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Essays in Taxation

Chapters IX and X

Modern Problems in Taxation

A Quarter Century's Progress in Taxation of

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Contents

Chapter IX—Modern Problems in Taxation[1]

In attempting to present a survey of the modern practical problems in taxation we are naturally confronted by the difficulty that the actual problems assume a different aspect in various countries, an aspect largely colored by fluctuating political, economic, and social conditions. Notwithstanding this diversity, however, there can be discerned an underlying uniformity in the modern fiscal development of civilized nations, and it will be our endeavor to point out some of the different phases of this development.

There are several considerations which distinguish the modern science of finance in the study of tax problems. These are, in order: the pursuit of justice, the emphasis put upon modern economic phenomena, and the insistence upon conformity with economic principle. Let us consider each of these in turn.

I. Justice and the new Economic Basis of Society

The first point is well summed up in the alleged conflict between the fiscal and the social principles of finance. We say alleged conflict, because in reality there is, from a deeper point of view, no such conflict at all. It is sometimes asserted that the fiscal object of taxation is simply to secure revenue, while the social object is to effect some desirable change in social relations. This antithesis rests upon a failure to observe that finance, like economics, is a social science, and that even from the narrow political point of view of the relation between the government and the citizen, the government cannot derive any revenue—that is, cannot take any part of the social income—without inevitably affecting social relations. The fact that the government has in mind solely the fiscal aim of securing revenue does not alter the social consequences of the particular revenue system. In modern times social conditions are influenced to a large extent by changes in wealth. Every tax necessarily affects the wealth of individuals, and if we could in all cases trace the final consequences of even a "purely fiscal" tax, all kinds of unforeseen results, social as

[1] This chapter first appeared, in slightly different form, and under the title "Pending Problems in Public Finance," in *Proceedings of the Congress of Arts and Sciences, Universal Exposition,* St. Louis, 1904, vol. vii.

well as fiscal, or perhaps better, social because fiscal, would disclose themselves. Economics and finance deal not with intentions, but with results. The function of fiscal science is to point out to the legislator the necessary results of his actions.

The distinguishing mark of modern social science is that it endeavors to explain not only what is, but also what should be. All practical action is thus brought to the crucible of justice, and all systems of taxation are put to the test of conformity with this principle, irrespective of the intentions of the legislature. The great problem which still remains, however, is to elucidate the exact nature of this economic justice. Every one agrees that the essential ingredients of this scheme are equality, or uniformity, and universality of taxation. When, however, an. attempt is made to interpret them and to outline the practical form which these principles should take, there is considerable disagreement, because the actual nature of the principles has not been thoroughly analyzed. It betokens, however, a step forward in all practical finance that a more or less conscious effort is everywhere being made to bring the tax system into some manner of conformity with the principle, however dim its outlines may be.

The second point, which differentiates modern taxation from that of the past, is the emergence of the new economic substratum of society. These new facts of fiscal importance may be summed up under the following heads:

First, the increasing economic significance of the laboring class, with the corresponding growth in the importance of popular consumption. It is not meant by this to imply any depreciation of the role played by capital. On the contrary, it is a platitude to say that this is pre-eminently the capitalistic age. What it is intended to emphasize is that precisely because of the growth of modern economic well-being, the great mass of the community, represented by the laborers, are acquiring an increased consuming capacity and that their demand is the very tap-root of modern progress. The recognition of this fact has brought about vast changes in modern tax systems.

In the second place we have to note the coming to the fore of the corporation as the typical form of modern business enterprise. The evolution from the individual to the early partnership, from the partnership to the joint-stock company, from the joint-stock company to the corporation, and from the corporation to the trust is one of the most instructive lessons in institutional development. Finance has not to study it, but to accept it. Tax systems framed upon the assumptions of the older conditions, where corporate activity was the exception rather than the rule, are manifestly inadequate and belated.

