in the Elyria public schools yesterday, the second day of the 1933-34 school year, increased the total enrollment to 4,841, according to figures announced today at the office of R. C. Maxton, school superintendent.

Of this total enrollment, 2,975 students were in the elementary schools and 1,863 in the high school. The grade school enrollment yesterday was 24 greater than the first day enrollment, and the high school enrollment was 37 greater.

The total enrollment yesterday represented a net gain of 22 over the second day enrollment in the grade schools and high school last year. The grade school enrollment was 85 less than on the second day last year, but the high school enrollment was 107 greater.

Last year's enrollments in only the grade schools and high schools are taken for the comparison, because kindergartens are not being operated by the school board this year, Maxton pointed out. As a result kindergarten enrollments last year, are not included in the figures given for purposes of comparison, so that the comparison might be on the same basis.

The total school enrollment is smaller than last year if kindergarten figures are included, however, as 217 students were enrolled in kindergartens on the second day last year. But the enrollment above the kindergarten shows an increase in the high school and a decrease in the grades. The high school figures include students enrolled in the ninth grade at the Jefferson Junior High school.

Fire Plugs Are Being Painted

Elyria's fire plugs, in all parts of the city, are being armed this week for better protection against automobiles whose drivers have been running them down.

At least that is the hope of Fire Chief W. N. Bates.

The plugs, 460 of them, are being painted in red and aluminum colors, to make them more conspicuous.

Although they will be a colorful addition to the city, one of the principal reasons for the painting is the fact that many of them have been struck by automobiles in the past.

"And in a number of cases the fire plugs have come out second best," the chief adds.

He hopes that the new colorful attire of the plugs will make them more conspicuous and that motorists will be better able to see them. And he hopes that as a result fewer of the plugs will be automobile victims in the future.

Rogers On Speed Trap Committee

COLUMBUS, O., Sept. 13.—Four additional members of the legislative committee created to investigate alleged automobile speed traps operating in Cuyahoga and adjacent counties, were appointed today by Frank Cave, speaker of the House of Representatives.

They are: Representatives Harter, Dem., Summit; Wilkins, Repn., Lake; Deibel, Repn., Medina; and Rogers, Repn., Lorain.

Members of the committee previously appointed were: Representatives McCluskey Dem. Zoul, Dem., Eirick, Repn., Cassidy, Repn., and Flesser, Demann all of Cuyahoga county.

WHITE READY TO BATTLE FOR SALES TAX

Proposal Made to Increase Proposed General Sales Tax From One Per Cent to Two Per Cent.

BULLETIN.

COLUMBUS, O., Sept. 13.—Governor George White today was reported ready to swing his power behind a proposal for a general sales tax, recommended to the special session of the General Assembly to finance weak school districts.

The governor was understood to have conferred with several legislators, proposing increase of the proposed sales tax from one per cent, as written into the present Lawrence bill or drafting a new bill, calling for a two per cent tax.

One per cent of the tax would go to finance schools and the remainder to relieve taxes on real estate.

Numerous opponents of the sales tax in the House of Representatives insist on relief for real estate owners and it was regarded as possible they would support the new proposal.

The move would cause postponement of a vote on the sales tax which had been scheduled for late today, with prediction the House would vote unfavorably.

House To Act On Sales Tax Today

COLUMBUS, O., Sept. 13.—Recommended by the special joint legislative taxation committee and supported by utilities corporations, highway interests and the school bloc, the Lawrence one per cent retail sales tax bill is scheduled to be brought up for passage today in the House of Representatives.

Enactment of the bill was recommended last night by the joint taxation committee, just twelve weeks after a similar bill proposed by Governor White as a means of financing poor relief, was overwhelmingly defeated in the House. The Lawrence bill is to raise funds for public schools in the "weak school" districts.

Opponents of the sales tax predicted a record defeat for the measure.

General Sales Tax.

The earlier bill, center of the taxation fight in the regular legislative session, was defeated 97 to 38 on June 29, despite the efforts of Governor White and the lobby backing the bill.

As recommended by the joint taxation committee, the Lawrence bill provides for a general retail sales tax of one per cent on practically all sales of "tangible personal property," including staple food commodities, for the six months' period commencing October 1.

It exempts only sales of fuel to manufacturers and public utilities, and commodities already subject to selective sales of excise taxes, such as cigarettes, beer, cosmetics, malt, gasoline and liquid fuels.

Food products sold by farmers from their own farms probably would be exempted under a provision in the bill authorizing the state tax commission to exempt "casual sales."

The revenue the proposed measure would raise in the six months is estimated at $9,000,000.

Of this total, $8,700,000 would be alloted to the state educational equalization fund for distribution among the "weak school" districts.

It is estimated $3,000,000 will be required for this year, and $5,700,000 for 1934.

The remaining $200,000 would be alloted to the state tax commission to pay the cost of administering the law.

No provision is made in the bill to grant any state financial aid to parochial schools.

WIDELY KNOWN LEADER AT MARIETTA PASSES

MARIETTA, O., Sept. 13—Benjamin F. Strecker, 74, philanthropist and civic leader of wide acquaintance in Washington county and southern Ohio, died at his home here today of a heart attack. He was one of the founders of the Strecker Brothers firm here.

Strecker was president of the Citizens' National Bank; chairman of the board of Marietta Memorial hospital; a director of Bethesda hospital, Cincinnati; donor of the Marjory Strecker hospital for children in Cincinnati; chairman of the Washington County Red Cross and director of the County Automobile Club.

LATE BULLETINS

ORDERS 63 MILLION DOLLARS MADE AVAILABLE IN 5 AREAS

WASHINGTON, Sept. 13—President Roosevelt today directed that $63,000,000 be made available for five areas hit by floods and other disasters.

The areas are North and South Dakota where there has been a drought and grasshopper plague, the panhandle section of Texas, the Rio Grande Valley, and a portion of Florida.

The White House said that it was decided that the farm credit administration would extend credit liberally as possible in the stricken zones and that Secretary Ickes would make available funds for additional public works projects such as road construction.

Harry Hopkins, federal relief administrator, will provide special emergency funds for clothing and feed for livestock.

700 AMERICANS IN DANGER IN THE CUBAN PROVINCES

(Copyright 1933 By United Press)

HAVANA, Cuba, Sept. 13—Seven hundred Americans in the labor trouble zones of the Cuban provinces are in potential danger if the new regime is unable to preserve order a United Press survey showed today.

No Americans have been assaulted so far, reports from the interior indicated, but there is great uneasiness and at some points Americans have banded together for protection or made preparations to defend themselves.

GOODMAN ELIMINATED IN NATIONAL AMATEUR GOLF

KENWOOD COUNTRY CLUB, Cincinnati, O., Sept. 13— After one of the bitterest first round struggles ever played in the National Amateur Golf Championship, Chandler Egan, Medford, Ore., amateur title-holder 29 years ago and oldest player in the tournament, today eliminated Johnny Goodman, Omaha, Neb., National Open Champion, 2 up.

50 ARMY POSTS IN U. S. TO BE IMPROVED A[illegible]CE

WASHINGTON, Sept. 13.—A $30,000,000 program to improve 50 army posts throughout the United States was announced today at the White House.

At the same time it was learned the president plans to eliminate about 30 other posts which are not considered necessary to the National Defense.

ROOSEVELT TO CONFER WITH PRODUCERS OF STEEL RAILS

WASHINGTON, Sept. 13.—President Roosevelt will call in the steel magnates within a short time in an effort to work out a scale of prices for steel rails in line with his program for railroad and heavy industry rehabilitation.

"BIG STICK" MAY BE USED ON THE COAL OPERATORS

WASHINGTON, Sept. 13.—President Roosevelt is prepared to swing the "big stick" within the next few hours in order to bring coal operators into line with an NRA code.

100 Pigs Dumped From Truck

Deputy Sheriff Claude Adams assisted last night in the round-up of nearly 100 pigs which were dumped from a truck near Hales' Hill on Oberlin road when it collided with another truck and went into a ditch.

The pigs, weighing about 300 pounds each, were being conveyed to the market by Webb Smith of Fremont. The truck was sideswiped by a truck driven by Norman Blacky of Detroit.

The accident occurred about 10 p. m. and it took about two hours to round them up, Adams said. Two pigs were killed.

Harter Favors Home Rule

COLUMBUS, O., Sept. 13—A joint resolution proposing to have the Ohio Senate and House endorse the county home rule amendment to the state constitution, which will be voted on at the November election, was introduced today in the House of Representatives by Rep. Harter, Dem., Akron.

The resolution recited that the amendment "proposes to create the means of eliminating extravagances in county government and provide for such reorganization of administrative offices in local sub-divisions as will promote strict economy and greater efficiency in governmental service" and that "the transfer of said proposed powers will not destroy the present autonomy of any community but aims to promote wider powers to the citizens of the local subdivisions."

NORTHEAST CONFERENCE OF METHODIST CHURCH OPENS

CANTON, O., Sept. 13—The annual session of the northeast conference of the Methodist Episcopal church opened here today at First M. E. Church with 1500 ministers, lay delegates and delegates to the Ministers' Wives Association and Young People's Conference in attendance.

The session was presided over by Bishop H. Lester Smith of Cincinnati. The daily meetings of the conference open each morning at 8:30 and continue until noon. During the afternoon and evening programs representing the interests of the various organizations of the church are held.

AUTOS IN COLLISION.

Cars owned by Dr. Edward Hackett of 1503 Middle avenue and E. R. Steel of 444 West Eighth street were damaged yesterday when they collided on Third street, police reported.

Report Halt In Rising Food Prices

BULLETIN

WASHINGTON, Sept. 13—An apparent halt in the climb of retail food prices in the nation's principal cities was indicated today in figures from the Bureau of Labor Statistics of the Labor Department.

The report, which covered the two weeks ending Aug. 29, showed an average increase of only .2 per cent for the country as a whole.

Philadelphia, Pa., showed the greatest increase with prices 2.4 higher, while decreases were shown up to 2.3 per cent in Butte, Mont.

Among the cities showing heavier increases were Boston and Detroit, where prices were 2 per cent higher. Decrease of 2.2 per cent was shown for Minneapolis.

The last previous figures on Aug. 15 showed a rise in 49 of the 51 cities covered by the bureau while increases of more than seven per cent were shown for several cities. Only 23 showed increases from Aug. 15 to Aug. 29.

The following changes were shown in today's report:

Atlanta, Ga., up 1.5; Baltimore Md., up 0.3; Boston, Mass., up 2.00; Buffalo, N. Y., down 0.5; Chicago, up 0.4; Cincinnati, up 1.6; Cleveland down 0.1; Columbus, down 1.5; Dallas down. Comp: Denver, down 1.0.

CAN PAY BACK TAXES WITHOUT A PENALTY.

Persons who are indebted to the county treasurer for delinquent taxes, no matter how far back, may pay them without penalty, interest, or any other charges, providing they pay their delinquent and current taxes on or before September 15.

County Treasurer Walter Wright made this statement on the basis of a law recently passed by the legislature.

After September 15 the treasurer will close his books, so that no more taxes will be accepted after that date without assessment of the customary penalty, the treasurer said.

BROWN'S CONDITION MUCH IMPROVED.

The condition of Abraham Brown, of Oberlin road, who was slashed in a quarrel a few days ago, was reported much [illegible] by Memorial Hospital [illegible] today.

Police have not [illegible] finding Brown's as[illegible] fled across Black river [illegible] sued by Brown's bro[illegible] immediately after [illegible] affray.

UPSWING UNDER WAY DECLARES PRESIDENT

Reports Administration Pouring Credit Into Trade Channels to Quicken the Business Upturn.

WASHINGTON, Sept. 13.—President Roosevelt moved swiftly today to clear the way for unrestrained movement of the recovery program which he indicated already is making its full effects felt throughout the nation.

He spread reemployment by starting a $60,000,000 army housing project, and at the same time brought pressure to bring the bituminous coal industry under the recovery set-up at once.

The President reported that the upswing of farm prices was bringing results, that the recovery program was reducing the number of destitute, and that the administration was pouring credit into trade channels to quicken the business upturn.

Meanwhile, the force of the renewed drive toward prosperity emanating from the White House made itself felt in the recovery administration.

Retail Code Ready.

The master retail code was in form for definite action by Administrator Hugh S. Johnson.

October 1 was set as the deadline for substitution of wage and hour provision in the President's reemployment agreement.

Johnson remained in New York after last night's speech in which he said that 85 per cent of the nation's employers were under the blue eagle. He warned against backsliding and "chiseling" tactics.

The retail code still contains the price-fixing feature of making it an unfair trade practice to sell at less than the invoice cost plus 10 per cent. The consumers' advisory board was protesting this provision and some discussion on this point may still be necessary.

The codes substitution deadline was decided on in an effort to hasten the codification of industry so that the program may pass to the administrative phase, in which emphasis will be placed on 100 per cent compliance with agreements calling for shorter working hours and increased pay.

It also was announced that Johnson will no longer approve substitution of codes presented by industrial or trade groups which aggregate less than 1,000 employes. Individual firms in such groups not already under the Blue Eagle and unable to comply with the NRA, should seek an exception before local compliance boards, it was said.

