

Exclusive Taxation  
of  
Real Estate,  
and the

*Franchises of a Few Specified Moneyed  
Corporations and Gas Companies.*

Remarks  
of  
**Isaac Sherman**  
before the Assembly Committee on Ways and Means  
of the  
STATE OF NEW YORK,  
October, 1874.

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## TAXATION

"No tax can ever reduce, for any considerable time, the rate of profit in any particular trade\* which must always keep its level with other trades in the neighborhood."

"In order that the greater part of the members of any society should contribute to the public revenue, in proportion to their respective expense, it does not seem necessary that every single article of that expense should be taxed."—Adam Smith.

"A tax upon land seems hard to the land-holder, because it is so much money going visibly out of his pocket; and, therefore, as an ease to himself, the land-holder is always forward to lay it upon commodities. But, if he will thoroughly consider it, and examine the effects, he will find he buys this seeming ease at a very dear rate."— John Locke.

Mr. Sherman said he recommended an annual State tax of two per cent, on the par value of the shares, and on all the surplus, less ten per cent, of National banks in this State, and the same amount of tax on State banks, trust companies, and insurance companies organized under the laws of this State; and also a tax of three per cent, on the gross premiums of foreign insurance companies, as an equivalent for the tax proposed upon their domestic competitors. These taxes would yield annually not less than \$4,000,000 to the State treasury. He also recommended a tax, for the benefit of the treasury, of cities and villages, on all gas companies, to the amount of three per cent, on the value of all gas sold. With these exceptions he favored an exclusively real estate tax for local and State purposes. This plan is an embodiment of the principles of taxation enunciated by George H. Andrews, in his recent address before the Committee on Ways and Means of the Assembly.

### **Equality under the Proposed System.**

All lands in this State being equally taxed, all the products of lands, and all things manufactured, held, sold, stored, or consumed on lands, will bear an equal pressure of taxation according to the value of the lands occupied. The products of other States could have no advantage in our markets; for these products must be taxed in other States as personal property, or through the medium of real estate. It is

proposed to tax uniformly all the corporate rights of all corporations having an office and doing the business of receiving deposits, except savings banks, which are or may be limited in the amount of deposit from one person, and which do a non-competing and different business, paying depositors solely on presentation of pass-books. The present restraining laws prohibit foreign corporations and domestic corporations, other than the moneyed corporations proposed to be taxed, from doing a regular business of receiving deposits. Individuals cannot be considered equal and immediate competitors with banks of issue and deposit, or with insurance companies. The capital and funds of a bank or insurance company are trust funds, and must be retained to meet the obligations of the corporation, and cannot legally be appropriated for individual speculations, or any other than the trust purpose; banks and insurance companies are required to make public reports, which inspire confidence, and the tax, if not so excessive as to be more than the value of the special corporate advantages, will work no injury or discouragement to banking and insurance. Many other corporations, from the nature of their business, and especially manufacturing corporations, have no important advantages over private individuals. A newspaper published by a corporation has no material advantage over a journal published by individuals, and to tax the one on its value and exempt the other would be an odious discrimination. It is possible, however, that some other corporations than those enumerated might be taxed without invading the rule of uniformity among direct competitors. Taxed gas companies can have no favored competitors, except by some new invention or new and more abundant discoveries of petroleum or of other cheap illuminating material. The removal of personal valuations under the proposed changes will be less than \$200,000,000, or less than nine per cent, of the present valuations in the entire State; and at the present rate of annual diminution of personal assessment the change in a few years will produce more valuations on the few moneyed corporations fully and uniformly assessed than will be derived from the entire personal assessment under the present fading and receding personal assessment. Foreign and domestic insurance companies will be equally taxed, and the rule of uniformity and proportionality, under this system, is intended to be fully established in all the classes of things which are subjects of

taxation. These few things will be, in effect, the economical tax collectors, and will cause the taxes, through the laws of equal competition, to permeate all other things. Mr. S. said he should confine his remarks, in the main, to the consideration of an exclusive real estate tax, although he admitted that certain franchises, under a regulation of uniform burden of immediate competitors might be equitable. There are certain fundamental maxims or canons, however, in taxation, which equality, justice, morality, and the principles of free constitutional government require as a basis of any system of State and local taxation, and all systems should conform to these fundamental maxims.

§1. Proportional taxes on all things of any given class will be diffused and equalized on all other property.

In order to burden equitably and uniformly all persons and property, it is not necessary to tax primarily all persons and property within the taxing district. Taxes, like nature, abhor a vacuum, and if equally and uniformly imposed upon all things in the same category or field of direct competition, will be diffused secondariu—by the natural laws regulating competition, the cost of consumption, and the cost of production. Taxes and profits, by the operation of the laws of human nature, constantly tend to equate themselves; man is always prompted to engage in the most profitable occupation, and to make the most profitable investment; and since the emancipation from feudalism, with its sumptuary laws, legal regulations of the price of labor and merchandise, and other arbitrary governmental invasions of private rights, individual judgment and self-interest have been recognized as the best test or arbiters of the profitableness of a given<sup>^</sup> investment or occupation. The average profits, therefore, of one form of investment or of one occupation, must, for any long period, equal the average profits of other investments and occupations, whether taxed or untaxed, skill, risk, and agreeableness of occupation being taken into consideration. Natural laws will, therefore, always produce an equilibrium of burden between taxed and untaxed things and persons. There is a level of profits and a level of taxation by natural laws, as there is a level of the ocean by natural laws. If United States bonds were unwisely taxed one per cent, per annum, and the tax collected uniformly at the time of payment of

interest under a law authorizing the issue of the bonds, it is evident that the purchaser of these bonds in the reduced price would realize the same rate of net profits or remuneration, and no more or less, than is now realized on the present untaxed bonds. It is not the Government bondholder who now enjoys the advantages of exemption from taxation; it is the borrower, the United States Government, which is really exempted, and on which the tax must fall in the reduced price of its bonds, if a tax is permitted to be imposed. Taxes form an important part of the cost of all productions, distribution, and consumption, and represent the labor performed in guarding and protecting property at the expense of the State, in all the processes of development and transformation, and will always be diffused and disseminated equitably and uniformly by the same means and natural laws as are other expenses of production. We produce to consume, and consume to produce, and the cost of consumption, including taxes, enters into the cost of production, and the cost of production, including taxes, enters into the cost of consumption, and thus taxes uniformly levied on things of the same class, by the laws of competition, supply, and demand, and the all-pervading mediums of labor, will be distributed, percussed, and repercussed to a remote degree, until they finally fall upon every person, not in proportion to his consumption of a given article, but in proportion to his aggregate consumption. Mr. Astor bears no greater burden of taxation (and cannot be made to bear more by any laws that can properly be termed tax laws) than the proportion which his aggregate individual consumption bears to the aggregate consumption of all others in his circuit of immediate competition. As to Mr. Astor's other taxes he is a mere tax-collector or conduit, conducting taxes from his tenants or borrowers to the State and City Treasury. A whisky distiller is a tax conduit or tax-collector, and sells more taxes than the original cost of whisky; a dealer in imported goods, like Mr. Stewart, keeps on hand a stock of accumulated imposts, foreign and domestic, for sale; the farmer charges taxes in the price of his produce; the landlord in his rents; the laborer in his wages; the clergyman in his salary; the lender in the rate of interest he receives; the lawyer in his fees; and the manufacturer in his goods. A bible printed by the American Bible Society is always, in part, loaded with a whisky and tobacco tax, paid by the printers,