The third change consists in the growing importance of the problem of franchises. This is not the same as the corporate problem, although often confused with it. A franchise may assume many forms. It may be a patent or copyright in the hands of an individual; it may be the privilege of inheriting property, whether that privilege be granted to a single person or a group; it may be a right accorded to corporations to utilize opportunities which originally belonged to the community, and which are for sufficient reasons given away. Such privileges and franchises have indeed existed from of old, but the complexity of modern society and the immense increase of public wealth have vastly enhanced both their extent and their significance. How to analyze them, how to measure them, and how to fit the result into the system of public revenue is becoming one of the most subtle and difficult problems, which will, no doubt, long perplex the trained student as well as the legislator.

The fourth change is the economic revolution affecting the distribution of governmental authority as between the general and the local government. The cause of this change, as is well known, is not only the forging to the front of the interests of peace rather than of war, but above all, the agglomeration of modern population into urban centres. With the segregation of wealth and property into great local masses, there is coming the need of administering to the wants of such complex aggregates. Accordingly, while the last century has shown a great increase of national expenditure and income, there has been a far larger growth in local expenditures and incomes. And whereas formerly local taxation could be treated as a relatively unimportant appendage to national taxation, it now claims a distinct and separate place of its own.

Side by side, however, with this localization of wealth there has been a counter-movement in the direction of the nationalization of wealth, in the sense of nationalization in the opportunities of securing wealth. The economic activities of to-day have far outgrown the swaddling-clothes of former times. Business enterprise not only covers the whole country, but encircles the globe. Citizenship in the various commonwealths of a federal state, like Germany, Australia, Switzerland, or America, has become in great measure meaningless because its economic basis has been so effectively weakened. In all federal states, therefore, the problem of taxation is complicated by the difficulty of correctly apportioning the burdens among the constituent commonwealths. In every country, federal or not, a similar difficulty exists as between the local government and the state government. Problems of double taxation resting upon interstate and interlocal complications arise to confront us at every turn.

The fifth and final point is that of the modern social solidarity. In former times the close relation subsisting between the various branches of productive enterprise in the community was beclouded by the predominant social and political influence secured by some one factor. In an economy based upon slavery the only importance of a slave is that of a working-tool; in an economy based upon the predominance of the large landowner, the function of the moneyed and commercial interests is apt to be overlooked. In the early stages of the factory system, where the mass of the laborers are regarded from the point of view of production rather than from that of consumption, it is natural that the socialistic conception of class conflict should emerge. A more careful study, however, of modern industrial society has shown that while indeed there is no such thing as a natural harmony of interest, there is a distinct and inevitable influence, sometimes for good, sometimes for evil, exerted by each factor of production upon the other, and by each social class upon its neighbor. Laborers and capitalists, landowners and traders, factory owners and financiers, are pursuing their own interests, and in so doing they necessarily react upon the interests of the others.

The distinguishing mark of modern economic life in this respect is the realization of these close economic interrelations. The machinery of production has become so subtle and so complex that the disarrangement of any one part throws the whole out of gear. The overburdening of any one class may have the most unlooked-for consequences upon another. Taxation, as a weapon of retaliation, often proves to be a boomerang. An undue pressure on a railroad may decrease facilities, rather than increase revenue. The assessment of mortgages may hit the farmer rather than the money-lender. The taxation of the laborer may limit the market, rather than increase the profits of the capitalist. Whether we desire it or not, modern economic conditions are engendering a situation where every one is in a larger sense his brother's keeper and where at all events it is unsafe to disregard the often hidden and recondite, but none the less active, influence exerted by each economic class upon the others.

All these changes in economic life have affected the practical system of taxation throughout the world. They have created new problems for the scientific student. The justification of finance, however, as a science, rests upon the correlation of fiscal problems with economic principle. We thus come to the next part of the discussion, the influence of economic analysis on fiscal facts.

II. Economic Analysis and Fiscal Facts

The first result of economic analysis was to show the errors of a tax system resting exclusively or in great part upon consumption. The theory of consumption as the test of faculty or ability to pay was promulgated in the later middle ages by reformers who despaired of reaching the privileged class in any other way. Every man, it was said, must consume, and the more idle a man is, the more luxuries will he consume. A consumption tax thus seemed to be the sole method of securing universality of taxation. To these considerations there was added the thought, on the part of some, that so far as the working-classes were concerned, taxes on the necessities of life would be admirable, in that they would compel the laborers to work harder.