Gas Well Struck On Ingersoll Farm

A natural gas well registering an open flow of between 1,500,000 and 2,000,000 cubic feet daily was struck at a depth of approximately 2,700 feet on the farm of Henry Ingersoll south of Elyria yesterday.

The well was drilled on a lease held by the Summit Oil and Gas Company and is the first one to be brought in in this vicinity in many months, it was reported.

BRASS FITTINGS STOLEN.

The theft of several brass fittings on fire equipment at the Columbia Steel Company's plant was reported to police today.

WEATHER FORECAST
Fair, cooler weather tonight; Wednesday fair and warmer

THE PIQUA DAILY CALL

51st. YEAR No. 159 — PIQUA, OHIO, TUESDAY, APRIL 24, 1934 — PRICE THREE CENTS

OHIO POLICE ON ALERT FOR DILLINGER

FEDERAL OFFICERS PLAN TO WAR ON CRIMINALS

"HANDS OFF" POLICY OF JAPS BACKED

OFFICIAL STAND IS REPORTED

Cabinet is Said to Have Approved Issuance of Statement Backing Up Policy.

PROCEEDINGS ARE WITHHELD.

Full Text of the Plan Not Revealed as Action is Taken at Tokio Today.

Tokio, April 24. (UP)—The Japanese cabinet today reportedly approved issuance of a statement reading "hands off China" declarations which have caused uneasiness and suspicion concerning Japan's motives in Asia.

Proceedings of the session were not made public, but it was learned that the cabinet ministers offered no criticism of the declarations of policy made through a spokesman for the foreign office.

All pronouncements of the policy which virtually rocked the world have come from the comparatively anonymous "spokesman" for the foreign office or from diplomatic representatives in Washington, Geneva and Nanking.

The foreign office correspondent of the Nippon Dempo News Service reported the conversation in which Hirota was represented as offering a partial explanation of a spokesman's pronouncements regarding Japan's attitude toward foreign aid and the use of foreign capital in China.

The correspondent said that Hirota told Japanese correspondents that Soviet Ambassador Constantin Yurenev and Chinese Minister

(Concluded on Page Two)

Demand Ransom For Ohio Youth

Fear that Donald Schoonover, 21, above, missing Findlay, O., livestock hauler, had been kidnaped was increased when his abandoned automobile was found near his home, a crudely worded note on the seat demanding $9550 ransom. The note stated that Schoonover, former well-known high school athlete, had $450 in his pockets, which would "make out the $10,000," and threatened death to the youth if the demand were not met.

THIN CLUES ARE FOLLOWED TODAY IN TRACING BOY

Hancock County Officials Checking Up on Mystery—May Not Have Been Kidnaped.

Findlay, O., April 24. (UP)—Hancock county officers followed a few thin clues today in their search for Donald Schoonover, 21-year-old farm youth, missing from his home west of Findlay for 38 hours.

Although relatives received a note asking $9550 ransom, Sheriff Lyle Harvitt gave the theory the youth had financial difficulties, conceived the kidnaping story, and left home hoping his grandmother Mrs. John Schoonover, owner of a 200-acre farm, would pay for his "release."

Schoonover lived with his grandmother and two brothers, Howard and Marion. His parents are dead.

Isabelle Stewart, 17, a junior in Liberty township high school, who was with Schoonover Sunday night, told officers she had seen a strange automobile parked near her home. She said Schoonover told her three men had followed him last week

(Concluded on Page Five)

FIGHT TO BE WAGED ON GANGS

More Power to Be Given Operatives in Hunting Such Outlaws as the Notorious Dillinger.

PROGRAM READY FOR ADOPTION.

Favorable Report Expected Today from Judiciary Committee of the House.

Washington, April 24. (UP)—The House Judiciary committee met today to perfect a series of crime bills which would give federal forces more power to capture such criminals as John Dillinger.

Chairman Hatton Sumners said he hoped his committee would be able to report favorably the bills today. President Roosevelt has swung the power of the administration behind the drive.

The 12-point program includes bills giving federal agents authority

(Concluded on Page Two)

WHERE DILLINGER ESCAPED AGAIN

Two Killed and Four Wounded in Triple Gun Battle as No. 1 Outlaw Flees U. S. Trap Near Wisconsin Woods Resort

Trapped again by federal agents, near the town of Manitowish, Wis., John Dillinger escaped from the Little Bohemia Lodge, shown above, while two men were killed and four others were injured. One of those killed was a federal agent believed shot by fellow agents by mistake, and the others were caught in the fire when they emerged from the resort and started back to Mercer, Wis., where they were connected with a conservation camp. Three women with the outlaw and his companions were captured.

OUTLAW AND PALS IN SEDAN ARE BELIEVED TRAVELING EASTWARD

Columbus, O., April 24. (UP)—The state highway patrol's radio station, WPGQ, today broadcast to all patrolmen to be on the lookout for a Ford sedan last seen near Fort Wayne, Ind., and believed to be carrying John Dillinger and three henchmen.

The federal secret service ordered the broadcast.

The Ford sought is a V-8, maroon colored sedan, with Wisconsin license B455-209.

Chicago police reported that it had been seen near Fort Wayne.

The broadcast was picked up by 11 other stations, affiliated with WPGQ, and re-broadcast.

Madison, Wis., April 24. (UP)—Grim-faced Department of Justice agents reassembled their shattered lines today for a new drive against John Dillinger and his gang of the most ruthless machine gunners since the fall of the Chicago beer barons.

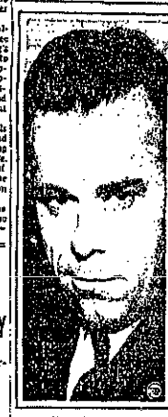
Agents who suffered two casualties in their ranks and saw three other persons hit by the gang's bullets had two accomplishments to their credit from a fiasco entrapment of the gang at the little Bohemia Lodge near Mercer, Wis., yesterday. The cost was one agent and bystander dead and another agent and two civilians wounded.

The federal men held three girls whom the gangsters deserted and had scattered the desperate group which they were unable to capture. The agents added the name of George "Baby Face" Nelson to the list of men wanted in connection with the gang's activities.

Nelson, they believed, was the tiny, blond machine gunner who

(Concluded on Page Seven)

Death Is Close To This Killer



JOHN DILLINGER

DIPLOMATIC CRISIS THREATENING AS RESULT OF JAPAN'S ATTITUDE

Drum Fire of "Hands Off" Policy Causes Diplomats To Sit Up and Take Notice of Developments in Capitals of the World.

London, April 24. (UP)—Threat of a diplomatic crisis rivaling that of the Manchurian incident in 1932 was seen in European capitals today as the result of a world wide drumfire of Japanese "hands off" declarations concerning Asia.

While the Japanese foreign office imperturbably awaited arrival of a note from Great Britain, its former ally, requesting explanation of Japan's declarations, the Nipponese consul general at Geneva issued a prepared statement which intimated that Japan's real interests stopped not at China and Manchukuo but embraced nearly one-third of the earth's land surface.

An important phase of the situation was that Great Britain took independent action to seek information from Japan, without consulting the United States or other nations.

When in 1932 American Secretary of State Henry L. Stimson took the lead in questioning Japan's separation of Manchuria from China to

(Concluded on Page Two)

SHARPSHOOTERS ON DILLINGER'S TRAIL

Philadelphia, April 24. (UP)—The most expert machine gunners from this district have been hurriedly dispatched west to aid in the hunt for John Dillinger, W. George Harvey, chief of the local division of investigation announced today.

"They took my best gunners," he said. "The men chosen have been practicing for years with machine guns, rifles and revolvers. I hope they have the luck to catch the desperado."

Harvey said that the federal government knows "the identity of every person acquainted with Dillinger, and knows every possible hideout from Sault St. Marie to New Orleans."

"They'll have him in a short time," he predicted. "I only hope it happens before anybody else is killed."

OFFICER SENTENCED

Columbus, O., April 24. (UP)—Daniel McAlister, suspended city detective, was sentenced Monday by Judge D. J. Reynolds to from one to 20 years in Ohio Penitentiary. McAlister was convicted of manslaughter in connection with the fatal shooting of Harry H. Adams, 22, on Feb. 11. A plea for a new trial was denied.

TUGWELL BACKS NEW DEAL WITH ARDOR TUESDAY

Says Plan is Saving, Rather Than Destroying American Tradition.

Washington, April 24. (UP)—Professor Rexford Guy Tugwell, $6,500 a year brain truster, is convinced that the New Deal is saving rather than destroying American tradition.

Tugwell believes President Roosevelt came into power at the low point of American history. He thinks the country might have gone to an extreme a year ago.

He advanced these ideas during a bumpy inspection ride over 3,000 nearby Maryland acres where PWA and CWA funds are creating a model agricultural experiment station.

Tugwell said that no one knows the direction in which this country would have gone without some Rooseveltian first aid. In one direction lay Fascism and in the other Communism. Tugwell didn't mention any names. He spoke merely of directions. But he feels Mr.

(Concluded on Page Seven)

LABOR SITUATION IN CLEVELAND IS SERIOUS TUESDAY

Strike of Fisher Body Corporation Workers Spreads to More Than 8,400 Today.

Cleveland, O., April 24. (UP)—Strike of Fisher B[...] Workers has spr[...] more than 8,400 [...] today, bringing a [...] erations in the pl[...] largest employer o[...]

While harrasse[...] efforts for a settle[...] automobile labor [...] heavy picketing—[...] unyielding—contin[...] plant here.

The walkout [...] complete when m[...]

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EXHIBIT

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DEFENSE RESTS IN THE CANNON TRIAL

Washington, April 24. (UP)—The defense rested today in the trial of Bishop James Cannon, Jr., and his ex-secretary after more than two weeks of testimony designed to prove they were not guilty of conspiring to violate the corrupt practices act.

Cannon was the final witness. He attempted to explain how the ledger of his 1928 anti-Smith campaign was preserved, while the cash book was lost. The Methodist Episcopal churchman said both books were sent to his headquarters at the Methodist Board of Temperance and Morals, but that "only the ledger seems to have been preserved."

WILL ROGERS Says:

Beverly Hills, Calif., April 24.—Well, they had Dillinger surrounded and was all ready to shoot him when he come out, but another bunch of folks came out ahead, so they just shot them instead. Dillinger is going to accidentally get with some innocent bystanders some time. Then he will get shot. Here is the usual daily AP dispatch from Indiana: "Michigan City, Ind., Apr. 23.—Four Prisoners, three serving life terms, escaped from the prison today." An Indiana sentence from a judge reads, "You are sentenced to prison as long as it's made comfortable for you, and you desire to remain. In checking out, kindly let the warden know, so he will know how many will be there for supper."

Yours,

Will Rogers

BRIEF HONEYMOON PLANNED BY PAIR

George Jessel and Norma Talmadge Expect to Depart for Florida Some Time Today.

Atlantic City, N. J., April 24. (UP)—George and Norma Talmadge Jessel were expected to leave today for a brief honeymoon in Florida before returning to New York.

The former star of silent films and the comedian were wed in a four-minute ceremony in a suite at Hotel Ambassador yesterday. Mayor Harry Bacharach tied the knot and nine friends were present.

Norma telephoned the news to Natalie and Constance Talmadge, also screen stars, in California. Reporters then were admitted. They had been waiting outside, although the marriage was a deep secret.

CHILD IS KILLED

Akron, O., April 24. (UP)—Eugene Chaney, 13, was killed late Monday when he fell from his bicycle and slid under the rear wheel of a truck here.

COOPERATION IS WANTED BY OHIOANS

Toledo, O., April 24. (UP)—Petitions asking President Roosevelt, the Home Owners' Loan Corporation and the Metropolitan Insurance company to cooperate in the saving of homes mortgaged to the insurance firm were signed by more than 100 Toledo homeowners at a meeting Monday night.

The meeting was called by Roy Shunk, executive head of United Civitas clubs to protest alleged failure of the Midland Mortgage Co., to cooperate with the HOLC in refinancing Metropolitan mortgages. Midland is the Toledo agent for Metropolitan.

TEACHERS SCORE IN CLEVELAND DEMANDS

Cleveland, O., April 24. (UP)—Teachers of Cleveland won a significant victory at a session of the school board yesterday when their newly formed union was recognized officially by the board.

Recognition was granted without an opposing vote on motion of Ray C. Miller, seconded by Thomas J. Martin.

President Alfred A. Benesch, who says he is opposed to the union on the ground it is undignified for teachers to join such an organization, cast no vote.

FREIGHT ENGINEER KILLED IN CRASH

Allentown, Pa., April 24. (UP)—An engineer of a freight locomotive was killed and the fireman injured today when a train left the rails and crashed into 15 empty gondolas at Bowmanstown, near here.

Charles Remaley, 50, Lehighton, was crushed beneath the engine. The fireman, Frank Brown, also of Lehighton, was thrown clear of the wreckage, but was scalded about the legs.

LAST MINUTE NEWS FLASHES

RANSOM NOTE IS RECEIVED

Findlay, April 24. (UP)—Coincident with announcement of Hancock county authorities discrediting a kidnap theory in the disappearance of Donald Schoonover, 21, former athlete of Liberty township high school, a ransom note was received at his home at 11:30 a. m., today.