paper-makers, and book-binders, or paid by the producers of articles consumed by these mechanics, and reflected and embodied in their wages and the products of their labor according to the degree of absence of competition from fellow-mechanics who abstain from the use of those and other taxed articles. The traveler who stops at the Fifth Avenue Hotel cannot avoid paying a tax to Mr. Eno, who owns that hotel, and is one of our great and effective real estate and diffused tax-collectors; and in fact all proportional contributions to the State from direct competitors are diffused upon things and persons in the taxing jurisdiction by a uniformity as manifest as is the pressure upon water, which is known to be equal in every direction. Bleeding is accomplished effectively and skilfully, without bleeding the patient at every pore by myriads of mosquito bites or otherwise, and endangering life ]y an unnecessary irritation and inflammation; and one incision is sufficient to produce entire depletion. But blood does not circulate more freely through the human system than do flow the atoms or minute particles of uniform taxes levied on all things of the class made subject to taxation, with an equal pressure, free from unnecessary annoyance, inquisition, and expense, under the guidance of natural laws, through all other property. Labor, individual enterprise, production, distribution, consumption, and competition are the arteries and veins through which equal taxes circulate in all parts of the body politic. These natural and inflexible laws can also be always relied upon in the distribution and equalization of taxes originally imposed with proportionality. These laws of competition are never suspended; a temporary suspension would for the period of suspension render the ordinary dependent day laborer a slave, for he must sell his labor, become a slave, or perish; but human nature asserts her power, and members of society always compete for his labor, and he can therefore always depend upon being a freeman. By the operation of these trustworthy and beneficent laws the food and clothing absolutely necessary for our daily protection and sustenance are supplied without fear of deficiency, the price and supply of wages and merchandise regulated, and all free from the prying eye of officials or the exercise of arbitrary power. Therefore, equally burdened competition is, in effect, an equal and universal suffrage of labor and capital, and its jurisdiction is the equal and open market, where uniform taxes on all

things of the class made subject to taxation will be diffused and equated on all other things by this universal suffrage of labor and capital, and to the same minute degree that the price of wages and other expenses of production are diffused and equated.

§2. Exemption of any part of the property of the same class, which is made the subject of taxation, is spoliation of that part which is discriminately burdened. Exclusion of an entire class of property from taxation is not an exemption.

"An exemption is freedom from a burden or service to which others are liable;" but in case of an exclusion of an entire class of property from primary taxation no person is liable, and therefore there is no exemption. An exclusion of all milk from taxation, while whisky is taxed, is not an exemption; they are not competing articles, or articles of the same class. It is true, that highly excessive taxation of a given article may cause another and similar article, in some instances, to become a substitute or competing article, and hence the necessity of care and moderation in establishing the rate of taxation. It has been shown that entire classes of property, excluded from primary taxation, will bear their equal proportion of burden, in the form of taxes equalized by the natural laws of competition. But these natural laws are suspended, and made nugatory if exemptions are permitted. It is impossible for the owner of taxed property to add the tax to the rent or the price of his goods, if there is a favored or privileged class in direct competition, and having the same kind of property to offer in the same open market, where all persons seek the lowest prices, and therefore the surcharged tax-payer, according to the amount of the favored competition, becomes the victim, not of taxation, but of an arbitrary exaction, and cannot diffuse it, but must pay it, or retire from the unequal competition. The best possible test, to ascertain whether a law is a tax law or an act of spoliation, is to examine and see whether the so-called tax is equal upon an entire class of competing things, and whether it can be diffused upon other persons and things, by the laws of competition, among equally burdened competitors. Any law which will not bear this test should be immediately eradicated from the statute book as a relic of personal servitude. A tax on ships owned by residents, and an exemption of competing ships engaged in the same carrying trade

here, but owned in Montreal, Pennsylvania, England, France, and other countries where ships are untaxed, is an unreasonable and arbitrary discrimination, and shows an absence of equality and fair play which even a brutal prize-fighter will condemn. It seems almost incredible that a law so unjust and oppressive should exist in the nineteenth century, when piracy is generally condemned, or that it should be enforced against old and respectable ship-owners, guilty of no crime, and entitled to the equal protection of the laws. A discrimination is not taxation, but an unjust exercise of mere brute force. A discriminating tax on every other store, on the same side of Broadway, cannot be diffused; therefore it would be an act of spoliation. A tariff<sup>^</sup> which is only an exaggerated or excessive tax, if levied only on resident importers, would be an act of prohibition against importations by resident importers, unless the tariff was very low or nominal, and in that case it would be a moderate spoliation. Taxation by the arbitrary rule of the residence of the owner, without reference to the laws of competition regulating the price of the taxed article, is, therefore, a despotic and brutal act, and analogous to brigandage, and cannot be diffused by the laws of competition, and can only be avoided, like brigandage, by flight—a change of residence. Hence negotiable bonds are made, by our unequal and oppressive legislative acts, to flow to Europe into the hands of untaxed holders; and hence is found in all the great cities there an "American colony," composed of permanent residents, who have fled from discriminating taxation, and who there enjoy an equal favoritism or exemption granted by our State to other non-residents, with whom they compete on equal terms in open market, here or there, for the purchase of our securities,

§3. Equal taxation consists in equal burden of all subjects of immediate competition.

Our present laws for assessing personal property, violate this fundamental rule, and are, therefore, more "honored in the breach than the observance," and their only redeeming feature is the patent fact that they are incapable of practicable execution. We do not tax mortgages, negotiable bonds, or other evidences of debt, but we tax only the resident owners. We do not tax mortgages held by non-residents, but made here in competition, in open market, with

residents; made payable here; interpreted as contracts by our laws; protected by our laws, and their collection enforced against the property mortgaged by our judiciary. But we tax resident mortgagees; we tax resident owners of negotiable bonds, made in open competition here; we exempt the same bonds if held by non-residents, and these bonds are conveniently owned and collected by the residents of Canada, England, France, and other countries, and where these investments are untaxed. Pennsylvania has practically excluded personal property from taxation; Maryland does not tax mortgages; personality is not taxed in Montreal, and New Jersey has removed mortgages from taxation in four neighboring counties. Hoboken has Elysian Fields, where the resident mortgagee finds rest, and subject to only three cents ferriage when he visits New York to compete with residents who bear a discriminating and intolerable burden.

§4. Resident or non-resident owners of exempted property in the same field of competition, and of the same class as that which is taxed, are subjects of charity to the extent of the exemptions, at the expense of their surcharged competitors.