In opposition to this view, a more careful economic analysis disclosed the fact that a tax on consumption, regarded as a universal system, was unwise and unjust—unwise because a tax on mere luxuries would be most disappointing in the yield; unjust because a tax on necessities would fall with crushing severity on those classes which could least afford to bear the burden. Above all, it was recognized that by checking consumption we were thereby checking production, and that a general tax on consumption would possess most of the disadvantages of a tax on production and few of its advantages.

Consumption taxes, therefore, as a sole or chief reliance of the government, have been fast disappearing. One of the first acts of the American Government in Cuba and the Philippines was to abolish the *consumo* tax; and it is well recognized that the continuance of the municipal octroi in France and Italy is deplored by all serious students.

The next triumph of economic theory was to disclose the dangers of a system of taxation resting on production and exchange. In one sense indeed every tax that is not a tax on consumption may be regarded as a tax on production, for all wealth consists either of producers' goods or of consumers' goods. It would, therefore, seem to be impossible to avoid the imposition of taxes on production. In the sense in which the term has usually been employed, however, a tax on production has denoted a tax imposed directly, and at a late stage, on the process of completing the finished article. Regarded in this light, such taxes manifestly impede the process of production and are to be deprecated because they affect the able and the shiftless producer alike. Taxes on production often put a premium on inefficiency and are apt to clog the wheel of industrial progress. The tendency of modern statesmanship has accordingly been away from reliance on such methods.

Perhaps the greatest change in fiscal theory during the nineteenth century has been, thirdly, to analyze and to explain the need of taxing shares in distribution rather than consumption or production. We have learned in a preceding chapter how the principle of faculty or ability to pay has gradually worked itself through the conscience of the public and the theory of the publicist. A vast amount of ingenuity has been expended upon the attempt to disclose the real meaning of faculty as measured by the property or the income of the individual. When we come to consider the facts, however, there are two striking considerations that confront us. The first is the exceedingly small proportion that the income tax bears to the total revenue. In France, for instance, there is as yet no income tax at all, and even in England and Germany the proceeds of the income tax are insignificant when compared to the total revenue, state or local. The scientists may discuss and do discuss the problems of progression and differentiation of taxation, and all of the discussions rest on the assumption that the burdens upon the individual must be in a certain proportion to this income; yet we find as an actual fact that only a very inconspicuous proportion of the taxes in the civilized countries of to-day stand in any direct relation to the income of the taxpayer.

Not alone do the income taxes form so small a part of the whole, but furthermore, in many countries the so-called income taxes are really not taxes on the personal income of the individual. In England, for example, it is well known the so-called income tax is merely a collection of taxes on the thing which yields the income rather than on the person who receives it. That is, it is a collection of taxes on produce and not on income. The only exception is the famous schedule "D," which is notoriously the least successful of all. It may be claimed indeed that in Prussia the income tax is really what it purports to be, but all who have made a study of the system know that when similar methods were employed in England at the beginning of the nineteenth century they proved to be a dismal failure. The English administrators consider the principle of their tax far superior to that of the Prussian; and to the extent that this contention is justified, the superiority rests upon the fact that the tax is not one on personal income.[1] Even in Prussia itself, the home of efficient bureaucracy, the tax has been by no means free from objections. The same repugnance to the personal element in the income tax which is found in England explains why it has been impossible as yet to introduce the system into France, and its still lively recollection of the abuses of personal taxation under the *ancien régime*, and explains also why the income tax has been so slow in coming in the United States.

We thus find the remarkable fact that while the science of finance has been elaborating its fundamental principles, it has succeeded in some respects, but has failed in others in imprinting its conclusions upon legislation. It has brought the actual taxes on consumption and production, to a great extent, into line with its conclusions, but it has spent most of its time during the nineteenth century in working out the principles of an income taxation, which is either not accepted in legislation, or which, if accepted, is realized to so small an extent and in such a half-hearted way that it covers at best only a fraction of the field of taxation.