TO CONSIDER UTILITY LAW CHANGES

Columbus, O., April 24. (UP)—The State Bar Association's advisory committee on public utility laws will meet here next Friday to resume discussion of possible changes in the state's utility laws.

SALES TAX GIVEN NEW SETBACK

Columbus, O., April 24. (UP)—The two per cent general sales tax, roughly handled and finally killed by the Ohio House of Representatives, today met another setback when the Senate Taxation committee voted, 7 to 1, to postpone indefinitely any further consideration of the measure.

HOPES FOR END IN THREE WEEKS

Washington, April 24. (UP)—President Roosevelt hopes that Congress will be able to windup the session in three weeks, Speaker of the House Henry T. Rainey said after a White House conference today.

SALES TAX BILL BOBS UP IN OHIO SENATE TODAY FOR CONSIDERATION

Administration Support Presents the Measure to Taxation Committee on the Two Per Cent Basis — New Fight Looms.

Columbus, O., April 24. (UP)—The apparently nine-lived general sales tax bill, already "killed" five times by adverse votes in the House of Representatives, today had bobbed up in the Senate. The House is marking time as the upper chamber tried its hand at constructing a taxation program.

House members held skeleton sessions only, while the Senators attacked the revenue issue, ready to vote on anything the Senate might enact or to adjourn if the Senate fails to formulate a successful program.

The taxation committee of the upper chamber today met to consider the two per cent sales tax bill. It was introduced last night by Senator Will P. Haynes, (D), Coshocton, an administration supporter.

Haynes estimated the bill would produce $28,000,000 of the $33,200,000 program he has advanced. Of this $12,000,000 would go to the hard-pressed political subdivisions, the remainder to the schools.

Senator D. J. Gunsett, Van Wert Democrat, also had a program before the Senate, using a one-half of one per cent gross receipts tax as a center-pole. Senator Gunsett is chairman of the taxation committee.

"The gross receipts tax is estimated to raise $16,000,000 and the

(Concluded on Page Seven)

LAUNDRY TURNED OVER TO WORKERS

Bucyrus, O., April 24. (UP)—Operators of a laundry here announced today they had turned over their plant to employes for management for one year and that they will withdraw from their managerial capacities with the exception of being lease holders.

The announcement came from O. W. Kennedy and George Rieff, operators of the Up-To-Date Laundry.

"This step is taken because we cannot operate under government inter-meddling," Kennedy said. "When the government thinks it can run your business better than you can yourself, it is time to step out."

SENIOR CLASS IS TO PRESENT PLAY

"That's One on Bill" to be Given on April 27 in the High School Auditorium.

The Houston Senior Class presents the three act comedy drama, "That's One On Bill," April 27, to the school auditorium. The cast is as follows:

Uncle Jimmie—A young bachelor—Samuel Kelly
Billy Haily—His Nephew—Leslie Nicholas
Battling Bennie Boso—A Pugilist—Urban Lyons
Harry Dorer—Engaged to Lil—Delbert Wicks
Ned Collins—(Puffy)—Too rich to work—Marion Fleiman
Patricia Niles—"Patricia Pansy LaGloria"—Doris Booher
Lil Haily—Her friend—Ethel Fleiman
Mab Allen—Uncle's choice for Bill—Velma Roeth
Mrs. Haily—Mother of Lil & Bill—Mabel Ganger
Rosie—The German Maid—Treva Barker
Stage Manager—Ralph Francis
Advertising Managers—Howard Stump & Clyde Kuhn
Ticket Sales Managers—Irene Huston & Bertha Chalmers
PLACE—The Haily's Summer Home
SCENE — The Garden
TIME — The Present

SYNOPSIS
Act I—A morning in July
Act II—A week later
Act III—Three weeks later

The admission charges will be fifteen cents for the adults and ten cents for children. Tickets may be purchased from members of the class or any of the school children, after Friday, April 20. Tickets will also be sold at the door.

OUTLAW AND PALS IN SEDAN

(Concluded from Page One)

felled federal agent W. Carter Baum, an investigator from Washington and two other men when they appeared at the resort at which two of the gangsters were commandeering an automobile. Baum died from his wounds.

The man believed to be Nelson with another desperado was believed to have escaped westward toward Duluth, Minn.

Dillinger and two others escaped from the lodge to the southwest, after forcing a youth to drive them to Park Falls where they seized another automobile. Tommy Carroll, St. Paul gangster, was believed to have been with Dillinger.

This trio was later seen at St. Paul Park, a suburban city a few miles south of St. Paul. After escaping from an automobile load of policemen, the trio seized another automobile on a country road. One of the trio was believed to have been wounded by the policemen's pistol shots.

St. Paul police believed Carroll was one of the trio because of the fugitive's unusual acquaintance with the countryside. While Minneapolis and St. Paul police guarded every bridge between the cities and all main approaches to their cities, the carload of gangsters crossed the Mississippi on the Inver Grove bridge, an out of the way structure which is little used for regular travel.

Two other gangsters escaped from the lodge in a department of justice automobile, it was reported. These men were believed in hiding somewhere in northern Wisconsin.

In Madison the federal agents brought their total of women held on harboring a criminal charges to six. The three girls captured when the agents finally entered the little Bohemia Lodge yesterday morning refused to give their names. They were taken to the jail at Madison last night in the same clothes they wore during the night.

One girl, a pretty brunette wore riding breeches, leather jacket beret and riding boots. Another, a little blond, was captured in filmsy pajamas.

The third girl wore a red sweater over blue pajamas.

In addition to this trio, agents held Evelyn Frechetti, former Dillinger sweetheart, and a woman named Bernice Norton in St. Paul.

They also held a Mrs. John Steve, said to be a sister of John Hamilton, Dillinger's lieutenant.

Two New Alarms

Park Falls, Wis., April 24. (UP)—New alarms sent Wisconsin peace officers out on the highways again today in a hunt for members of the John Dillinger gang of outlaws who were reported to have appeared again in the region of yesterday's bloody battles with federal agents.

Night Policeman Elmer Peterson of Park Falls warned Wisconsin, Chicago and St. Paul police to watch for the appearance of five men in a dark brown, mud-spattered sedan.

Peterson warned that these men were believed to be the reunited remnants of the gang of Dillinger desperadoes.

The five men appeared shortly after midnight at the lunch and gasoline station of Robert Sarning at Park Falls. Four of them walked into Sarning's establishment, while the fifth remained in the rear seat of their automobile.

Sarning reported that the man ordered beer and manipulated his radio. He believed they sought to tune in on a police broadcast. Before leaving the men purchased 12 gallons of gasoline. Sarning noted that their rear license plate had been bent so that its numerals could not be read.

TUGWELL BACKS NEW DEAL WITH ARDOR TUESDAY

(Concluded from Page One)

Roosevelt saved the characteristically American tradition here.

Protesting that "it doesn't make any difference what I think," Tugwell talked of the New Deal but shied away from mention of Dr. William A. Wirt, publicist of the brain trust red plot.

Asked about regimentation and control of industry, Tugwell replied: "I don't believe in that at all."

His conception of NRA is that of an "economic forum" in which differences among and within industries may be thought out and solved.

The real difficulty in the United States, he said, is maladjustment of the price system. He explained that since the war the dislocation in relations between various prices have interrupted the exchange of commodities. And to that interruption he ascribes unemployment and many major ills.

The objective desired by Tugwell is a continuity of industry — by which he means ample and stable employment and the maintenance of a relationship between prices of all commodities which will enable industries to exist and perhaps enable all the people to prosper.

One thing puzzles Tugwell more than any other. He cannot understand the non-cooperative spirit recently manifest in industry's relationship with the New Deal. It is strange, he mused, "that industrialists are not willing to give up a little to gain much."

And there lies the root of dispute between Tugwell and those who see in him red revolution. The professor is convinced that many forces now allied against the administration stand to gain rather than to lose from Mr. Roosevelt's program.

CALLED MEETING THURSDAY NIGHT

A called meeting of the membership committee of the Piqua Community golf club will be held Thursday night at 8 o'clock at the Y.M.C.A.

It is necessary that all members of this committee be present in order that as nearly as possible complete reports be submitted.

ALLEY OOP All Aboard! By HAMLIN

FREAK OF NATURE BORN LAST NIGHT

A freak of nature was found last night when a litter of pigs was born at the home of Walton O. White, residing on R. R. 1, Fletcher. This pig, one of the 15, had two noses, four ears, eight feet and two tails.

It lived for about five minutes and today was placed in alcohol and Mr. White was exhibiting it to interested persons.

The litter, of Poland-China stock, is thriving today with the exception of the one casualty. Mr. White who has raised stock for many years declares that the one little pig, which will never go to market, was the queerest he had ever seen.

The freak is now on exhibition at the Fred Rogers store in Fletcher.

CHURCH HISTORY IS TO BE PRESENTED

The local history of the First Presbyterian church will be presented in pantomime review and stereoptic pictures Wednesday evening at 7:30.

Seth McCulloch, honored Elder of the church for many years, will have charge of the program, which includes snap-shot reviews of the church in its different locations, buildings and activities.

This historic review will be of special interest to all members of the church, and an invitation is extended to all Piqua citizens, and especially to all who have been associated with the church throughout its many years.

SALES TAX BILL BOBS UP IN OHIO

(Concluded from Page One)

Gunsett program seeks to produce a total of approximately $46,500,000 for schools and more than $11,000,000 for local subdivisions.

Observers despaired of either of these programs getting through both House and Senate.

Wearied legislators had set up tangled interests and confusions over which revenue proposals appeared unable to hurdle.

Senator Paul D. Yoder, (D), Dayton, last night threw a challenge to the members—speedy enactment of a revenue program or sine die adjournment.

At the same time, Governor George White sent the Senators a special message asking legislation to empower the Public Utilities Commission to levy against railroads and public utilities $400,000 annually, to be used in the commission's work. The commission now can levy only $200,000 against the utilities and the Governor pointed out this sum caused reduction of its personnel and slow handling of rate questions.

Cost of operation of the commission is assessed against the utilities in proportion to their intrastate gross earnings or receipts. Ohio's commission, the message stated, has only 42 employes to work on rate proceedings while Wisconsin, for example, has a staff of 383 persons.

"The Ohio Chamber of Commerce," said Senator Gunsett on the Senate floor last night, "has presented a program which calls for a three per cent retail sales tax. That tax places the burden on the poor and those not able to pay it."

Senator Gunsett's program is tentatively outlined, in addition to his gross receipts tax bill, includes:

Re-enactment of the liquor schools tax to produce $11,000,000; reenactment of the cigaret tax to produce $4,500,000; intangibles tax to produce $6,000,000; increase in the excise taxes on public utilities to produce $4,000,000 and an increase of one-fourth of one per cent in the financial institutions tax, to produce $1,000,000, making $46,500,000 for the schools.

He would give to the political subdivisions the local intangible tax now going to the schools estimated by him to be between $11,000,000 and $15,000,000 next year.

Senator Haynes' taxation program, in addition to his $28,000,000 retail sales tax, includes:

An increase of 1.65 in the excise taxes on utilities to produce $5,600,000; re-enactment of the liquid fuel taxes to produce $10,800,000; re-enactment of the cigarette tax which he estimates at $4,500,000 and the intangible tax which he estimates will produce $5,200,000, making a total of $53,200,000. All but about $12,000,000 of that he would give the schools, the remainder going to the subdivisions.

Neither proposed program takes into account the plea of the highway assessment refunder group, for they had contemplated using the one cent liquid fuel tax revenue for that purpose.

The gross receipts tax amounts to an income and retail sales tax in one, its opponents claim. The salaried man will pay a tax on his receipts, or his salary, and then will pay a retail sales tax on his purchases for that tax will be passed on.

The bill does not do away with the pyramiding of the tax, the manufacturer, the wholesaler and retailer each paying a tax on the same article.

Senator Harper Annat (D) Cleveland, succeeded in amending the bill in committee last night to exempt receipts from admissions from the tax, as admissions are now taxed 10 per cent.

He will attempt to exempt receipts from the sale of gasoline, he says, because of the present three per cent gasoline tax of the state and the one cent liquid fuel tax for the schools.

The taxation committee may attempt to vote the bill out today with a recommendation for passage.

NEW FURNITURE CO. IS TO OPEN HERE

The large storeroom at the corner of Wayne and Ash streets, home of the Groven Furniture company for many years will again be occupied by a general furniture store soon to be opened by a firm operating under the name of Elliot's Furniture.

Elliott Murstein of Cleveland and for fifteen years actively connected with the retail furniture business in that city is the proprietor of the new business here. Mr. Murstein, who is now engaged in the job of stocking the store preparatory to an early opening date announces that he will handle a general line of high grade furniture featuring a special juvenile department and in the main nationally advertised goods.

JOINT MEETING IS TO BE HELD FRIDAY

A joint meeting of the Y. M. C. A. Board of Directors, Board of Trustees, and sustaining fund collectors will be held at the Y. M. C. A. at 11:45 o'clock Friday noon.

This meeting has been called by Allen G. Rundle, president of the Y. M. C. A.