All exemptions of any competing contracts, titles or property, are a charity to the exempted person, and the beneficiary of the exemption is a recipient at the expense of the surcharged competitor to the extent of the exemption. The large loan made to this city a few years ago by the Rothschilds, in their hands as non-residents, is an exemption and a source of charitable contribution to them; but if any portion of that same loan is found to be owned by a resident widow, orphan, or resident maimed soldier, the holder will be subject to an annual tax of nearly three per cent., a most arbitrary exaction, and not less oppressive and discriminating than would be a tax solely imposed on Jewish, Catholic (as has been done in some countries) or colored investors. The resident holder of New York City stocks gets no special protection, as a holder of this stock, not granted to his rivals and equal competitors, the Rothschilds and other non residents, unless it is the protection which the wolf gives to the lamb, or the right to be crushed by his favored, privileged, and untaxed immediate competitors. These unreasonable enactments are, however, so violative of all just principles of taxation; of all equality and

uniformity, and partake so much of the character of medieval and barbarous edicts, that, like the old Fugitive Slave law, they are not and cannot be rigidly and fully executed; and the judgment and natural impulses of the assessors, sustained by the community, constantly prompt them to "temper the wind to the shorn lamb" and give relief by a "higher law" against the strict letter of the legal and odious discriminations, which are not based on justice or sustained by the public conscience. Legislative acts when excessively oppressive are often powerless; the common mind instinctively abhors all arbitrary discriminations, and therefore it is not surprising that an assessor does not see and "ascertain" negotiable bonds capable of being transferred by delivery and held where they are untaxed, or see and "ascertain" a second mortgage "over and above just debts," when the owner of a first mortgage on the same property, if he happens to reside in Jersey City, or other places where mortgages are not taxed, is exempt. The inability to generally enforce these provisions of spoliation in our tax laws renders the oppression and injustice still greater in the instances when they are executed, and freedom, justice, and equality imperatively demand their immediate repeal.

§5. Benefits of limiting taxation to real estate or few classes of things.

By limiting the sources or number of primary taxes we limit the sphere of government and the number and sphere of officials; we limit the sources of official corruption, and we give strength to free institutions by leaving the distribution of taxes, in infinitesimal form, to individual judgment and individual enterprise and competition, the great motor forces in all free government, rather than to the acts of officials which must be more or less arbitrary, inquisitorial, offensive; and if in any degree effective, must be executed by espionage, oaths, and domiciliary visits, which are not in harmony with the spirit of the age or free government.

§6. The general government taxes personality exclusively, and an equal apportionment of primary taxation between realty and personality will require the States to tax exclusively realty.

More than one-half of all the taxes collected in the United States are received by the General Government exclusively from personal property, and if there is to be an equal or equitable apportionment of taxes between real and personal property, the State and all its municipalities must refrain from levying personal taxes. The ratio of the taxes of the General Government to all the taxes of the country, including State and local taxes, is much greater than the ratio of all personal property to all the real estate.

§7. The ratio of the value of personal property to the value of realty is as great or greater in agricultural districts than in cities.

In Ohio debts are taxed, and all visible and tangible property in excess of \$50 in value, owned or in possession of any adult, is made subject to taxation without any offset on account of debts. The report of the Auditor of that State shows that under this rule of taxation the ratio of personalty to realty, in the agricultural counties, is greater than in the City of Cleveland and the City of Cincinnati. In Illinois, also, debts are taxed, and visible and tangible personal property is taxed wherever found, subject to no offset of debts; and the official reports show that the proportion of personal property to real estate is less in Chicago than in the other parts of the State, Massachusetts taxes by a similar rule, and in Boston the ratio of personalty to realty is less than in the other sections of the State. In the cities there are more imported goods in the hands of the importer, goods *in transitu*, and other exempted property, than in the country, and with these exceptions the ratio of personal property to real property must be equalized, and must be the same in the city and country by the natural laws which give all value to real estate only in proportion to the amount of personal property produced, sold, manufactured, or used on it or in its immediate vicinity, the usual part of the same taxing division.

§8. The value of land is in proportion to the value of personal property produced upon it, reflected upon it, or competing for it.

Lands appreciate in price by regular laws and regular gradations, from the almost worthless lands of the Adirondack Mountains to the

palatial stores and buildings of Broadway and Wall street, and always in proportion to the amount of personal property and labor expended on them and employed on them, and in immediate proximity; and hence the cause of their being more than half a dozen buildings in this city, any one of which is worth more than \$1,500,000, or three times the total value of all the property in a wealthy and flourishing town in the interior of the State. The transitive power or reflection of personal property also establishes the value of land in different cities and in the different sections of the same city. Stone-yards, coal-yards, and feed-stores are not found in the crowded and most valuable parts of Broadway and Wall street; but the business requiring the largest amount of stock, capital, transfers, or transactions will, and does by natural laws, concentrate there.

In a strict sense we do not tax land; we tax the value of land, which is only another form or an embodiment of capital and labor. An uniform tax on all land in great cities and in the country by the acre without regard to the value of the land, would be a nearer approach to a strict land tax. In taxing the value of land we, in effect, tax the productive power of land, and its ability to hold and attract personal property, which is capital and labor. Lands producing large crops have a large amount of labor performed upon them and a large amount of personal property and capital employed upon them. Mills, factories, and villages are but valuable crops produced on land, and a great city, like this city, is the most valuable crop that land is capable of producing. Great cities are as much the active and immediate agencies of production, and have as clearly defined productive power as lands which produce corn or potatoes. The great appreciation of values of land in great commercial centers, do not arise, however, from the intrinsic values of land there, which, in fact, are not greater than the intrinsic values of the remote, interior, fertile lands which command a moderate price. The constant high values of lands, therefore, in commercial marts, are a constant verification of the principle and the fact that values of lands are always produced by the reflection and concentration of labor and capital, and that the taxation of land-values is only another method of taxing labor and personal property which produce these land-values. It must be immaterial whether we tax the product or that which produces the

product,, and the result of the burden must be the same in either case. The result is the same, except the extra expense and annoyance, whether we tax the land which produces wheat and other products, or whether we tax these products. It may be considered,, therefore, a physical impossibility to tax land-values without taxing personal property.

§9. A tax on all lands is a tax on all personal property, and a separate additional tax on personality is a duplication of taxation.

Land, as we have seen, receives its value from the amount of personal property expended on it, and the pressure or demand of personal property and labor to use, possess, and occupy it, and therefore the taxation of all land values is a taxation of the personal property, the cause and sources which give, establish, produce, and measure these land values; and if, after personality has been once taxed in the land values, the subjects of its competition and creation, another tax is separately imposed on it, it must be a duplication of taxation. If all personal property was by law excluded forever from Manhattan Island, it is evident the land here would have no more value<sup>1</sup> than it had when Hendrick Hudson first landed here. The land in this city, through all the stages of its growth, has increased in value by a natural and immutable law just in proportion to the amount of labor, and capital, which is accumulated labor, that have been expended upon it, and that are or may be competing for it. The relative value of land of one city as compared with the value of land in another city or district, is always dependent upon the amount of labor and capital making a demand for its use and occupation in each city or district. This same natural law of competition is found, as previously shown, to regulate the value of land in a part of a city, as compared with another section of the same city. The tax on unoccupied lands is paid and accumulated by the owner, and will always form part of the cost of the land; and the owner will require a rent on this portion of the cost when the land will be occupied; and thus, also, the tax on vacant land will finally be paid by the personal property that will be placed upon it. Land is an integer, and the whole is greater than the parts; the taxation of land must include the