The conclusion is hence forced upon us that the fiscal analysis has not proceeded sufficiently far. We are indeed grateful for what has been accomplished, but we have evidently not yet reached the goal.

[1] Cf. as to this point and the remainder of this paragraph, Seligman, *The Income Tax,* 1910, passim.

In addition to the theory that the modern development of taxation is to be interpreted in the light of the doctrine of individual ability or faculty, we need a supplementary principle to help us thread our way through the maze of actual fiscal facts.

This principle is that of the social versus the individual basis of taxation. The conception which has dominated fiscal science until lately is the individual conception. Direct taxes have in theory been preferred to indirect taxes, because they were supposed to rest where they were imposed, and thus to help in securing justice as between individuals. The goal of all taxation was the attainment of a method in harmony with individual faculty. The first serious breach in this doctrine was made by the diffusion theory of taxation. The diffusion theory erred, indeed, in that it went too far in attempting to show that every tax is always and inevitably shifted off from the shoulders of the original payer. The value of the diffusion theory, however, consists in the fact that it put the problem in the right way, by presenting the societary aspects of taxation.

Nevertheless, the diffusion theory made the situation too simple. It has quite correctly been termed superficial and one-sided. To make it at all serviceable, it needs to be supplemented by another theory, which I have taken the liberty of calling the absorption theory of taxation.[1] The absorption theory rests upon the doctrine of capitalization. That is to say, where the tax is not shifted from the seller to the buyer and where the economic good has a rental value as well as a capital value, the tax which remains on the taxable object and which, therefore, to that extent diminishes the income to be derived from it, i.e., its rental value, must also proportionally diminish its capital value. The selling or capital value of anything is always the capitalization of the actual and prospective rental or income value. As a consequence, through this familiar principle of capitalization the new purchaser of the commodity will buy it at the reduced price, and will thus virtually buy himself free from taxation. Where the tax cannot be shifted, it will be discounted, or absorbed, in the new and lower price.

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[1] Cf. Seligman, *The Shifting and Incidence of Taxation,* 3d ed., 1910, pp. 221-226, 390-393.

A new tax on city real estate, for instance, will either be diffused by increasing the rents of the tenants, or it will be absorbed in the sense that when the property changes hands the new purchaser will pay a price reduced by the capitalization of the tax. So a new tax on corporate securities will either be diffused by increasing the price of the product or it will be absorbed in the new and lower price of the securities.

The combination of the diffusion and the absorption theories of taxation explains several things. It explains why the theoretic distinction between direct and indirect taxes based upon the alleged facts of incidence is erroneous. It explains why in spite of this theory the great mass of revenue to-day continues to be raised in the shape of indirect taxes. It explains why in countries like the United States the state and local taxes, although still in principle levied on persons, are slowly coming to be imposed on things rather than on persons; it explains why in France personal taxes have been impossible since the Revolution; it explains why in England, with the exception of a single schedule of a single tax, the whole system of taxation is based on things and not on persons; it explains why, even in Germany, where the personal and individual elements of the problem have been emphasized in theory, the personal share in actual taxation is so insignificant; it explains, finally why the legal decisions on taxation in the United States are coming to be in harmony with the truer economic doctrine of universality and equality of taxation. For this does not mean that everybody must be taxed alike, but only that all the members of a given class must be taxed alike, while there may be the greatest diversity between classes. An equal tax on all corporations does not imply that each individual stock- or bond-holder who may have bought after the tax was imposed pays equally, just as little as an equal tax upon real estate implies that each individual land- or house-owner everywhere and necessarily bears the burden of the tax.

In short, the individual point of view in taxation, which assumes that justice can be done by assessing each individual directly and in first instance, rests upon an analysis which does not comprehend all the elements in the problem. The social point of view is that of modern economics, which seeks to trace the workings of general economic law and to study the forces which affect the distribution of the social income. The individual point of view while good as far as it goes, is not only inadequate in itself, but fails to explain all the developments of modern taxation. It must be supplemented by the social point of view, resting upon a combination of the absorption and diffusion theories, and which is in harmony with those facts of fiscal life that are difficult to explain on any other interpretation. It is safe to predict that when once this is accepted, the most fruitful work of the future in the science of finance will consist in the elaboration in detail of the conditions and the limits of the absorption and diffusion theories.