ODD FELLOWS TO HOLD BIG MEETING

Paul Hitchcock, N. G. and C. L. Metz, secretary of the Piqua Lodge No. 8 I.O.O.F. are urging all members of the local lodge to attend the district meeting of the I.O.O.F. at Sidney, Friday evening, April 27.

A feature of the one hour and a half program will be special motion pictures of the I.O.O.F. Home.

The meeting will start at 8 o'clock.

COMMITTEE MEETING

There will be a called meeting of the Membership committee of the Community Golf Club at the Y. M. C. A. Thursday evening at 8:00 o'clock. This will be an important session and all members are urged to be present.

A RAW FAKE

A picture recently appearing in some of the best-edited journals of the country, bore the caption: "A man flies on his own power for the first time in history; Erich Kocher, wearing a safety costume and blowing into a box to make two rotors revolve, soars from a runway into the air near Berlin. A tail skid attached to his waist steadies him while in the air, and skis on his feet act as landing gear."

Erich was seen in the photographic reproduction leaping into mid-air, holding a couple of things that looked like exaggerated fog-horns. Sure enough, he had a tail skid and skis and four people on the ground were seen running after him, all lit up with excitement. The startled reader was led to believe that at last man had overcome the law of gravitation and presently we might all be entering our homes via the skylight. The only trouble with the picture was that it first appeared in the April Fool edition of the Berliner Illustrated Tageblatt. By the old familiar composite process two photographs pasted together formed the astounding fake.

SPRING DANCE WILL BE GIVEN FRIDAY

Senior Friendship club, Hi-Y club, Junior Leaders and their friends will enjoy a spring dance Friday evening at the Y. M. C. A.

Music will be furnished by Strickers orchestra. Guests who expect to attend should buy their tickets soon from presidents of the three clubs.

This is the last dance of the year and a large attendance and a splendid time are expected.

SUPPER MEETING HELD ON MONDAY

The Federation of Adult clubs of the Y. W. C. A. held a supper meeting Monday evening. Enthusiastic appreciation was expressed by everyone for the unusually fine program. Mrs. R. E. Dixon sang two spring songs, "Faith in Springtime," by Franz Shubert and "Springtime, Maytime, Playtime," by Frank Wrigley. Mrs. Dixon was accompanied by Mrs. John Cron.

Miss Catherine French, who is an artist in describing her travels, made the group feel as if they had traveled Central Europe themselves as they listened to her travel talk, "Driving Through Central Europe." Miss French also showed her reels of moving pictures taken on the trip which added to the reality of the description.

A brief business meeting was held after the program with Miss Mary Becker, president, in charge.

LABOR SITUATION IN CLEVELAND IS SERIOUS TUESDAY

(Concluded from Page One)

shift failed to show up and only a few attempted to enter the plant. Only the crew of 12 engineers, firemen and oilers were given permits to enter to take care of pressure in the boilers, which, if lost, takes 48 hours to regain.

Paul Miley, president of United Automobile Workers Federal Union, claimed today that during picketing activities yesterday, 1,000 new members of the union were signed. This, according to Miley, gives the union 5,500 of the 8,400 men employed in the plant.

Minor disorders occurred in the picket lines yesterday, with a policeman and an elderly worker knocked down by pickets. One woman was partially disrobed in the fracas and was taken home in a police car. Strikers received stern warning from union leaders to refrain from violence.

Lincoln R. Scafe, general manager of the plant, has flown to Detroit to confer with heads of the corporation and to appear before the auto labor board. Henry J. Hart, Frank J. Dillon and William Collins, A. F. L. organizers, represented the strikers before the committee.

The Peary caribou thrives beyond 80 degrees north latitude, amid intense cold, arctic wolves, and where the nights are from three to five months long.

The Columbia River flows 1400 miles to reach the Pacific, at a point only 450 miles from where the river originates.

NEWS-BITS FROM OUR EXCHANGES

URBANA—Isaiah Smith, 88, native of Westville and resident of Urbana for a number of years, died at his home on East Church street Monday morning following an illness of a week from infirmities incident to advanced age.

BELLEFONTAINE—A. Mark, East Sandusky avenue, was recovering at his home Monday from slight injuries suffered early Sunday when the car he was driving skidded into a ditch near Wapakoneta.

URBANA—Mr. and Mrs. J. W. Barlow and their son and daughter-in-law, of near Rosewood, escaped injury Sunday morning a mile southeast of Mechanicsburg on State Route 29 when a heavy wheel rolled off a large International truck enroute to St. Paris and crashed into their machine.

URBANA—Wolford Pence, Jr., 18, of 610 North Russel street, signed a confession for Urbana police Monday afternoon in which he admitted stealing eight chickens from three Urbana residents a week ago.

ST. PARIS—Mrs. Mary E. Stroube, 78, resident of St. Paris for 50 years, died at her home there Sunday evening following an illness since Tuesday from pneumonia.

NORTH LEWISBURG—Miss Martha Marquis, 85, for many years a resident of North Lewisburg, died Sunday morning at the Champaign county home where she had been a resident for the past two years from infirmities incident to her advanced age.

WAPAKONETA—The story and a half dwelling house on the A. A. Kilpfel farm about three miles north of the city, burned to the ground Saturday afternoon. Sparks from the chimney from a large fireplace in the living room set fire to the roof and the building was on fire before the family was aware of it.

MINSTER—Miss Henrietta Reithman, 37, died Sunday in the home of her parents, Mr. and Mrs. Joe Reithman, Minster. She was a graduate nurse of St. Rita and received an injury during nursing which resulted in a cancer.

WAPAKONETA—Mrs. Sarah Baker, aged 64, died Monday morning at the home of her son and daughter-in-law, Mr. and Mrs. Vernon Baker, East Auglaize street, with whom she made her home. She had been ill for the past two weeks from heart trouble.

WAPAKONETA—Joseph A. Hengstler, Duchouquet township trustee, is recovering at his home northeast of Wapakoneta from effects of monoxide gas poisoning that nearly cost his life Sunday morning.

ST. MARYS — Urban Axe was elected president of the St. Marys high school alumni association for this year at the annual business meeting of the organization. Bud Engelman was named vice-president, Lawrence Heitermayer, secretary, and W. J. Kishler, treasurer.

GREENVILLE—E. J. Kelley, manager of the Greenville J. C. Penney company store, has returned to this city from Cincinnati where during the past week, he was in attendance at his firm's annual convention.

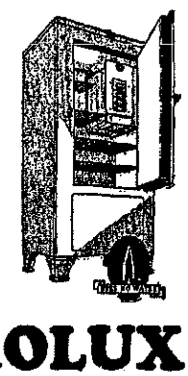
GREENVILLE—Twenty-four scholastic ciphereas, acclaimed as Darke county's 1934 champions, were awarded title honors at the close of annual contests at the Greenville high school building Saturday, April 21.

BELLEFONTAINE—Damage conservatively estimated at $6,000 resulted from a fire Saturday night in which the large comparatively new barn on the Washington township farm owned by Robert D. Patterson of Dayton, was burned down and a large number of valuable horses, mules, pigs and lambs, as well as machinery and grain belonging to Willis Godwin, farm manager, were destroyed by the flames.

BELLEFONTAINE—John Scanlin, who would have reached the age of 81 years had he lived until June, died Sunday morning in the family home at Kenton from infirmities of age and heart disease.

BELLEFONTAINE—Four Logan county men, all members of several Farmers' Union chapters in this county, left Sunday for Washington, D. C., upon receipt of a telegram from national headquarters of the organization requesting that a delegation be sent to the capital in an effort to secure passage of the Frazier-Lemke measure now before Congress.

Butterflies carry their tongues coiled like watch springs.



WEATHER Fair, warmer tonight and Thursday. Frost tonight.

THE EVENING INDEPENDENT

HOME EDITION

EXCLUSIVE ASSOCIATED PRESS AND CENTRAL PRESS DISPATCHES

VOL. LXVIII, NO. 32 — ESTABLISHED 1863 — MASSILLON, OHIO, WEDNESDAY, APRIL 25, 1934 — (TWELVE PAGES) — TWO CENTS

ARMY OF 5,000 HUNTS DILLINGER

Cleveland Is Facing Shortage In Gasoline

AUTOS STRANDED; STRIKE SPREADS

Mayor Harry L. Davis Takes Hand to End Walkout

TRUCE IS URGED

Traffic Slows Up As Motorists Are Unable To Buy Fuel

CLEVELAND, April 25. (AP) — Greater Cleveland's 250,000 motorists found themselves face to face with a gasoline famine today as various groups of the oil industry began battling among themselves in the wake of a strike by filling station attendants.

As one after another of Cuyahoga county's 1,300 to 1,600 stations ran dry and closed up, motorists swarmed to the remaining few like thirsty Arabs to oasis.

Many cars were being stranded in the chase against an empty tank, and authorities were beginning to make arrangements to see that emergency gasoline was supplied to police, firemen, doctors, ambulances, and air mail planes.

Traffic Slowing Up

Traffic began to slow up in downtown Cleveland around noon today. Those autos still chugging through the streets were presumably getting their fuel from the pumps of stations in the five counties surrounding Cuyahoga, where no strike has affected the supply.

Mayor Harry L. Davis has called upon both sides to meet with him with a view to ending the deadlock. The mayor leans to a 10-day truce pending negotiations.

The major companies' representatives were closeted in downtown hotels mapping their strategy today. The American Federation of Labor sent C. W. Duncan, business agent of the Gasoline Service Station and Warehouse Employes union to the city from St. Louis to advise the strikers.

Dr. W. M. Leiserson, chairman of the national petroleum policy board in Washington, was en route to the city for a personal investigation.

Taxi Strike Threatened

Meanwhile, Mayor Davis also met threats of a taxicab strike by declaring that if a strike is called, he will take every step to clear the streets of every cab. The Zone Cab Co. recognized a union newly affiliated with the American Federation of Labor, but the Yellow Cab Co. postponed action.

Liquor Fees To Net City $5,250

Massillon is to receive $5,250 as its share of the first distribution in liquor fees to be made by State Auditor Joseph T. Tracy.

Stark county's total is $42,250. Alliance will get $3,706 and Canton $23,475. City Auditor Joseph Frohman had not received Massillon's check at noon today.

CONTINUE FIGHT FOR LOWER RATES

Water Company Officials Agree to Furnish Earning Figures

All members of the city council, as a committee of the whole, Monday joined with the utilities committee of the legislative body in negotiations with representatives of the Ohio Water Service Co., for a new contract to supplant that which expired Jan. 31.

The council utilities committee has asked the water company for a general reduction in water rates, restoration of quarterly billings to consumers instead of monthly billings as at present and establishment of a maximum deposit for installation of meters.

The present rates to consumers as fixed in the expired contract are 31 cents per 100 cubic feet for the first 1,000 cubic feet and 23 cents per 100 cubic feet for the next 10,000

(Continued on Page Nine)

SEEKS FUNDS FOR SHIPS

Will Ask Congress for Appropriation to Increase Size of Navy

WASHINGTON, April 25. (AP)—President Roosevelt intends to ask authority in a forthcoming supplemental appropriation bill to start actual naval construction to bring the United States fleet up to treaty limits.

This would permit the president to begin the construction program any time he sees fit.

Legislation recently enacted authorized a building program to treaty limits.

The appropriation measure, totaling a little less than $1,000,000,000 will go forward to congress as soon as the revenue bill has been finally framed.

This is the general lump sum recovery appropriation outlined by the president in his budget message and $500,000,000 of it will be tagged for public works construction.

JAPAN SILENT ON CHINESE POLICY

No Answer to Assumption of Responsibility in Asia

WILL NOT INTERFERE

U. S. and England May Ask Tokyo to Clarify Statement

By The Associated Press

Japan in effect today told the world to draw its own conclusion regarding her restated policy toward China.

"Our statement has been made," said a foreign office spokesman, "let others read it as they will."

This was the answer to requests for further elucidation of the declaration in which Japan claimed responsibility for maintenance of the peace in eastern Asia, warning other powers not to threaten tranquility by activities in China.

Refuses To Comment

However, he did not reiterate that Japan has no intention of interfering with European and American powers in the Asiatic possessions. On the question of "Asia for Asiatics," as enunciated by the Japanese counsel general at Geneva, the spokesman refused to comment.

In Geneva, Masayuki Yokoyama, the counsul painted Japan in the costume of a social and welfare worker—not in the grim garb of the warrior.

Yokoyama outlined the picture in elaborating on his previous enunciation of Japan's policy of "Asia for Asiatics" and of opposition to foreign "meddlers in Chinese affairs."

The youthful envoy expressed regret that other powers should see Japan as planning the conquest of eastern Asia.

"We do not want to drive away foreign peoples from the Far East," he said.

Will Respect Treaties

"We intend to respect treaties. And remember, the Japanese influence in China is good not only for China but for the interests of foreign nations.

"Japan has no intention of obstructing the interests, the integrity and the independence of China. Japan has no intention of blocking the interests of other powers if they pursue useful and economic relations with China."

Yokoyama added firmly, however: "I am authorized also to say that Japan nevertheless can not accept and will oppose any form of assistance to China which is contrary to peace in eastern Asia."