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<sup>1</sup> Value? Or Price? /pma

taxation of its uses; its contents, and all that rests upon it, is produced, sold, expended, manufactured, or transported on it. By a fiction of law, personal property is imagined to be separated from land, but in fact it is always physically united with it, rests upon and is a part of it as a whole. The States of Louisiana and Kentucky formerly enacted that slaves were real estate and subject to all the laws pertaining to the mortgaging, sale, and descent of real estate; the statute of Wisconsin now makes real estate of the rolling-stock of railroads, and which may be moved at a speed of fifty miles an hour. These are likewise legal fictions which a State may constitutionally enact, but they do not change the fact that these classes of property are capable of being moved from place to place. Nor do our laws, which enact that personal property is separated from real estate, affect the notorious fact that it is always upon it, and a part of it, and imparting value to it. The legal fiction is useful if clearly understood and not arrayed against fact. It was a religious dogma or fiction that the world does not turn upon its axis, but this fiction and the extorted confession of Galileo led him nevertheless truthfully to say "it still moves." There is competition among land-owners, but land as a whole is a monopoly; there has been found no substitute for it; and all goods and chattels must pay for the use of the ground they occupy in all the ramifications of production, sale, and consumption. Personal property is only a branch of land in a distributive form, or portable land, movables, resting and produced on other land, and giving value to it. The falling apple which led Sir Isaac Newton to discover the laws of gravitation was real estate on the tree and personal property on the ground; but it was still on land, and was burdened with the law of gravitation and with taxes, in the use of the land for production, alike on the ground and on the tree.

All taxes should be levied upon so broad a base, therefore, at so moderate a rate as to prevent them, in their incidents, from acting more as prohibitions than as a revenue law. A real estate tax is the broadest tax that can be imposed; it includes everything, and renders all other local or State taxes duplications and unnecessary. A tax on land is a tax on all the products of land; a tax on importers is a tax on importation; a tax on sheep is a tax on wool; a stamp tax on match-boxes is a tax on matches; a tax on wages is a tax on all the products of labor; a tax on leather is a tax on shoes; a tax on boxes is a tax on

the contents of boxes; and these illustrations indicate that a tax is effective, although it may not be levied in every form, combination and development which an article may assume. All forms of personal property are the subjects of the use of land, and must be reached by a tax on aggregate land values, which will always be produced, increased, or diminished, in proportion to the amount of labor and productive capital expended upon or competing for the use and occupancy of the land. Land of itself cannot be said to have any exchangeable value. Labor alone produces value, and land values are mere representative values of labor and productive capital.

§10. The pressure of taxation on personal property is also a pressure of taxation on real estate.

Real estate is as intimately connected with personal property, and burdens upon the one or the other are as interchangeable and automatic in their action, by the laws regulating the cost of production and free competition, as are the atoms of water in two communicating vessels, where the pressure is equal in each and where the water rises and falls the same in both vessels. It is impossible to suspend the natural law which adjusts ratably real estate taxes upon personality, unless the laws of human nature are suspended—the laws which control the average profits of all occupations and investments when left to open competition and to the free exercise of individual judgment. Personal property inheres to land and imparts an inseparable value to it, and the cost of production must include the burdens upon the former and the latter.

Land and personal property are so inseparably blended, married, and allied, that a tax on the whole of the one is a tax on the whole of the other. An unreasonable and excessively oppressive personal tax will render land in the taxing district valueless, and an extremely oppressive land tax will likewise render personal property in the taxing district valueless. They have one common destiny when the burden of taxation is understood. It is evident that a tax on a farm must be a tax on the products of the farm, whether levied on the farm or the products of the farm, and if the tax is not levied on these products while in the hands of the farmer, but upon the purchaser, it is also evident that he will pay the farmer so much less, and thus the tax must fall upon the farm. Then why tax these products more than

once, and why not tax them in the value of the farm—a uniform, economical, and trustworthy basis of taxation, and leave the tax to adjust itself, by natural laws of competition, on the products in all stages of transformation.

But it is true that often the personal property which gives value to a particular lot of land may not be on that lot, and may be quite distant; but still labor and personality give the land its entire value, and it will be reached somewhere in aggregate real estate valuations. The capital which keeps in motion a factory will give value to land for considerable distance, for increased production of food for operatives, and for their residences and other uses, and thus the capital of the manufacturing establishment will be manifestly reflected upon these lands, and will be taxed there. Personal property *in transitu* through our State, on railroads, cannot be primarily taxed, but it gives value to our railroads; and the products of land exchanged for untaxed imports impart value to our warehouses, residences, railroads, and lands, and thus gives us revenue by transmission of land values, reflected both from the imports and the articles exchanged for them.

§11. Personal property does not follow the person for the purpose of taxation. Extra territorial taxation unconstitutional. Taxation of a title is a separate jurisdiction from the sites of the property which is the subject of the title is an act of spoliation.

If all the States and all countries of the world taxed personal property annually to the owner at the place of his domicile, it is evident that this class of property would be taxed but once the same year; but, by this rule, property would often be taxed where it was not protected, and it often would be untaxed where it was in direct competition with similar property heavily burdened. If this rule, therefore, was everywhere adopted, it would entail gross inequality. Taxation by the rule of residence of the owner, and taxation by the rule of the actual sites of the property, are different, irreconcilable, and in harmonious systems, and cannot exist together under a free and liberal government, which must always reject, as State crimes, all arbitrary exactions and duplications of taxation by different States at the same time on the same property. Massachusetts and several other States have hitherto adopted both rules, which are palpable inconsistencies,

indicating a purpose to disregard all honesty or equality in taxation. A resident of Massachusetts is taxed for personal property having a *situs* in another State, and a non-resident is, by another and irreconcilable rule, taxed on all his personal property having a *situs* within that State; but when these two inconsistent rules of taxation were brought face to face in the Court of Appeals of this State, in the case of Hoyt vs. The Commissioners of Taxes (23 N. T., 224), the Court held that the *situs* of property gave the right to tax, and that the power to tax by the rule of actual *situs* excluded the power to tax extra-territorially, or to tax by the arbitrary rule of residence where the property is not protected. The United States Supreme Court, in United States vs. Rice (4 Wheaton, 246), held that the right to tax arises from the exercise of jurisdiction over the property and the correlative duty to protect it. In the recent decision of the United States Supreme Court, in the foreign-held bond case (15 Wallace, 300), it was held that it is a violation of the United States Constitution, on the part of a State to attempt to tax property beyond its jurisdiction. The Fourteenth Amendment of the United States Constitution prohibits any State from depriving any person of property "without due process of law," and taxation without jurisdiction is an arbitrary exaction on property, and not "due process of law." The Court said: "It is only one of many cases where, under the name of taxation, an oppressive exaction is made without constitutional warrant, amounting to little less than an arbitrary seizure of private property. It is, in fact, a forced contribution levied upon property held in other States, where it is subjected, or may be subjected, to taxation upon an estimate of its full value." "Even where the bonds (railroad bonds in this case) are held by residents of the State, the retention by the company of a portion of the stipulated interest can only be sustained as a mode of collecting a tax upon that species of property in the State. When the property is out of the State there can be no tax upon it for which the interest can be retained. The tax laws of Pennsylvania can have no extra-territorial operation."