III. The Practical Problems

Regarded from this point of view, a new light is thrown on the practical problems throughout the world. The most important of these pressing problems are as follows: First, the reform of so-called indirect taxation. The social consequences of indirect taxation are now recognized to an ever-increasing extent. So far as taxes on consumption are concerned, it is fairly well appreciated that the commodity taxed must possess the mingled qualities of a necessity and a luxury; if it possess only the characteristics of a luxury the revenue will be insignificant; if it possess only the qualities of a necessity, it will fall with undue severity on the modest consumer. If, however, it combines both characteristics, namely, that of wide use and at the same time that of a certain degree of dispensability, the revenue is apt to be large and elastic and the burden not too severe. The number of consumable commodities that unite both these characteristics is small, and hence we find everywhere throughout the civilized world the tendency to restrict taxes on consumption to very few, but very lucrative, articles.

In the second place we find well-nigh everywhere the abandonment of the old general property tax regarded as a personal impost.[1] In England and Germany it disappeared during the eighteenth century; in France it was abolished by the Revolution; in America, where the economic conditions brought it into life during the eighteenth century and the early part of the nineteenth, it is beginning to break up in those sections where the agricultural economy is giving way to a commercial and industrial economy.

[1] Cf. for details chapter ii, supra.

Thirdly, we notice everywhere the replacing of the general property tax by taxes on the thing rather than on the person. In other words, personal taxation is giving way to impersonal taxation. In the local tax on real estate this process has been carried almost to completion. In Europe, for instance, the taxes levied on the land and on the house are assessed irrespective of the owner or of the relations that may be entered into between owner and tenant. Everywhere in Europe the tax is a tax on the produce of the land or house—that is, upon what it yields in the shape of rent or of profits equivalent to rent. In some countries, as in England, the tax is not paid by the owner at all, but by the occupier. Even in the United States the tax is beginning to be assessed on the parcel of real estate and not on the individual who owns it. Whether the owner or some one else pays the tax is immaterial, and if the tax is not paid, no regard is paid to the owner and the land itself is sold. We could get scarcely further away from the old idea of individual taxation. The tax is a tax on the thing and not on the person.

In New York, for instance, the older method like that in all the commonwealths, had been to make the owner of the land personally responsible for the tax on real estate, just as in the case of personal property. If he failed to pay, the remedy was distress on the individual and, in case of failure to find sufficient chattels for the levy, arrest. This system broke down at an early period so far as non-resident owners were concerned, and in such cases the tax was made a lien on the land itself, with power to sell the land in case the tax was not paid.[1] It was not until 1850 that the system of taxing non-resident lands was applied in the city of New York to the lands of residents also. But even then it was for a long time the exception rather than the rule, and the courts were slow to recognize the nature of the change.[2] But what was originally the exception became before long

[1] In Massachusetts this power first appears in 1731. See the history of the legislation in that State in Richardson vs. Boston, 148 IMass. 508.

[2] It is true that in the case of Haight vs. The Mayor, etc., of the City of New York, 99 N. Y. 280, the court held that "the only effect of omitting to insert the name of the owner is to deprive the City of the right to collect the tax from the owner personally or by distress of goods and chattels, etc., and to confine its remedy for the collection of the tax to the enforcement of its lien therefor on the land assessed." But on the other hand in the ease of Hagner vs. Hall, 10 Appellate Division, p. 585, the

the rule, until at the beginning of the twentieth century the assessment of all real estate in New York city was made by lot and block. It had become in other words, a geographical or topographical assessment, instead of an assessment to the owner or person. This method spread to a few other cities in the states. The State Board of Tax Commissioners in various successive reports recommended a change in the general state law, whereby the distinction between resident and non-resident assessments should be abandoned, and all real estate assessments should be *in rem*, i.e., against the land itself. This was officially accomplished in 1911 when it was provided by law that throughout the state of New York the name of the owner of the real estate should no longer be essential to the validity of the assessment, provided that the property were described in sufficient detail to identify it. Of the incidental possibilities of improvements which this law may bring about in the assessment of the real estate tax this is not the place to speak.