Information Requested

Meanwhile in London the British government kept an attentive ear turned toward the Far East, as it cautiously refrained from commitments, awaiting results of its ambassador's conference with Japanese officials.

Sir Francis Lindley, the British envoy called at the Tokyo foreign of-

(Continued on Page Nine)

GROSS RECEIPTS TAX MEASURE IS DRAFTED

COLUMBUS, April 25. (AP)—Speeding its work on a tax program, the senate taxation committee placed a gross receipts tax measure before the senate today and prepared to consider companion measures to raise a total of $22,000,000.

The committee decisively eliminated the sales tax from its program by a seven to one vote yesterday but its recommendation of the one-half per cent gross receipts tax succeeded by the barest of margins.

It obtained only the six votes necessary to report it out, no vote being cast against it but some of the members did not vote. The tax as approved would exempt gasoline liquid fuel and soft drinks.

Revenue from the measure was estimated at $16,500,000. The companion bills, an increased utility excise tax producing $4,500,000 and a one-fourth per cent increase on deposits and stocks of financial institutions yielding $1,000,000, will be ready for the senate today.

Counsels said the entire program probably will be ready for the test on the floor Thursday.

The tax committee chairman declared the $22,500,000 yield from the present liquid fuel tax, cigaret tax and intangibles would be sufficient to provide for the public school system under a foundation plan.

The Great North American Continent

You need a copy of this fine map of North America in order to gain some idea of the true vastness of the great North American continent. You need a careful study of the facts and figures on the reverse side of the map in order to appreciate what a big and interesting part of the world it is.

Every American should have this map. For it gives a fine idea of just what North America is, and carries a liberal education in the up-to-date and fascinating data on its reverse side.

Avail yourself of this excellent and useful map obtainable through our Washington Information Bureau. The price is a mere cost and postage charge of ten cents. You'll be delighted with it.

USE THIS COUPON

The Evening Independent
Information Bureau,
Frederic J. Haskin, Director,
Washington, D. C.

I enclose herewith TEN CENTS in coin (carefully wrapped) for a copy of the MAP OF NORTH AMERICA.

Name ....

Street ....

City ....

State ....

(Mail to Washington, D. C.)

CANNON TRIAL NEARING JURY

Final Arguments Are Presented In Case Of Southern Methodist Churchman, Aid

WASHINGTON, April 25. (AP) — Arguments were begun in the trial of Bishop James Cannon, Jr., today with an assertion by John J. Wilson, the government prosecutor, that the Southern Methodist churchman had "an ingrown hatred of the corrupt practices act" he is charged with conspiring to violate.

The prosecution and defense attorneys were given four hours each to argue to the jury whether the bishop and Miss Ada L. Burroughs should be convicted or acquitted of conspiracy to violate the federal act by failing to report to the clerk of the house all the contributions received for the 1928 anti-Smith campaign.

Bishop Cannon was head and Miss Burroughs treasurer of a Virginia committee working against the presidential candidacy of Alfred E. Smith.

Charges That Mooresville Is Anti-Social Brings "Humiliation" To Home Town Of Hunted Desperado

(1) John W. Dillinger, father of John Dillinger, desperado; (2) the Rev. Gertrude Rehler, pastor of Friends church at Mooresville, Ind., to whom Dillinger was paroled in May, 1933; (3) Main street, Mooresville, Ind., Dillinger's home town; (4) Street Commissioner Reuben Aldrich, who represents "the law" in Mooresville; (5) Dillinger; (6) W. A. Lyon, president of the town board of Mooresville.

STATE LIQUOR IS CRITICIZED

Doctor Says "Domestic Rum" Does Not Comply With Medical Definition

COLUMBUS, April 25. (AP)—The complaint of a Marion physician that a brand of rum dispensed through Ohio's retail liquor stores does not comply with the medical definition and costs too much, was filed today, under business to be attended to by the special senate liquor investigating committee.

The complainant, Dr. Thomas H. Sutherland, stated he purchased a bottle of "domestic rum" in the Marion liquor store and found it labeled "a compound made with pure grain distillate."

"Rum," he wrote to Senator Carl D. Sheppard (R) of Summit county, chairman of the committee, "is a distillate from permented molasses, i. e., consists entirely of sugar alcohol."

"This fraud is of such a bold character that I believe your committee should, for the protection of Ohio citizens, obtain an injunction restraining the commission from committing this fraud. The correct designation is that of domestic synthetic rum."

Senator Sheppard said the complaint would be considered when the committee delves into the alleged mis-labeling of liquor.

DENY SANDERS TO QUIT POST

Report That National Republican Chairman Would Resign Declared False

WASHINGTON, April 25.—(AP)—Reports that Everett Sanders is preparing to step out as republican chairman because of ill health were denied today on his behalf by J. Bennett Gordon, research director for the national committee.

Persons in touch with republican affairs circulated the report of a resignation being imminent, and said Sanders had called committeemen to an early meeting, probably in Washington.

The chairman himself was out of reach, said to be recuperating at his nearby Maryland farm.

Indiana Community Sympathetic Towards Elder Dillinger But Believes That America's No. 1 Public Enemy Should Be Punished

By JACK CEJNAR
Central Press Correspondent

MOORESVILLE, Ind., April 25.—W. A. Lyon, 56-year-old Quaker head of this town which John Dillinger, America's bad man No. 1, claims as his home, shook his fist with all the fury his diminutive figure possessed.

"We are not anti-social here," he spat out. "Mooresville is a God-loving, law-abiding American town."

Thereupon Lyon, as president of the town board, the governing body of this Hoosier community of 1,057 population, summoned the board into special session. A resolution was drafted and adopted demanding a retraction and apology from State Safety Director Al Feeney.

It was Feeney who "insulted" the town, according to Lyon, by calling it "anti-social" and "pro-Dillinger" for failing to report to county and state authorities that the notorious desperado attended a family reunion at the home of his father, John W. Dillinger, just north of the corporate limits of Mooresville. Feeney's sharp criticism had been spurred also by the report that a petition was being circulated here asking Gov. Paul V. McNutt to extend am-

(Continued on Page Nine)

HITS FAILURE TO PASS TAX

Commission Expert Says Default In Ohio Bonds Possible If Revenue Fails

CINCINNATI, April 25. (AP)—Declaring that the "tax commission turned to the sales tax for immediate revenues to bridge an emergency gap," Carlton S. Dargusch, of the commission, told the Cincinnati Bar association that a default in Ohio bonds is possible unless the legislature finds sources of revenue and a method for allocating receipts.

Dargusch said "the legislature ought to go home right now" after asserting that if the problem isn't settled at the present session, the next General Assembly will come into session in the most crucial time in the state's history. He said "we are facing a definite breakdown of government. We have to find new taxes. We have to tax somebody."

He said the house is in a turmoil, and that the senate's program presupposes $22,000,000 in new monies for schools, with nothing for local governments.

Two Kidnaped In Bank Holdup

AKRON, April 25. (AP) — Two men who were driving an auto held up and robbed the suburban Magadore Savings bank and kidnaped two officials shortly after noon today. Police said the license number of the robbers' car is Illinois 181103, and began checking immediately to determine whether this was one of the suspected Dillinger gang cars which fled from a trap in northern Wisconsin Monday night.

First "Kick Day" At Liquor Office

COLUMBUS, April 25. (AP)—Today was "kick day" at the Ohio liquor control board offices.

The general public was invited to express opinions and criticisms of the operation of the state monopoly system.

It was the first of four "kick days" which the new Ohio liquor law says must be held each year. The hearing was called for 2 p. m.

REPORTS GAIN IN ADVERTISING

Encouraging Developments In National Advertising Field Are Noted

NEW YORK, April 25. (AP)—Encouraging developments in the newspaper national advertising field were noted today at the annual convention of the American Newspaper Publishers association.

Three symptoms of improved conditions in the "front office" of American newspapers were contained in the 31st annual report of the A. N. P. A. bureau of advertising, as submitted by Edwin S. Friendly of the New York Sun, chairman of the committee in charge of the bureau.

"The first quarter of 1934 continued the increase in national advertising volume that began last year, with an average gain of 21.5 per cent over the same three months of 1933," Friendly reported.

POLICE AUTO IN SMASHUP

Patrolmen Anthony Kromer And Charles Swerlieger Escape Injury In Crash

Patrolmen Anthony Kromer and Charles Swerlieger escaped injury but one of the city's new police cars was damaged, this morning, when struck at the intersection of Tremont ave. and 14th st., SW., by an auto driven by Arline Allen of R. D. 7, Dalton, who also was not hurt.

The right front fender and spring on the police car were damaged. The front end of the other machine was slightly damaged.

The officers informed Chief of Police Edward M. Ertle they were making a left turn from 14th st. into Tremont ave. They stopped momentarily at the intersection, they said, and then started to make the turn. The Dalton car was traveling east in Tremont ave.

Today's accident was the second involving two police cars purchased last year. The other machine, a four-door sedan, was damaged in an accident north of Strasburg in which Safety-Service Director Adrian P. Howald, and Patrolman Russell Johnson were seriously injured.

AMNESTY LAW BRINGS RIFT

Spanish Government, Headed By Premier Lerroux Resigns; See Settlement Soon

MADRID, April 25. (AP)—The government of Premier Alejandro Lerroux resigned today as a result of differences with President Niceto Alcala Zamora over Spain's new political amnesty law.

Despite the breach, well informed circles said the president probably would recall Lerroux and urge him to form another cabinet.

President Zamora, it was said, feels that it will be impossible under present conditions for any government except one similar to the resigned ministry to rule.

The Lerroux cabinet was formed only last month, on March 3.

The crisis was not expected to last long, although recurrent strikes and disorders in many parts of the nation brought a grave situation.

The political amnesty law, which went into effect today finally was signed by the president only after the cabinet had threatened to resign unless he did so.

CRACK FEDERAL AGENTS TAKE UP OUTLAW'S TRAIL

Department of Justice Confident Desperado Will Be Caught

NO NEW LEADS

Man Hunters Believe Gang Has Split Into Two Sections

BULLETIN

MERCER, Wis., April 25. (AP)—A petition asking the suspension of Melvin H. Purvis, chief of the bureau of investigation of the United States department of justice in this area, pending an investigation into the escape of the John Dillinger gang from a hideout near here Sunday night was being circulated today.

MERCER, Wis., April 25. (AP) — America's million dollar murderer, with a puny $25 price tag on his head—and the blood of 12 men across his bullet-blazed trail—mocked today an army of more than 5,000 officers who hunted him.

"We'll have John Dillinger before long," said the department of justice.

The earnestness of the government's determination was witnessed by both the great number and high calibre of agents they threw into the hunt.

No New Clues

But there was no word of the desperado despite the intensity of the hunt. Rumors flew but all simmered down to the fact that John Dillinger vanished Sunday night from the Little Bohemia resort near here and has been unreported since.

In a criminal career dating only from last June—not yet a year—this 31-year-old, small-town man from Indiana has cost an estimated $1,500,000 in law enforcement funds and another $400,000 in loot from banks he has robbed; yet the only reward offered today for his capture is the nominal $25 which the state of Indiana offers automatically for the arrest of parole violators.

All the Dillinger forays, the Dillinger depredations, and the Dillinger deaths have occurred during a period which, except for a parole, he would still have been in a prison cell. He was freed on his plea that he was not an habitual criminal, and that he was needed for the support of an aged father.

"I think John would make a good policeman, if they'd give him another chance," the father said, as the federal government, playing its ace, pushed the hunt for the son, dead or alive.

Even Europe, with the Atlantic ocean between it and America's public enemy No. 1, displayed sharp interest in the killer's case today. The Zwoelf Uhr Blatt, published in Berlin, hinted Nazi Germany might give America a lesson in how to deal with American desperadoes, and pointed to sterilization.

British newspapers, their urge for details unsatiated even by thousands of words of cabled "copy", telephoned St. Paul for further accounts of the hunt.

Reenforcements In Field

From the Attorney-general at Washington on down, the government pointed its full strength at this one man. Reenforcements went into the field today, among them W. A. Rorer, the officer who brought about the arrest of another public menace, George (Machine Gun) Kelly, kid-

(Continued on Page Nine)

Indians Aid Hunt, England Is Told

LONDON, April 25.—(AP)—Indians have taken the war-path against John Dillinger, readers of one London morning newspaper were told today.

"Even some Red Indians joined the hunt today with bows and arrows," read a paragraph in the newspaper's vivid account of the search for America's No. 1 public enemy.

The account was contained in a dispatch from the newspaper's New York correspondent.

Another paragraph told how an army of citizens was assisting police—an army "composed of lumberjacks armed with pickaxes and choppers, farmers with shotguns and laborers with pitchforks and crowbars."

GOOD EVENING

THE STAR JOURNAL

SUPREME IN ITS FIELD

FINAL

FOUNDED 1866—NUMBER 97 SANDUSKY, OHIO, TUESDAY, APRIL 24, 1934—12 PAGES

Entered at Post Office, Sandusky, O., as 2nd Class Mail Matter, Act of 1879

JAPANESE CABINET APPROVES ASIA POLICY

COMMITTEE VOTES DOWN SALES TAX

Senate Taxation Program Receives Setback; Senator Herner Opposed Measure; Other Bills Offered.