The United States Supreme Court also, in Green vs. Van Buskirk (7 Wallace, 150), actually and distinctly decided against the feudal fiction of law, that personal property follows the person as against the fact of actual *situs* and, in unmistakable language, referred to and confirmed the decision of our Court of Appeals, in Hoyt vs. The Tax

Commissioners, as involving a United States constitutional question, and as a decision against the constitutional power of a State to tax her citizens for property situated extra-territorially. The Court said: "It (this legal fiction) has yielded in New York on the power of the State to tax the personal property of one of her citizens situated in a sister State." "If New York cannot compel the personal property of Bates (one of her citizens) in Chicago to contribute to the expenses of her government, and if Bates had the legal right to own such property there, and was protected in its ownership by the laws of the State; and as the power to protect implies the right to regulate, it would seem to follow that the dominion of Illinois over the property was complete." The legal fiction or legal lie that property follows the person, as to taxation, thus dies with its natural consort slavery, and it will hereafter be known in history only as a record of times when the rights of persons and property, and "due process of law," were disregarded, and its abrogation will mark the progress of our civilization and of our respect and consideration for the rights of persons and property. Personal taxes, therefore, in the form heretofore known as a species of personal servitude, can no longer constitutionally exist in this country, and the States must hereafter confine their taxation to persons (poll tax), business, movables, and other property within their jurisdiction.

These decisions of the Federal Courts against extra territorial taxation will, also, in their logical results finally prevent cities and towns from taxing, by the arbitrary rule of residence of the owner, property beyond their jurisdiction or protection. It must be apparent that State spoliation cannot be more odious than town or city spoliation. Taxation without jurisdiction is a State crime, and it must be condemned on the soundest principles in any and every taxing district, whatever may be the nature or character of the district. We must, therefore, confine taxation to property having a *situs* in the town, city, or school district when the tax is imposed, unless we boldly favor extra territorial taxation—a mere oppressive exaction unaccompanied with the correlative duty of protection, which is the only basis of taxation in any government where the principles of justice and equality are recognized. Justice and common honesty, even if the power exists, will not sanction municipal taxation in respect to property situated in another and distant part of the State,

beyond the jurisdiction of the municipality, and which cannot possibly be benefited or protected by the local municipal exactions upon the resident owner. This city can have no just claim for taxes imposed to light streets and maintain the Fire Department upon personal property situated in the Adirondack mountains, nor would an extra-territorial tax imposed by this city upon real estate situated in the interior of the State, and exacted from the owner residing here, be more arbitrary and oppressive than municipal extra-territorial taxation of personal property. There does not seem to be any sound reason against extra-territorial taxation of land which will not apply with equal force against extra-territorial taxation of tangible personal property, and, in either case, the taxing officer presents the combination of a legal highwayman and a civil magistrate in the same person. Extra-territorial exactions are not taxation, and spoliation is a mild term to apply to them. This is the nineteenth century, and if public attention is once centered upon this relic of feudal enactments, it must disappear before an enlightened public sentiment, strengthened and enforced by the influence and power of the Federal Courts.

§12. State and local taxes upon movables are frequently imposed several taxes on the same property, or the same year, by different cities and States, and they are, therefore, unequal, and are obstruction to trade, manufactures, and commerce.

It is not equal taxation to tax all property annually where found, if the tax is at uniform rates each time, and at each place, for, often the property in another form, and in other States may have been previously taxed in the same year, one or even several times, and there is not un-frequently wanting the element of uniformity of duration of time that the property has been in the taxing district, or there may also be wanting proportionality of increased value, by the application of labor within the State. In taxing real estate all new values added to personal property will always be taxed, because the labor, the basis of the new value, will always be reflected in land, in residences, shops, manufactories, consumption, and production, and thus all values will appear in the land values diffused by natural laws. If, however, in the sale, transfer, and delivery of personal property in a city, which is a great entrepôt, the transfer is rapid, the

enhanced value will be small, the time of deposit short, and the tax light, if the tax is only on real estate values; but the tax will be equitable and in proportion to the new values created, and in proportion to the average amount of capital required in the transactions. But a chattel or personal tax is now imposed by our present laws on the full value of the property, if it is in the State but a part of a day, and out of the State the next day, and thus the inequality in the present system may be greater than the difference between one day and three hundred and sixty-five days. A real estate tax, on the contrary, will be equated and diffused by the laws of competition on personal property, according to the minutest length of time that it may be in the town, city, or the State, and the amount of new value or labor added to it there. Taxation of personality, through the agency of land, is all reaching like gravitation, and is executed by diffusion, when uniformly imposed on land, by the natural laws regulating human action, never arbitrary, and always efficient and equal.

Personal property being movable, a primary tax upon it will render it liable to taxation to the amount of its full value in every new jurisdiction it may enter during the year. Goods taxed in this city in January will be again taxed, if found in Boston, in May, owned by a resident or non-resident, and without any offset of debts, and the same goods, if transported to Connecticut the same year, will again be taxed in October. In New Jersey taxes are assessed in May, and the same goods assessed in this city in January, if found in that State, will be again assessed; and the goods assessed in New Jersey and Ohio in May, if brought into the interior agricultural counties of this State, will be again assessed in July. Most of the Western States tax visible, tangible property, wherever found, without offset of debts and without reference to the residence of the owners; and the products of these States are again taxed in several of the Eastern States where found on a given day. The sugars of Cuba pay three taxes there, including an export tax, and then pay a tariff rate here, and, after being sold by the importers, often pay two or three taxes imposed by States and municipalities. Imported goods are taxed primarily or secondarily in the countries from which they are shipped, and they are frequently again taxed in several States in this country during the same year. In some instances as many as seven or

eight different taxes have been paid on the same imported goods in the same year; and it is quite frequent that as many as four or five taxes have been levied in the same year by different States and cities on the same domestic products.

§13. Debts are rights, qualified titles or conclusions of law, and not property, and, if taxed, the burden must be paid by the debtor; and when the borrowing power of residents of another State is taxed, through the medium or agency of resident lenders, it will be extra territorial taxation, and un-constitutional.

The act of making debts, bonds, contracts, verbal or written, notes, book accounts, mortgages, warehouse receipts, titles, certificates of stock, or any form of salable and transferable rights, is not a creation of new property, but simply an exchange by contract, or operation of law, of the rights or titles of parties in pre-existing property, and any tax on any of these rights or titles is only another form of burdening the property which is the subject of the rights or titles. Property is a "physical actuality" made valuable by some form of labor, and cannot be created by mere paper documents, except to the extent of the value of the paper and writing or printing. When a farmer sells land to his neighbor and takes a mortgage on the land sold and on his neighbor's farm, he parts with a fee simple to his land and takes a paramount title to both pieces of land; but no new property has been created, and if the mortgage is subject to taxation the price of the land sold will be enhanced to the supposed full amount of the burden of the tax on the mortgage, and thus, by a circuitry of action, the debtor-purchaser will be taxed at the time of making the contract of purchase. The result will be the same if, instead of selling land, money is loaned. The natural laws controlling human action will prompt the lender to ask for the use of his money, including taxes, a remuneration equal to the remuneration of other investments. If the City of New York should issue and sell bonds made subject to an honest, uniform, semi-annual tax of one per cent., to be deducted at the time of paying the semi-annual interest coupon, the bonds would sell proportionately low, and it would be made apparent that the debtor, the City, would be taxing itself and imitating a puppy that chases his own tail, which may be a harmless amusement on the part of the puppy; but taxation on the part of a city or State of its own