In the other so-called direct taxes, a similar development is to be observed. The business taxes in Europe are levied upon the business as such and not upon the owner of the business. The inheritance tax is in many countries levied upon the inheritance and not upon the individual who receives the inheritance. The general land tax in England—the last vestige of the mediæval general property tax upon individuals—has actually become a redeemable rent-charge. Even the income tax, which in theory is assuredly personal, has, as we have already stated, in some places at least almost completely lost its individual character and has become in great measure a tax upon the thing affording the income rather than upon the person receiving the income. In the United States the so-called personal tax, that is, the tax on individuals according to their personal property, is fast becoming a farce in all the older centres. The problem is really a deeper one than the German scientists have usually recognized. It is not so much a conflict between a tax upon produce and a tax upon income

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court said: "Still in my opinion this has not changed the effect of the proceeding. It is essentially a proceeding to create a debt against an individual. The individual is the primary debtor and the land is only in the nature of surety liable for his default."

as it is a conflict between the social and the individual bases of taxation.[1]

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[1] In two recent articles in Schmoller's *Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft,* Professor Gustav Cohn, of Göttingen, criticizes this position. In his article on "Charakterzuge des Amerikanischen Steuerwesens," in vol. xxiii. (1908), p. 431 et seq., he contends that the only reason why the United States is not more quickly adopting the principle of faculty or ability to pay is that conditions are so unripe here. He has no faith in any attempt to explain matters by a new principle. In the second article which is in substance a leading review of my book on *The Income Tax*, in vol. xxxv. (1911) of the same journal, entitled "Die Einkommensteuer in den Vereinigten Staaten von Amerika," Professor Cohn welcomes what he calls my reversion to the principle of faculty, but twits me with abandoning my former position.

The problem, however, is not one of inconsistency at all nor is it, as Professor Cohn seems to think, simply a question of choice between direct and indirect taxation. To anyone who is acquainted with American conditions, it is plain that two distinctly opposed tendencies are at present perceptible in our fiscal development. On the one hand we find the tendency toward the adoption of the principle of individual faculty or ability in taxation, typified primarily in our federal finance by the tariff-reform and the income-tax movements. On the other hand, there is the tendency in our states and cities away from personal taxation in the shape of the general property tax and toward the adoption not only of indirect taxes in the older sense but also of impersonal "real taxes," i.e. taxes on things. These two movements are really not opposite, but complementary; just as in the political life of most countries we notice the simultaneous action of forces, some making for centralization, others making for decentralization. When I advanced the "social theory" of taxation in 1904 I had in mind especially the American problem of state and local taxation; when I emphasized in 1910 the faculty theory of taxation I was discussing primarily the national problem. There is nothing inconsistent, as Professor Cohn believes, in these two standpoints. In other countries at present, and possibly in the America of the future, the problem may not be that of national versus state or local taxation, for the interrelations of local and national finance may be quite different from what they are at present in the United States. That the problem, however, is everywhere one of the social versus the individual point of view, and that the tendency toward the adoption of the principle of individual faculty is inadequate to explain all the phases of the modern movement will, I fancy, not be disputed by competent observers in England or France, and ought not to be elude the vision of even the Germans themselves, especially since their federal tax reform of 1910. The real trouble with the German writers on public finance during the last generation, so far as this point is concerned, is that they have centred their attention exclusively on the movement to replace for state purposes the old taxes on product by the new income and inheritance taxes, to the neglect of the simultaneous, and in some respects equally important, movement away from the principle of individual faculty in national, state and

In the fourth place, we find everywhere an increasing importance attached to corporations as the source of revenue. In Europe this process is somewhat concealed because of the inclusion of the revenue from corporations in the income tax, just as in many of the younger American commonwealths the revenues figure in the general property tax. In the older states corporation taxes are put into a separate category, and in some states, as in New York, they are even called indirect taxes in contradistinction to the direct or property taxes. Everywhere, however, they form a problem of increasing importance and present an admirable example of what is meant by taxation from a social rather than from an individual point of view. Taxation of the corporation does not necessarily mean taxation of the security-holder who has purchased the stock or bond from the original holder.[1]