COLUMBUS, April 24—(UP)—The two per cent general sales tax, roughly handled and finally killed by the Ohio house of representatives, today met another setback when the senate taxation committee voted 7 to 1, to postpone indefinitely any further consideration of the measure.

The senate, taking up to struggle toward a revenue program after house failure, received the bill last night from Senator Will P. Hayes, D., Coshocton-co.

Senator Sheppard, R., Akron, moved to kill the bill, Senator Whittemore, R., Akron, argued for its defeat and Senator Roberts, R., Youngstown, seconded the Sheppard motion.

Others who voted against it were: Gunsett, D., Van Wert, chairman, author of a one-half of one per cent gross receipts tax bill; Herner, D., Norwalk; Donovan, D., Toledo, and Annat, D., Cleveland.

A further obstruction to successful culmination of the search for a tax program was thrown up today when the Cleveland Chamber of Commerce announced opposition to the gross receipts tax.

House members held skeleton sessions only, while the senators attacked the revenue issue, ready to vote on anything the senate might enact or to adjourn if the senate fails to formulate a successful program.

Sen. Haynes offered the bill to produce $33,000,000 of the $45,200,000 program he has advanced. Of this $17,000,000 would go to hard-pressed political subdivisions, the remainder to the schools.

Senator D. J. Gunsett, Van Wert democrat, also had a program before the senate, using a one-half of one per cent gross receipts tax as a center pole. Senator Gunsett is

(Turn to Page 12—No. 5)

THE WEATHER

Fair and continued cold tonight with light to heavy frost, Wednesday, fair with rising temperature.

MARRIAGE LICENSES

William Timba, 23, Wakeman, and Marian J. Minkler, 21, Berlin Heights; Rev. Wm. Smith.

BIRTHS

Mr. and Mrs. James Cunningham, 414 Neil-st, a daughter, Sunday, at home.

NEWS HIGHLIGHTS

Sandusky and Vicinity

Police car escorting officials to Barr plant are egged.

Officials of company seeking home for new factory, awaited here.

Handwriting expert interests big theater crowd.

Agreement on gas rates believed near.

City in war in dumping grounds.

General News

Britain sends note to Japan and U. S. may also.

John Dillinger and gang reported headed across Indiana.

Ohio senate committee votes down sales tax.

LATE NEWS FLASHES

BAGDAD, Iraq, April 24 (UP)—Four Arabs were convicted today of murdering Raymond Fisher of Cincinnati, and Rudolph May, a German travelling companion. They were sentenced to death.

COLUMBUS, April 24—(UP)—Reports that John Dillinger and three henchmen were sighted at 1 p. m., near Muncie, Ind., headed toward Ohio, were received today by the state highway patrol.

WASHINGTON, April 24 (UP)—The defense rested today in the trial of Bishop James Cannon, Jr., and his ex-secretary after more than two weeks of testimony designed to prove they were not guilty of conspiring to violate the corrupt practices act. Cannon was the final witness. He attempted to explain how the ledger of his 1928 anti-Smith campaign was preserved, while the cash book was lost. The Methodist Episcopal churchman said both books were sent to his headquarters at the Methodist Board of Temperance and Morals, but that "only the ledger seems to have been preserved."

WASHINGTON, April 24 (UP)—The house judiciary committee met today to perfect a series of crime bills which would give federal forces more power to capture such criminals as John Dillinger. Chairman Hatton Sumners said he hoped his committee would be able to report favorably the bills today. President Roosevelt has swung the power of the administration behind the drive.

$10,000 RANSOM FOR MISSING YOUTH

Fear that Donald Schoonover, 21, above, missing Findlay, O., livestock hauler had been kidnaped was increased when his abandoned automobile was found near his home. A crudely worded note on the seat demanding $10,000 ransom. The note stated that Schoonover, former well-known high school athlete, had $450 in his pockets, which would "make out the $10,000," and threatened death to the youth if the demand were not met.

ANOTHER RANSOM NOTE RECEIVED IN HANCOCK-CO CASE

Donald Schoonover Still Missing; Officials Doubted Kidnaping Report.

FINDLAY, April 24—(UP)—Coincident with announcement of Hancock-co authorities discrediting a kidnap theory in the disappearance of Donald Schoonover, 21, former athlete of Liberty-Ip High school, a ransom note was received at his home at 11:30 a. m. today.

The note was mailed in Perrysburg, O., some time before 3 p. m. Monday, according to the cancellation on the envelope.

Mrs. Effie Schoonover, grandmother of the missing youth, received the note, demanding $1,500. She called Sheriff Lyle Harvill, who at once got in touch with Perrysburg and Toledo authorities.

The aged woman wrung her hands and pleaded with Deputy Sheriff Taylor Bennington, who responded to the call, to make haste and save her grandson. She remained firm in her belief that Donald was kidnaped.

The gist of the note, which gave no directions for payment of the demanded ransom, said that "we got him" though he "attempted to escape". The note repeated a death threat. The envelope also contained a piece of cloth cut from the suit worn by Donald when he was last seen—Sunday night.

Donald wrote a few lines in ink under the ransom demand, telling his grandmother that he wrote as his abductors held a gun over his head. He urged his grandmother to borrow the money, assuring her that he would repay her as soon as he is released.

The note instructed Mrs. Schoonover to have the money in five, ten

(Turn to Page 12—No. 1.)

Insull To Be Taken To New York, Belief

ABOARD S. S. EXILONA AT SEA, April 24 (UP)—Samuel Insull busily wrote farewell letters to European friends today as the Exilona approached its last halt before a non-stop voyage to the United States.

Capt. Wenzel Habel, master of the "vagabond cruiser" returning Insull to the United States to face fraud charges, planned to sail tonight—and to make direct for New York unless he received orders to go to Boston, the ship's previously scheduled port.

Discussing his plans, the aged utilities magnate emphasized that his defense was entirely in the hands of his Chicago lawyers. He had not communicated with them, he said, since he embarked. He indicated he had neither sent nor received any but personal messages.

Cleveland Teachers' Union Recognized

CLEVELAND, April 24 (UP)—Teachers of Cleveland won a significant victory at a session of the school board yesterday when their newly formed union was recognized officially by the board.

Recognition was granted without an opposing vote on motion of Ray C. Miller, seconded by Thomas J. Martin.

President Alfred A. Benesch, who says he is opposed to the union on the ground it is undignified for teachers to join such an organization, cast no vote.

The teachers' union, known as Greater Cleveland Local No. 279, American Federation of Teachers, submitted a program for salary negotiations between the board and the union.

DILLINGER'S TRAILERS GO BACK TO JOB

Federal Agents Undaunted Gather Up Loose Ends After Defeat and Keep Him Moving.

MADISON, Wis., April 24—(UP)—Grim-faced department of justice agents reassembled their shattered lines today for a new drive against John Dillinger and his gang of the most ruthless machine gunners since the fall of the Chicago beer barons.

Agents who suffered two casualties in their ranks and saw three other persons hit by the gang's bullets had two accomplishments to their credit from a fiasco entrapment of the gang at the Little Bohemia lodge near Mercer, Wis., yesterday. The cost was one agent and bystander dead and another agent and two civilians wounded.

The federal men held three girls whom the gangsters deserted and had scattered the desperate group which they were unable to capture. The agents added the name of George "Baby Face" Nelson to the list of men wanted in connection with the gang's activities.

Nelson, they believed, was the tiny, blond machine gunner who felled Federal Agent W. Carter Baum, ace investigator from Washington and two other men when they appeared at the resort at which two of the gangsters were commandeering an automobile. Baum died from his wounds.

The man believed to be Nelson with another desperado was believed to

(Turn to Page 12—No. 4.)

SALEABLE GAS IS SCARCE AND AUTO SUPPLY RATIONED

Cleveland Situation Becomes More Acute As Station Attendants Remain On Strike.

CLEVELAND, April 24 (UP)—Motorists were going on gasoline rations here today, as a result of the strike of chain station attendants. Many independent dealers reported they were selling out faster than they could be supplied by tank trucks. This forced them to allow only one or two gallons to a customer to keep from spending several hours a day without any supply on hand, they said.

The shortage was the forerunner of greater curtailment of supplies through the walkout last night of 275 tank truck drivers who threw in their lot with the 3000 gas station attendants who have been on strike for a week.

Practically all the major oil company stations and all the leasehold stations were shut off from their supplies, though most of them had stocked up to capacity in the past few days. The 670 major company stations, however, will remain closed today, it was announced at headquarters of the companies.

Nearly 300 of the 600 independent stations, some supplied by the major company trucks, will be forced to close before the day is out, M. J. Chernoff, president of the Independent Oil Dealers' Association, said.

Several of the independent dealers said they would not accept gasoline if the major companies tried to run it through the picket lines of the truck drivers.

Union officers announced today that they were working out a schedule where motorists can get gas and will have a list ready for publication today. They said the independent oil companies that are 100 per cent organized will be permitted to haul gasoline.

HAMMELL INSISTS HE IS ANDERSON

CHICAGO, April 24 (UP)—A man identified as Allen R. Hammell, former Brinks Express company guard who walked away with $33,000, today amazed state prosecutors with his adamant insistence that he is "Burt Anderson of New York."

Hammel recently refused to recognize his wife and children when they appeared in the state's attorney's office and pleaded with him for recognition. Last night his unusual composure passed another test, that of the lie detector.

When the subject was brought to Chicago from Philadelphia recently he was identified by 10 express company employes as Hammel. While he fondled his two little girls, he told prosecutors with an unchanging face that he had never seen them before.

His wife believed that Hammel was suffering from amnesia and state's attorneys said his failure to recognize his family was feigned. Dr. John A. Larson of Rush Medical college applied the lie detector tests.

Hammel was questioned about incidents of the $33,000 disappearance, his family life and other Chicago connections. All of his answers denying acquaintance with the matters touched upon failed to show a "guilty" reaction in heart-beat as measured by the machine.

Hammel was arraigned yesterday in felony court on a larceny charge. Bond was set at $10,000.

WHERE DILLINGER ESCAPED AGAIN

Trapped again by federal agents, near the town of Manitowish, Wis., John Dillinger escaped from the Little Bohemia Lodge, shown above, while two men were killed and three others injured. One of those killed was a federal agent, and the others were caught in the fire when they emerged from the resort and started back to Mercer Wis., where they were connected with a conservation camp. Three women with the outlaw and his companions were captured.

UTILITIES LAWS OF OHIO WILL BE CHANGED, BELIEF

State Bar Association Has Recommendations Relative to Rate Making.

COLUMBUS, April 24—(UP)—The State Bar Association's advisory committee on public utility laws will meet here next Friday to resume discussion of possible changes in the state's utility laws.

The committee previously has met in Toledo, Cincinnati and Marion.

These suggestions have been submitted in the three meetings:

1. Enlarge authority of the Public Utilities Commission to foster governmental ownership.
2. Require quarterly reports from utilities instead of yearly reports.
3. Amend laws to provide that no item of operating expenses or payments to holding companies for managerial services shall be considered in determining rates.
4. Limit court review of commission orders by permitting reversals only for fraud or manifest mistake.
5. Abandon the valuation theory as a basis for rate making.
6. Authorize the commission to fix temporary rates pending appeals.
7. Hold rate meeting in localities involved.
8. Increase the appropriation and personnel of the commission.

The committee studying these proposals consists of Frank N. Scheul, Cleveland; Smith W. Bennett, Columbus; Murray Seasongood, Cincinnati; Professor Walter, Brown, Toledo; Joseph Thomas, Akron, Fred Warner, Marion and Howell Wright, Cleveland.

Darrow Not Retained To Defend Insulls

WASHINGTON, April 24—(UP)—Possibility that Clarence Darrow, one of the nation's foremost criminal lawyers, might be "drafted" to defend Samuel Insull when the latter finally reaches this country from his Grecian hideway, was disclosed today.

Darrow, fellow Chicagoan of the once-mighty mid-western utilities magnate, asserted that as yet he had not been approached to lend his services to Insull. Mere mention, however, that there were reports he would be asked to become chief counsel brought a gleam to his eyes.

"I have not been asked," Darrow remarked upon leaving the White House where he had called to discuss with President Roosevelt the work of the National Review Board of which he is a member.

"Would you accept the job of acting as Insull's counsel should you be invited to?" he was asked.

"That's like asking a man who likes pie whether he'd enjoy eating it," was Darrow's smiling reply.

Gas Blast Injured Six, One Seriously

IRONTON, April 24 (UP)—Six persons were injured seriously, one probably fatally, here today when a gas explosion wrecked the six-room cottage of Ben Lynd, farmer grocer, and shook the city for several blocks.

The injured are Mr. and Mrs. Lynd; their three children, Jack, James and Junior, and the maid, Pearl Depree. All were taken to the hospital here. Mrs. Lynd is believed to be dying.

The family moved into the house yesterday and it is thought that an open connection might have been responsible for the blast. City and utility company officials were investigating.

LIMA (UP)—A campaign to collect $298,000 in taxes through foreclosures on 400 Allen-co properties was started here today when County Auditor C. A. Rusler presented a list of 29 properties on which no payments have been made for three years.