borrowing power, is a folly, and not relieved even by being an amusement. It is not only a settled principle of political economy that burdens imposed through the medium of lenders, are primary, and not secondary or diffused taxes upon borrowers; but it has also been adjudicated by the Supreme Court of the United States, and is, therefore, now a part of our constitutional law. Chief-Justice Marshall, in giving the opinion of the Court in *Weston vs. City of Charleston*, 2 Peters, 449, against the constitutionality of a State tax on the holder of United States stocks, said: "The right to tax the contract to any extent, when made, must operate upon the power to borrow before it is exercised, and have a sensible influence on the contract. The tax on government stocks is thought by this Court to be a tax on the contract, a tax on the power to borrow money on the credit of the United States." In this case Mr. Weston was a resident of South Carolina and subject to its jurisdiction, and it was claimed that by virtue of jurisdiction over his person, the City of Charleston could arbitrarily tax him; but it will be seen that the Court held that the burden or primary tax was not on Mr. Weston, but on the borrower, the United States Government; or, in other words, that borrowers must always pay burdens levied on debts, and that the lender is only the medium or agency of collection. Now, if it is a principle of political economy and constitutional law, that a tax levied upon and collected through the agency of a lender to the general government is a tax on the borrower, the same rule of constitutional law and political economy will exist when the borrower is a private individual, for the reason that constitutional law and political economy recognize no special providences. It is not important in an examination of the incidents of taxation to note the agency through which the tax may come into the treasury; but it is important to see where the burden falls. Taxes are in many instances assessed upon tenants, but nevertheless they are direct land taxes, because the burden is primarily and immediately upon land; and for the same reason a tax, or a right or power to tax in form on a lender, is, in legal effect and logical reasoning, a primary tax on the contract, and the burden is immediately sustained by the debtor simultaneously with the making of the contract. The federal court likewise decided and said in the case of the *State Freight Tax* (15 Wallace, 272): "It has repeatedly been held that the constitutionality,

or unconstitutionality of a State tax is to be determined, not by the form or agency through which it is to be collected, but by the subject upon which the burden is laid." Therefore, according to the reasoning of the highest court of the land and the soundest principles of political economy, when New York taxes, through the agency of her citizens, money loaned in Michigan or on contract for the sale of property there, she burdens borrowers, purchasers, and contracts, beyond her jurisdiction, and no way subject to her protection or control. The fact that New York has jurisdiction over the person of the lender, gives her no jurisdiction over the borrower in another State, and upon whom the federal court holds the burden falls. It is not assumed that the tax on the resident who lends money in another State, is a tax on his person or a poll tax. It purports to be a tax on a transaction and not a poll tax, and in the instance cited it is therefore a burden on extra territorial borrowers and purchasers, and therefore unconstitutional and void. "All subjects over which the sovereign power of a State extends, are objects of taxation; but those over which it does not extend, are, upon the soundest principles, exempt from taxation" (*McCulloch vs. State of Maryland*, 4 Wheaton, 429). The State of the *lex loci contractus* can undoubtedly tax all contracts made within her territory, at the time when the contract is made, and thus forming a part of the contract; and some States have levied such taxes in form of stamp taxes, in taxes on registry of mortgages, and in other forms; and the power to impose these taxes when the contract is made must exclude the power of other States to tax the same contract. In *Holland*, at one time, no contract was valid until it had been *visaed* and a tax paid upon it. The States can, constitutionally, adopt the same uniform and equal rule of taxation of contracts, if titles must be taxed. But taxation by another State of the same contract, which may be subject to taxation in the State where made, would impair the contract, and would deny "full faith and credit to the public acts" of a sister State; the power and jurisdiction of the States are involved in the constitutional question of full faith and effect to their public acts and judicial proceedings (*Green vs. Van Buskirk*, 5 Wallace, 307). The borrower and his contracts (the subjects of the burden, as the Court has decided, in the case of the taxation of money contracts), however, being without the State, and, therefore, exempt for want of jurisdiction, it follows that the resident

who has lent in another State cannot be taxed unless his person can be arbitrarily burdened and made the agency for the collection of an unconstitutional impost on extra-territorial transactions —borrowers and purchasers. If States can arbitrarily tax the persons of residents for property and transactions beyond their jurisdiction, they can evade all constitutional prohibitions, and destroy the efficiency of the General Government. They need not tax United States bonds, but the persons of the holders, and they need not tax commerce between the States, or importations, but the persons engaged in the business of interstate commerce and in foreign importations. However, there is a decision of the United States Court that renders it certain that the States cannot tax arbitrarily the person, and thus evade the constitutional interpretation and prohibition against extra territorial taxation by a State of persons, transactions, and things. It is clearly unconstitutional, and has been as clearly defined to be unconstitutional, for a State to tax extra territorially, as to tax Government bonds, or imposts in the hands of the importer; and yet the United States Court, in *Brown vs. Maryland*, 12 Wheaton, 444, held that a prohibition against taxation of imports could not be evaded by arbitrarily taxing the importers. The Court said: "The State, it is said, may tax occupations, and this (a license on importers) is nothing more. It is impossible to conceal from ourselves that this is varying the form without varying the substance." "Now, suppose the United States should require every exporter to take out a license, for which he should pay such tax as Congress might think proper to impose, would government be permitted to shield itself from the just censure to which this attempt to evade the prohibitions of the Constitution (against taxing exports) would expose it by saying that this was a tax on the 'person' not on the article, and that the Legislature has the right to tax occupations." The Court consequently held that the taxation of the person, the importer, was a taxation of imports; and we must conclude, therefore, that the taxation of the person of a resident for extra-territorial property, or as a medium or agency of taxing transactions and borrowers in other States, is only "varying the form and not the substance," and is still extra-territorial taxation and a denial of full faith and credit (or effect, as interpreted by the United States Court,

Mills vs. Duryee, 7 Cranch, 481,) to the public acts of other States, and therefore unconstitutional and void.

Taxation of debts is in effect a discriminating burden upon persons who may, for any cause, be in debt. Competitors doing business on their own capital and free from debt, pay one separate tax on their personal property, while the unfortunate debtor must pay the tax on his visible and tangible property and on the money borrowed, or he cannot get it, for lenders generally lend as a matter of profit and not as an act of benevolence. This is the effect of taxing money at interest in the States where no offset of debts is permitted; and this rule has been adopted in all the States where personal property to any considerable extent has been assessed. Taxation with an offset of debts has been found a mere farce wherever attempted. It is impossible for assessors to ascertain the amount of the tax-payers' debts, and the amount may be increased, at the will of the interested tax-payer, by the purchase of United States bonds; by the ownership or purchase of personal property situated beyond the jurisdiction of the State, and by the purchase of non-taxable corporate stocks, and thus practically rendering, under the rule of offset of debts, personal taxation a mere voluntary contribution. In England and on the Continent there was accorded, for several centuries, to the clergy the right or prerogative of taxing themselves for personal taxes; and now the citizens of -this State, by the practical effect of our laws unconsciously enjoy the full benefit of clergy in personal taxation, and tax themselves. While this debasing farce of offsetting debts is authorized two assessors meeting will always as instinctively smile, as did Roman Augurs smile, according to Cicero, when they looked each other in the face.

By permitting an offset of debts we first go through the formality of attempting, by inquisition or some vague conjecture, to tax the debtor through the medium of the borrower, and then give the borrower an exemption on his visible personal property to the amount of his debts. This is, if the assessor is a clairvoyant and the assessment accurate, nothing but the old story of the puppy chasing his own tail; and there seems to be no object in the law unless it is to give the lender, who charges the borrower the supposed average tax, an opportunity of evading its payment; and unless it is to give the borrower an opportunity, with created or simulated indebtedness, to

evade all personal taxation. Debts and all forms of titles are mere shadows of the property which they represent; and in our eagerness for infinitesimal taxation, like the dog in the fable letting go the meat when crossing a stream and grasping for its shadow, we have lost both shadow and substance. All credits are forms of titles, and they are a paramount title to a fee-simple title when enforced in the courts against the debtor's property, or when his property by operations of law or enforcement of liens is reduced to the possession of the creditor. No new property is created by making new titles by exchange of titles. Now, in this State, land is first taxed, and if land is leased for more than twenty-one years the lessor is subject to a tax on a sum of money which, at seven per cent., will produce the amount of the annual rent; and, if the land is mortgaged, the mortgagee is also taxed. But these taxes are only multiplications of taxation on the same land, which must bear all the burdens imposed on these various titles to it. The lender of money or the vendor of property does not retain possession or absolute ownership of the money lent or the property sold, but he holds a qualified title, according to established and legal priorities. The borrower or purchaser obtains and retains control over the property which is the subject of the title, and if the whole "physical actuality" is taxed in his hands, the parts, or the titles to the parts, will be taxed, and the tax will be apportioned on the persons holding the various titles to the parts by natural laws whatever may be the nature of the titles—leasehold, simple credit, mortgage, or lien debt, quit-claim, fee simple, or other title; and this adjustment will be made, as it is now made between landlord and tenant, by mutual agreement, and free from inquisition and annoyance. If titles are taxed, however, to make a harmonious system, free from extra-territorial exactions, our State and other States can only tax the title and not the property to which it refers. If New Jersey taxes an entire farm in her territory; and New York taxes resident mortgagees and lessees for their interest or title to or in a part of the same farm, it is evident that parts of the farm will be taxed three times and twice by extra-territorial and unconstitutional taxation. It cannot be said that a taxation of the whole is not a taxation of the parts. If the State confines its taxation to the property visible and having a *corpus* and a *situs* extra-territorial taxation will be avoided, and the system will be harmonious.

§14. Taxation of all visible and tangible personal property, except through the medium of real estate, is impossible of execution with any degree of uniformity, but it is a more equal system, and more capable of uniform execution than a system of taxation upon the owner by the arbitrary rule of residence.

Lingard, in his History of England, gives a copy of an assessment roll in the reign of Edward III., which contains a list of articles down to a towel and a bench; and the historian says, in the returns are carefully mentioned the very rooms in which the different articles were found, and there were no exemptions, except one suit of clothes for each person, and that was supposed to be taxed in the tax on polls. This was logical taxation of all personal property by an annual inventory. The assessors and collectors made domiciliary visits and reached every house and apartment, but the law was so odious that it could not be executed, and was modified. No people will endure the trouble and annoyance of infinitesimal taxation. In Ohio all visible property above \$50 in value, without any offset of debts, is subject to taxation, but no assessor or official pays the least attention to any sum that is quite considerably in excess of the line of exemption, and officials freely admit that the tax cannot be rigidly executed; that they do and must of necessity exercise discretionary and arbitrary power, and that an attempt to execute it would cause a political revolution and repeal of the law. The official report of the Auditor of that State shows that the total number of annual assessments do not amount to one-tenth of the number of adult population of the State, notwithstanding, by the system in force there, the same owner will be taxed in every town or district in which he may have property in his own possession, or in the possession of an agent. It is not probable that practically in the assessment more than one adult person in fifteen or twenty is reached in that State, while the law theoretically taxes all property and adults not indigent, or not having less than \$50, without deductions for debts. But the system that discards the idea of the diffusion of taxes imposed on all articles of the class subject to taxation, and requires all personal property to be primarily taxed, commits suicide when it authorizes any exemption. An exemption of the same class of property is a manifest inequality and a surcharge upon the burdened persons and property above the line

of exemption, and a special privilege to the property and person below the line of exemption. While we protect and educate the feeble and indigent, the true American scorns to receive undeserved clarity or any special exemptions or privileges. There is not to exceed \$500 per capita of visible personal property in this State, and an exemption of \$250 to each adult would remove from taxation a large share of the personality in the State, and thus take from the system all its vaunted character of equality. There are in this city 500,000 and in the State more than 2,000,000 adults, all of whom must undergo annually an inquisition under a system of taxation of all personal property, even if a moderate exemption is permitted. How can the assessor ascertain who or what property is exempt unless he makes the inquisition? How can it be expected that assessors, acting officially a few days, at a compensation of \$1.50 per day, and subject to a penalty of \$50 if they refuse to serve, having access to but few judicial decisions, can decide readily and correctly all questions of title to personal property, which are always involved in a system of taxation of personal property by the rule of the residence of the owner? How can they read the minds or ascertain the intent of parties absent in the army or navy, or sojourning in another part of the State, in another State, or abroad, to return or not return to their jurisdiction? And yet the question of his domicile, the place and power of taxing the absent person and his personal property, is dependent upon his intent to return, and a rigid State civil service bill must require that only "mind readers" should be eligible to the position of assessor. How can the assessor ascertain the ages of taxpayers unless he examines and takes testimony about a great number of persons less than twenty-one years of age, and how is any assessor ever to ascertain the age of a woman? Watt Tyler's insurrection in England was produced by an attempt on the part of a tax collector to ascertain the age of his daughter, and a rigid inquisition into the ages of women and the amount of their finery would produce a feminine insurrection here. Some of the residents of this city live fifteen miles from the City Hall, where they must make an annual pilgrimage, or they may be arbitrarily taxed to any amount, whether they have much, little, or no property. We have in this State more than eleven thousand school districts, and the trustees in districts act as assessors in the assessment of taxes for school purposes; we have highway

commissioners who assess road taxes in about a thousand towns; we have village assessors in great numbers, and all the separate assessment rolls made anew for each school, highway and village tax must be made at the time of assessment and on a new inquisition, for in order to be legal and constitutional the person taxed must be a resident of the taxing district when the assessment is made, if the taxation is by the rule of residence, and the amount of personal property must be assessed, as it existed in the State subject to taxation at the time of each assessment, and if the tax is upon property when found, it must be in the taxing district at the time. We have all these separate inquisitions at different periods, and in different taxing districts down to the limited territory of a school district. Verily, if every item of personal property must undergo examination and be taxed when found, as the Ohio law requires, and if any law is to be executed with any degree of efficiency on all personal property, the principal vocation and "chief end of man" will be to examine assessments, submit himself to inquisition, and pay taxes. But any such law is merely Utopian, and never has been and never can be executed with any degree of equity or effectiveness. The celebrated French statesman, Colbert, said the secret of taxation consisted in picking the goose in a manner to produce the least possible amount of squalling, but a system of taxation of all personal property reverses this theory and exacts the maximum of squalling. What a grand squalling we should have in this State if two millions or more of our population should be subjected annually to an inquisition and then to a moderate plucking, followed with a supplemental inquisition and plucking for the country highway and school district taxes!