Car Is Egged As Police Escort Plant Officials Through Strikers' Lines

Pickets and sympathizers at the Barr Rubber Products Company strike adopted a new weapon Tuesday when they bombarded a Sandusky police department automobile with a fusillade of eggs as the automobile escorted office workers into the idle factory.

This newest development saw the strike advancing into the third week with settlement remaining only a dim hope. There were no conferences scheduled, no moves under way for any, and no indication from either side that a parley was desired.

And in the meantime, one of Sandusky's police cars was being washed and cleaned after it had literally limped into port bespattered with eggs — some good, some bad — from stem to stern.

The pickets laid down the barrage of eggs shortly before 8 o'clock Tuesday morning when Patrolman Thomas Ryan went through the lines for the first time with six members of the plant's office force who had asked police to take them safely to the offices.

Officer Ryan, all unsuspecting the dirty work afoot, had driven part way through the lines when the "fire" order was given. Several dozen eggs caught the car, smearing it from headlight to rear bumper. Ryan continued through to the plant and started back to his central point to pick up four more office workers.

As he returned to the lines the second time, the barrage was resumed with equal force. By that time, the police car had taken on a zebra-like appearance, with streams of yolk coursing down the sides of the dark paint.

Officer Ryan's feelings were hurt, but he was otherwise uninjured. He returned the car to the police garage where it received a thorough bath and rub-down.

Chief of Police, Weingates, after the incident, said the pickets would "soon get tired of throwing eggs."

"We're going to handle them with kid gloves just as long as it's humanly possible," he said. "We don't want any violence if we can help it and I can't see as throwing eggs hurts us much."

At a previous city commission meeting the chief had said he could

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Secret Police Take Trotzky In Charge

PARIS, April 24 (UP)—Leon Trotzky, removed under the surveillance of secret police, is awaiting at a new hiding place, a visa to go to Turkey, the United Press was told today on high authority.

It was said that the exiled Russian leader, facing expulsion from France, was removed last week from the villa at Barbizon where for six months he had been conducting violent revolutionary propaganda.

The informant said that the government was anxious that Trotzky leave the country before May day, the communist labor day when grave disorders are feared here from left wing elements.

Stanton Demonstrates His Knowledge of Graphology

Last night, on the stage of the State Theater, Lawrence Stanton, famous graphologist, gave a performance which is said to be the only one of its kind in the country. Replete with humor, rare philosophy and human interest, it gripped and held the attention of the audience throughout the entire 20 minutes of its running time.

Stanton, whose fame as a graphologist needs no introduction, has appeared on the radio, stage, club and lecture platform throughout the country. His appearance at the State Theater for four evenings this week is under the sponsorship of the Sandusky Newspapers in which his brand new newspaper feature, the Graph-O-Log will make its bow with a first installment in the Star-Journal on April 28th.

Mr. Stanton demonstrated last night, to the absorbed interest of his audience, how a knowledge of handwriting analysis can be made to play a vital part in every person's life. Taking up several specimens of handwritings of his audience, Stanton, in ringing tones and forceful language, painted graphic pictures of the writers and told them their good qualities and shortcomings. Each one of these writers had submitted a personal problem to him pertaining to love, marriage, business and personal conduct. Mr. Stanton endeavored to give them, through the medium of a character analysis, the key to the solution of their individual problems.

Those of the audience who wondered in advance of his appearance how the subject of graphology could be presented in any form other than that of a lecture, were convinced within a few moments after Mr. Stanton's entrance upon the stage that here was more than a "talk"—that the performance's elements of surprise, humor and showmanship

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Don't Be Frightened By Rivals' Boasts Is Advice Given To Campaign Workers

By ARTHUR C. PRINE

In all campaigns there will be some candidates who think it possible to win more easily by trying to scare out their competitors. This campaign is no exception, as stories have been reaching this office of boasts having been made of some fabulous number of votes being earned. The reports on which these tremendous ballots would have to be based have not reached this office.

Of course it would take just one thought to realize that these are attempts to discourage others. If a candidate were to get a large number of votes ahead he would keep quiet about it and spring these ballots at the finish. To tell of the total would in many cases simply induce competitors to put on steam to catch up. All the entries have a considerable amount of work already done; every one will persist to the finish; and nearly all of them have refrained from using any such tactics as outlined above. Let's have this one mention of the cases be enough to make every one understand them.

Some question has also existed about the method of closing the campaign and conducting the final count. It may as well be understood that a complete statement of these methods will be printed well in advance of the event, and that the fairness of the plan used will be above question. It has been pronounced as proof against partiality and against "slips" by many publishers, and it leaves candidates with nothing to be worried about on this score.

In the meantime—until the close

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DIPLOMATIC CRISIS NEAR AS BRITAIN SENDS NOTE DEMANDING EXPLANATION

Declarations of Spokesmen for Tokio at Geneva of 'Hands Off' for All Nations in All Asia Apparently Backed Up at Home—'Eastern' as Well as 'Western' Asia Included in Statement.

LONDON, April 24 (UP)—Threat of a diplomatic crisis rivaling that of the Manchurian incident in 1932 was seen in European capitals today as the result of a world wide drum-fire of Japanese "Hands Off" declarations concerning Asia.

While the Japanese foreign office imperturbably awaited arrival of a note from Great Britain, its former ally, requesting explanation of Japan's declarations, the Nipponese consul general at Geneva issued a prepared statement which intimated that Japan's real interests stopped not at China and Manchukuo but embraced nearly one-third of the earth's land surface.

It was understood that the cabinet would consider tomorrow what was called already the Far Eastern crisis, and that the government was only awaiting Japan's reply before considering the advisability of consulting the United States.

It was believed that the method adopted in communicating with Japan was a verbal message through the ambassador at Tokio, and a memorandum to be presented by him.

An important phase of the situation was that Great Britain took independent action to seek information from Japan, without consulting the United States or other nations.

When in 1931 American Secretary of State Henry L. Stimson took the lead in questioning Japan's separation of Manchuria from China to be made into the independent state of Manchukuo Great Britain held back.

Now it is intimated that Britain hopes for American cooperation inasmuch as her own interests are gravely affected.

Before the note was sent there had been declarations or explanations of declarations by Japanese officials in Tokio, in China, in Washington.

A few hours after, its dispatch Nasayuki Yokoyama, Japanese consul general at Geneva, — league headquarters—issued a formal statement

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TOKIO, April 24 (UP)—The Japanese cabinet today reportedly approved issuance of a statement regarding "Hands Off China" declarations which have caused uneasiness and suspicion concerning Japan's motives in Asia.

Proceedings of the session were not made public, but it was learned that the cabinet ministers offered no criticism of the declarations of policy made through a spokesman for the foreign office.

All pronouncements of the policy which virtually rocked the world have come from the comparatively anonymous "spokesman" for the foreign office or from diplomatic representatives

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PRESIDENT HOPES CONGRESS TO END SESSION MAY 15

Speaker Rainey So Informs Members After Conference At White House With Roosevelt.

WASHINGTON, April 24 (UP)—President Roosevelt hopes that congress will be able to wind up the session in three weeks, Speaker of the House Henry T. Rainey said after a White House conference today.

Rainey said he and Majority Leader Joseph W. Byrns told the president that they were working for adjournment by May 15.

"We hope to get through then, and he hopes so too," said Rainey, adding the president was "pleased" with the action of the house in shelving the McLeod $3,000,000,000 "inflation" bank deposit payoff bill yesterday.

Rainey indicated he and Byrns put before the president published reports that the administration was dissatisfied with the house leadership and might name the two leaders to appointive positions after the session.

"He refused to give us jobs," said Rainey, "he notified me he was not going to give me a job, or Joe Byrns. He wants us to stay right where we are."

Employes Take Over Laundry At Bucyrus

BUCYRUS, April 24 (UP)—Operators of a laundry here announced today they had turned over their plant to employes for management for one year and that they will withdraw from their managerial capacities with the exception of being lease holders.

The announcement came from O. W. Kennedy and George Rieff, operators of the Up-to-Date laundry.

"This step is taken because we cannot operate under government meddling," Kennedy said. "When the government thinks it can run your business better than you can yourself, it is time to step out."

The 24 employes elected their own officers to assume control of the laundry.

Cheney Chemical Co. At Elyria Is Burned

ELYRIA, April 24 (UP)—The main building of the Cheney Chemical Co. plant here was in ruins today following a fire which [illegible] more than two hours' work [illegible] the Elyria fire department [illegible] trol.

Six workmen and a [illegible] were driven from the bu[illegible] which highly inflammabl[illegible] sions products are man[illegible] Fire Chief W. H. Bates w[illegible] to establish cause of the b[illegible] estimate damage.

LABOR BOARD FOR AUTO INDUSTRY IS CALLED IN STRIKE

Over 8,400 Men and Women Are Idle at Cleveland Fisher Body Plant.

CLEVELAND, April 24—(UP)—Strike of Fisher Body Corporation workers has spread to include more than 8,400 men and women today, bringing a virtual halt to operations in the plant of Cleveland's largest employer of industrial labor.

While harrassed negotiators strove for a settlement before the automobile labor board in Detroit, heavy picketing—good natured but unyielding—continued at the big plant here.

The walkout became virtually complete when most of the night shift failed to show up and only a few attempted to enter the plant. Only the crew of 13 engineers, firemen and oilers were given permits to enter to take care of steam in the boilers, which, if lost, takes 48 hours to regain.

Paul Miley, president of United Automobile Workers Federal Union, claimed today that during picketing activities yesterday, 1,000 new members of the union were signed up, according to Miley, giving the union 5,500 of the 8,400 men employed in the plant.

Minor disorders occurred in the picket lines yesterday, with a policeman and an elderly worker knocked down by pickets. One woman was partially disrobed in the fracas and was taken home in a police car. Strikers received stern warnings from union leaders to refrain from violence.

Lincoln R. Scafe, general manager of the plant, has flown to Detroit to confer with heads of the corporation and to appear before the Auto Labor Board. Henry J. "Hart" Frank J. Dillon and William Collins, A. F. of L. organizers, represented the strikers before this committee.

No Progress Made.

TOLEDO, April 24 (UP)—Employes and employers today had conferred with the National Automobile Labor Board in Detroit in an effort

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ERIE-CO RELIEF IS GRANTED BY STATE

COLUMBUS, April 24 (UP)—The Ohio Relief Commission, today announced supplemental grants and gasoline tax diversions for the state. County grants and transfers included:

Erie-co—$2,031 for March; $2,[illegible] April; $4,218 transferred from works division to direct relief for April; city of Sandusky, $4,000 for hospital and $1,500 for materials.

Sandusky-co—$3,756 transfer from works division to direct relief for April; authority to spend $1,931 of gasoline tax funds for February relief and $553 from the gasoline tax in April.

Jessels Plan Short Florida Honeymoon

ATLANTIC CITY, N. J., April 24 (UP)—George and Norma Talmadge Jessel were expected to leave today for a brief honeymoon in Florida before returning to New York.

The former star of silent films and the comedian were wed in a four-minute ceremony in a suite at Hotel Ambassador yesterday. Mayor Harry Bacharach tied the knot and nine friends were present.

Norma telephoned the news to [illegible]

PLANT OFFICIALS HAVEN'T ARRIVED

Sites Available to New Industry, Accordingly Not Inspected.

Up to three o'clock Tuesday afternoon, expected officials of the midwestern city company that is to move its plant to Sandusky shortly under an agreement entered into with a Chamber of Commerce committee headed by Major C. B. Wilcox, Chamber President, had not arrived.

Insofar as could be learned however, arrival at almost any moment was believed likely.

"They are driving," Maj. Wilcox said.

The officials are coming to Sandusky to view the former Erie Tire and Libbey Glass buildings, the former at the foot of First-st and the latter near the intersection of the New York Central and Baltimore & Ohio railroads, between Columbus-av and Hancock-st, with a view to occupancy.

Comedy and Drama In Kidnaping Case

LOS ANGELES, April 24—(UP)—A sequel to stories of the bath, co-starring Marjorie Crawford Wellman and Danny Dowling, will be written in superior court when the dancer is brought to trial on kidnaping charges.

Drama, melodrama and comedy intermingled when Dowling was bound over for trial at the end of a tempestuous hearing, marked (1) by his story he once gave the actress a bath, (2) by her collapse, and (3) by the judge's outspoken anger at the defendant "besmirching" Mrs. Wellman's character. All grew out of her charge that Dowling used force to take her to Yuma, Ariz., last month on an intended honeymoon that failed.

On the witness stand, Dowling portrayed himself as a devoted lover. He said the divorced wife of William Wellman, film director, accompanied him willingly, in fact suggested the trip as an elopement after they had quarreled.

Fremont Golf Club In Toledo District

FREMONT, April 24—(Special)—The Fremont golf club has been assigned to the Northeast division of the Toledo District Golf Association for the coming year. There are 18 clubs in the district, which is divided into three divisions.

A number of inter-city matches for the Germain trophy are being planned. Play will start in May and last through August when a district tournament will be held.

SEEK HOLC AID

TOLEDO, April 24 (UP)—Petitions asking President Roosevelt, the Home Owners Loan Corporation and the Metropolitan Insurance Company to co-operate in the saving of homes mortgaged to the insurance firm were signed by more than 100 Toledo homeowners at a meeting Monday night.

The meeting was called by Roy Shuck, executive head of United Civitan Clubs to protest alleged failure of the Midland Mortgage Co. to cooperate with the HOLC in refinancing Metropolitan mortgages. Midland is the Toledo agent for Metropolitan.

ENGINEER IS KILLED

ALLENTOWN, Pa., April 24—(UP)—An engineer of a freight locomotive was killed and the fireman injured today when a train left the rails and crashed into 21 empty gondolas at Bowmanstown, near here.

Charles Remaley, 40, Lehighton, was crushed beneath the engine. The fireman, Frank Brown, also of Lehighton, was thrown clear of the wreckage, but was scalded about the legs.

SPONSOR PLAY GROUNDS

FREMONT, April 24—(Special)—The Parent-Teachers Association council will sponsor the playground movement in Fremont again this summer. It is estimated that $150 will be needed for the project. The council has donated $40, and the balance will be raised through popular subscription.

PLAN GRANGE SOCIAL

MILAN, April 24 (Special)—Games and refreshments will feature a Milan Grange social in the Grange hall Saturday evening, April 28.

The affair is being arranged especially for new members of the Grange.

FREMONT, April 24—(Special)—John Moneghan, restaurant chef, narrowly escaped serious injury when his auto was stopped by heavy timbers after crashing a guard fence at the 24 foot Liberty-st sewer project. Moneghan was cut about the head and face.

NEW TIEUP THREATENS AUTO INDUSTRY AS 5000 STRIKE IN CLEVELAND PLANT

Strike of 5000 men at Fisher Body plant at Cleveland threatens the peace of the auto industry, precariously balanced since temporary peace was made at Detroit. Strikers are seen above milling about the Cleveland plant shortly after the walkout. United Auto Workers' Federal Union (A. F. of L.) is seeking recognition.

PLAN TOURNEY AT DUPLICATE BRIDGE

Mixed Pair Championship Will Be Decided in Four Friday Nights' Play.

Sandusky's first city-wide, mixed-pair tournament at duplicate contract bridge, will be held at the Sunnyendeand club, under the sponsorship of that organization beginning on Friday evening of this week.

The tournament will be continued on the three succeeding Friday nights—May 4, May 11 and May 18.

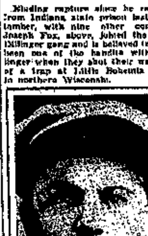
The Howell system of play and the match point method of scoring will be used, as in the national tournaments. Total match points for the four sessions will determine winners.

High pair will receive medals emblematic of the 1934-City-Pair-Championship. Ranking ribbons will be given all other pairs in the order in which they finish. It will be a real city championship, open to all bridge players of Sandusky and vicinity. A minimum charge will be made per person for each of the four sessions.

All pairs must be on hand ready to play at 7:45 p. m. Semi-formal dress will be optional. Inquiries and reservations may be made with John O. Lillie, secretary of the club and director of the tournament at 407 Wayne-st or telephone Main 770.

ELUDES DILLINGER GANG PURSUERS

Eluding capture since he escaped from Indiana state prison last September, with nine other convicts, Joseph Fox, above, joined the John Dillinger gang and is believed to have been one of the bandits with Dillinger when they shot their way out of a trap at Little Bohemia lodge in northern Wisconsin.



George "Baby Face" Nelson, above, Chicago gunman, is named as one of the Dillinger gang that escaped.

TOLEDOANS HELD AT PORT CLINTON

Trio Bound to Grand Jury for Alleged Restaurant Theft.

PORT CLINTON, April 24—Frank Butler, 21; Melvin Casey, 27 and Clark Decker, 22, of Toledo who were arrested in Toledo early Sunday morning, were brought here and taken before Justice Robert W. Fall, and bound over to the Ottawa-co grand jury.

The Toledoans pleaded not guilty to the charges of threatening Mrs. Leona Dunden, proprietor of the Green Mills Restaurant and her brother Howard Miller, in a menacing manner. The three men were said to have entered the restaurant, here, after midnight Saturday with their hands in their pockets as if they had guns and ordered Mrs. Dunden and her brother into a booth, while they carried out two slot machines and the stands.

Customers who were said to have come into the restaurant at the time, were also ordered into the booth. The men were said to have had the machines in the automobile which they were driving when arrested.

They were also charged with stealing the stands of the machines. They were each placed under $500 bond, which they failed to give and were committed to the county jail.

BUY MACHINE GUN FOR SHERIFF DEPT.

FREMONT, April 24—(Special)—Sandusky-co commissioners today purchased for the sheriff's department one machine gun, $236; two gas "billys," $22.50 each, and a quantity of amunition. The new equipment will arrive here Saturday.

The commission also spent $616 for a new washer, to be installed in the laundry at the Sandusky-co home.

Fremont Debaters In National Meet

FREMONT, April 24—(Special)—The Ross High school debating team, runner-up to Marietta High school in the state tournament of the national Forensic league at Kent a week ago, will enter the national tournament at Topeka, Kansas May 7 to 10.

Four members of the team will make the trip with the coach. Expenses will be defrayed by popular subscription.

GAS RATE AGREEMENT IS SAID TO BE LIKELY

Some agreement, either as to rate or procedure in the case, may be reached in Sandusky's gas rate schedule dispute, members of the commission's rate committee indicated Tuesday, after a Monday night meeting.

Another meeting will be held this week and it is believed some decision will come from it.

Commissioner Miller, acting chairman of the committee, said he was hopeful of an agreement.

GILL-JOHNSON NUPTIALS

PORT CLINTON, April 24—Ralph Johnson and Miss Winifred Gill were married at the Methodist Episcopal church, here, yesterday morning. The bride is the daughter of Mrs. Edith Gill, here, and the bridegroom is the son of Mr. and Mrs. Arthur Johnson, here. They will live at Lakeside, after a short honeymoon in the east.

SANDUSKY, OTTAWA-CO MEN GIVEN PAROLES

COLUMBUS, April 24 (UP)—Paroles were granted by the Ohio parole board to 184 inmates of the Ohio State Reformatory.

A total of 188 cases were heard and 32 cases continued, two conditional releases being granted.

Paroles by counties included:

Sandusky—James Grant, robbery, July 1.

Ottawa—Raymond Bennett, stealing motor vehicle, parole on or after June 15 to go to Massachusetts.

CHARLES MILLER DIES IN FREMONT

FREMONT, April 24—(Special)—Charles T. Miller, 73, died unexpectedly yesterday in the home of a son, Ray C. Miller. His wife died three weeks ago.

Funeral services will be conducted in the Zagen chapel Thursday. Surviving are three sons and two daughters. Miller was a retired cutlery worker.

LICENSED TO WED

FREMONT, April 24—(Special)—Marriage licenses were issued here today to Charles E. Phillips, 25, and Ethel B. Hollingsworth, 21, both of Green Springs; William H. Pitt, 28, Toledo and Ann Davis, 24, Fremont.

Here in Rotation Are Stories Continued From Page One

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—the wise candidate will forget all such unnecessary thoughts and will concentrate on the job of not missing ANY available subscriptions. There is certainly a premium on NEW subscribers these weeks, and every one who keeps this in mind and goes after them relentlessly is going to be mighty glad about having done so.

At this late stage of the race, no one candidate can feel sure of anything except that the opportunity is still excellent to put on a winning spurt. The remaining time is so short as to really concern those candidates who are intent upon getting in every possible piece of business. Too much confidence in good reports already turned in may easily be fatal to chances of being ahead at the finish. Remember that extra votes will be the deciding factors at the finish. The current vote offer is reprinted here in order to give emphasis again. It is important to the chances of every earnest worker who wants to win.

Here is the offer:

On New Subscriptions
($7.50 or More, Each)

First 6 .... Double the scale
All over 6 .... Triple the scale
If club of 12 is obtained .. All Triple

On Old Subscriptions

$ 20	45,000 EXTRA
30	75,000 EXTRA
40	105,000 EXTRA
60	180,000 EXTRA
80	265,000 EXTRA
100	335,000 EXTRA

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ship stamped it as a real theatrical act, chock full of entertainment and amusement.

Mr. Stanton's reference on the stage to the forthcoming Star-Journal feature, the Graph-O-Log, was greeted with great interest. The Graph-O-Log is a simple method of reading your own or anyone else's character through handwriting. [illegible]

The larger difficulty thrust before the Detroit board by the Fisher Body strike at Cleveland was blamed to have obstructed momentarily, at least consideration of the Toledo situation.

The Electric Auto-Lite, Bingham Stamping and Logan Gear companies were victims of the walkout.

The manufacturers, who met with the Labor Board twice Monday, said only that they "did not expect to return" before the Detroit group.

Dr. Leo Wolman, chairman of the mediation board, said:

"It still remains to be seen whether the Auto Labor Board can be of any great service in this situation."

The Toledo union delegation, after meeting with the board, stated:

"The board is going to find out whether the employers will meet us jointly. We are asking that the board intercede for us. We are ready to meet with the manufacturers at any time."

One Striker Hurt

ST. LOUIS, April 24 (UP)—One striker was in a critical condition in the City hospital today, the first victim of violence in the strike of workers at the Chevrolet Motor company and the Fisher Body company here.

He was Leo Stanford, who was stabbed in the left lung when he and two companions attempted to stop several men from entering the Chevrolet plant.

Eight men were arrested yesterday when they threw stones at trucks carrying workers out of the two plants through the picket lines.

Today there appeared to be no progress in the settlement of the dispute between the 5,000 striking employes and the two companies.

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chairman of the taxation committee.

The gross receipts tax is estimated to raise $13,000,000 and the Gunsett program seeks to produce a total of approximately $46,400,000 for schools [illegible]

chases for that tax will be passed on.

The bill does not do away with the pyramiding of the tax, the manufacturer, the wholesaler and retailer each paying a tax on the same article.

Sen. Harper Ansel (D), Cleveland, succeeded in amending the bill in committee last night to exempt [illegible]

[illegible]

to the Japanese government, or of instructions to American Ambassador Joseph C. Grew in Tokyo to make such a reminder.

Shortly after news that the British government had transmitted a note to Japan, Undersecretary of State William Phillips conferred with President Roosevelt. Upon his return to the state department he called in officials of the Far Eastern division of the state department. All indications pointed to the preparation of a note to Japan or instructions to Grew.

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[illegible]

colored sedan, with Wisconsin license B 611-201.

Chicago police reported that it had been seen near Fort Wayne.

The broadcast was picked up by 11 other stations, affiliated with WPCQ, and re-broadcast.

MACHINE GUNNERS SENT

PHILADELPHIA, April 24 (UP)—The most expert machine gunners from this district have been hurriedly dispatched west to aid in the hunt for John Dillinger, R. George Harvey, chief of the local division of investigation announced today.

"They took my best gunners," he said. "The men chosen have been practicing for years with machine guns, rifles and revolvers. I hope they have the luck to catch the desperado."

Harvey said that the federal government knows "the identity of every person acquainted with Dillinger, and knows every possible hideout from Sault St. Marie to New Orleans."

"They'll have him in a short time," he predicted. "I only hope it happens before anybody else is killed."

CONGRESS TODAY
By UNITED PRESS

Senate

Continues air mail debate.

Education and labor committee debates bill providing for additional public works funds.

Interstate commerce committee continues hearings on railway pension bill.

House

Considers naturalization bills.

Banking and currency committee considers bank deposit bill.

Rules committee considers air mail bill.

Interstate commerce committee considers stock exchange bill.

Judiciary committee takes up crime bills and possibly the Lemke bankruptcy bill.

Ohio Briefs

LIMA (UP)—A fourth dividend of five per cent, amounting to $92,252, will be distributed among 3000 depositors of the old National-City bank here within the next three weeks. Charles H. Ellis, receiver for the bank, which closed April 28, 1931, said today the checks were in Washington for official signature and would be returned about May 15. Three dividends totaling 37½ per cent. and $101,570 already have been paid.

GRANVILLE (UP)—Neil Bacon, Mansfield, hurdler and sprinter on the Denison university track team, will be unable to run for at least two weeks, physicians announced today. Bacon sprained his ankle last Friday in a workout.

WESTERVILLE (UP)—Miss Elsie Bennert, Vandalia, today was chosen the most beautiful co-ed in the junior class of Otterbein college. She will be crowned May queen on May 1 by Ruth Gibson, last year's queen. Miss Bennert is a member of Theta Nu Sorority.

COLUMBUS (UP)—Daniel McAllister, suspended city detective, was sentenced Monday by Judge D. F. Reynolds to from one to 20 years in Ohio penitentiary. McAllister was convicted of manslaughter in connection with the fatal shooting of Harry H. Adams, 23, on Feb. 11. A plea for a new trial was denied.

AKRON (UP)—Eugene Chaney, 13, was killed late Monday when he fell from his bicycle and slid under the rear wheel of a truck here.

NEW PHILADELPHIA (UP)—The 16 judge court of the Muskingum watershed conservancy district will meet here Saturday to approve appointment of three appraisers who will take up land for the $24,319,-000 project.

CINCINNATI (UP)—John F. Gleis, 82, retired furniture manufacturer, died at his home here.