But, annoying and unequal as would be a system of taxation of personal property where actually found, without offset of debts, and without exemption, it is more logical and can be executed to a greater degree than a system of taxation by rule of residence with an offset of debts. The residence is often in a different district from the *situs* of the property, and then the burden must be arbitrary. But in either case, the property produced and consumed within the year, before the appearance of the assessor, would be free from any primary taxation; and no really effective primary taxation of all

personal property can be made, therefore, unless production and consumption are constantly watched by an official eye.

§ 15. Practical and beneficial effect of an exclusive real estate tax.

In Philadelphia, Montreal, England, France, and wherever personal property has been excluded from taxation, and an exclusive burden on real estate has been adopted, it has been found that realty is a most efficient, equitable, economical and vigilant tax-collector and tax-distributor, and has demonstrated that any complicated and inquisitorial system of separate taxation of goods and chattels is wholly unnecessary, an obstruction to trade, an injury to production, an unnecessary invasion of the privacy of human affairs, and a self-torment inflicted on land itself. Good agricultural lands in England have been sold as high as \$500 per acre; real property sells higher in London than in any other city in the world, and the comfort, well-being and prosperity of the poor and middle-classes is probably greater in Philadelphia than in any other large city.

§16. An equal levy upon real estate implies an equal distribution, upon all personal property.

A full recognition of the law of diffusion of taxes will produce harmony between classes, and will tend to a concert of action among classes to reduce the amount of aggregate taxation in a community. When taxes are uniformly levied upon all the subjects of taxation, natural laws will impose the burden equally upon all other property. Man imposes taxes, but there is a divinity or natural law which diffuses them, and thus there is a solidarity between the primary taxpayer and those who pay the taxes that are diffused and reperculated. The owner of land, equally with the owner of personal property, or the poor day-laborer, is interested in having an economical system of taxation acting like a labor-saving machine, and realty is less subject to a harden when the tax is imposed solely upon land than it would be if the tax were levied by a troublesome and annoying system of taxation of personal property or labor. If these principles are denied, it must be assumed that all taxation is a hostile act, and that in all matters of taxation classes are always in a belligerent attitude to each other, and that certain classes must combine to form a majority to oppress a minority. This is a sad and erroneous view of human

nature, and a full comprehension of the true principles of taxation will lead us to believe that appropriate taxes upon all things of a given class will reach by adjustment, equation, and diffusion, all persons and things, and in harmony with the idea that man is not always hostile to his fellow-man, but reciprocally joined with him in all matters of public burden. Natural laws will not except any member of a community from the burden of uniform taxation of all the subjects of the impost; he who breathes, produces, and consumes must pay those taxes.

(Mr. S. here made a suggestion to limit the rate of annual taxation in cities to  $2\frac{1}{4}$  per cent, and in towns to  $1\frac{1}{4}$  per cent., and thus compelling assessors to make a full valuation of land to enable towns and cities to meet their annual expenditures, and he also suggested other means, in detail, which he thought would produce a full and uniform valuation throughout the State. He said a concentration of effort on one immovable, visible subject of taxation, like land, could be made to produce an approximation to full valuation and to uniformity, which it is impossible to attain in the taxation of personality which is migratory, and may be moved by steam, and always easily concealed.)

§17. Effect of an exclusive real estate tax; cheap money; increased value to real estate; increase of manufactures and production, and commerce unrestricted and fully developed between cities, towns, territories, and States.

If loans of money and credits, created by the sale of property, are untaxed, the purchasing power of money, to the extent of the tax at least, must diminish, which signifies that the purchasing power of farms, and the products of farms, and all chattels in exchange for money, must, to the same degree, increase; and hence the farmer or land owner, who even never borrows money, will find his ability increased sufficiently to equal the new burden on his land in lieu of the personal taxation for credits. Tenants, controlled by the natural laws of competition, can and will give increased rents if their personal property is excluded from primary taxation; and manufacturers and producers occupying their own premises will find full compensation for any resulting increase of land tax in a like exclusion of their personality.

All members of society, whether they are subject now to a personal tax or not, will be benefited by its removal. Its annoyance, demoralization, trouble, uncertainty, obstruction to trade, manufactures, and commerce, and its authorized exercise of discretionary and arbitrary power must all be a burden on the entire community and an incubus on free institutions. The present system should be removed on moral and political grounds. It inculcates a disregard of all moral questions in taxation, and its arbitrary powder is repugnant to the spirit of freedom. It acts as an obstruction to trade and commerce in its duplication and multiplication of taxes in different towns, cities, and States; and, if rigidly and logically executed, would reduce free and untrammelled commerce to the limits of a school district, and, like the vexatious and arbitrary obstructions between district and district, and similar personal taxes of feudal times, it would produce the stagnation of the Middle Ages.

By a free and unobstructed trade between all the States, and between different sections of the same State, we utilize the forces of nature in every section, to the mutual benefit of all sections of our country. Nature gives great power of production of cotton in one State; great advantages in spinning it in cheap steam or water power in another; great facilities for weaving it in a third State; and peculiar advantages for dyeing and printing it in a fourth State; and another, or fifth State, may afford extraordinary means in cheap water transportation lines or low grades of railroads, and in open harbors for the sale of the raw material and the distribution of the manufactured article. Often, in the economical and advantageous production, manufacture, and sale of a given article, all or some of its component parts will be brought into the jurisdiction of a half a dozen States and cities in a single year; and if all these cities and States impose even a moderate tax it will be a multiplication of taxation, a serious obstruction to the use and development of the natural advantages and resources of our highly favored land, and trade and manufactures must feel the blight of the vexatious burdens, like moderate custom-house dues established between State and State and city and city. The fact that other property in the State is taxed at the same rate, at the same time, is no relief to property that will be in the State, perhaps, but a few days, and is destined to be soon in

another, or several jurisdictions, where in the same year it will be taxed.

The world has never before witnessed the extent of free and unobstructed trade which has been developed in our confederacy of thirty-eight States. Our inter-State trade is more than fifteen times greater than our foreign commerce. Let this State remove the last feudal barrier which obstructs and burdens the free transfer and introduction of personal property from other States to this State, and from town to town in this State, and we shall make this State a place of refuge for labor, capital, commerce, and manufactures, and we shall more fully develop our resources and the resources of the entire country; commence a new era of prosperity; and, by our liberal policy and by our prosperity, we shall be an example that will be followed by other States, or we shall drain from them capital, manufactures, and commerce, until the feudalists will learn that their old system is not adapted to this age, and that it is now tolerated only because it is imperfectly executed, and because other States have not entirely discarded it. New York will undoubtedly be the master of the situation if she adopts early the proposed change, and will reap the reward always arising from the adoption and administration of a revenue policy founded upon justice and equality.