The main outlines of the development of the immediate future, throughout the world, are thus fairly clear. Each country will continue to have its particular problems based upon its special economic and political needs. Everywhere there will continue to be an attempt to realize the principle of fiscal justice, interpreting it, however, more and more from the point of view of social interrelations rather than from that of individual conditions. The statesmen and scientists alike will find the great difficulty of the future to consist in attaining this due proportion between the undoubted needs of the individual and the consequences of his participation in the social group. For we must not forget that while it is necessary to regard the ultimate results of all fiscal policies, the immediate results are often of primary practical importance. The conflict between immediate and ultimate results is another way of putting the contrast between the individual and social aspects of finance. To realize the truth contained in the latter, without disregarding the legitimate importance of the former, is the problem reserved for the coming decades.

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local finance. What I have sought to do is to attempt an explanation of both tendencies.

[1] Cf. supra, p. 309.

Chapter X—
A Quarter Century's Progress in Taxation[1]

I. General Progress

The subject of this chapter is susceptible of a double treatment. It covers not only the actual changes of a fundamental nature in the practice of taxation, but also the development that has taken place in the governing principles. These, however, are, after all, two phases of the same movement, for the influence of practice and theory is reciprocal. On the one hand, the theories themselves represent an outcome of the facts, for fiscal theory, like all social theory, is but an attempt to present an analysis of the living forces at work in industrial society. And on the other hand, so far as fiscal theory deals with what ought to be, rather than with what is, it justifies itself only to the extent that its conclusions are approved by the popular mind, and thus become incorporated in the actual bone and sinew of the social organism. Fiscal theory and fiscal practice are the obverse and reverse of the same medal.

In the second place, the problem is not only specific but general. As citizens and patriots we are naturally most interested in the problems of our own country; but as scientists, our horizon is a wider one. Science cannot be fettered by bonds of national forging. It soars far above such limits. This is especially true of the scientific problems of taxation. It goes, of course, without saying that the fiscal institutions of every country, as all its economic and social institutions, are colored by the particular environment. It would therefore be hopeless to attempt to reproduce in any one country, in all its minute details, the institutions of another country. But while we may concede the diversity of conditions, and the peculiarities of national life which must guide the statesman in elaborating any specific plan, it is equally true that there are discernible certain broad and general tendencies which are common to the life of all modern progressive societies, and which constitute the special field of the scientific observer. We shall see indeed that however much individual countries

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[1] his chapter is in substance a reproduction of the address delivered at the Twenty-fifth anniversary meeting of the American Economic Association in 1908, and published in the *Proceedings* for that year.

may differ from each other, and however confused the actual scheme at first blush may appear, there is, as it were, a silken strand which runs through the tangled skein, and which serves to give unity to what seems disorder.

And finally, we are struck, in this introductory survey of a quarter century's progress, by the fact that the science of finance is only slowly coming to its own, as compared with the almost revolutionary development in the general theory of pure and applied economics. This is due to the fact that the really difficult fiscal problems are of recent origin, and that fiscal science rarely grapples with problems until they have became acute. In Germany and in Italy the difficulties arose at a slightly earlier period; and we hence find a considerable scientific activity, along several lines at least, at the beginning of the period under discussion. In other countries, and notably in England, France, and the United States, the problems have been of much later growth, and it is accordingly only in the last few years that we find increasing attention paid to the underlying principles of tax adjustment. Even in Germany and Italy the rapid changes of industrial environment have, in many respects, shifted the centre of gravity, and have recently engendered newer problems which are common to the whole civilized world. It is, however, not only in Germany as in France, in England as in Japan, that the fiscal problem is at the present time in the very forefront of political and social discussion. Especially in the United States it is a phenomenon of the most cheering import to note how the younger scholars are now beginning to address themselves to a consideration of these vexing problems. The progress that has been accomplished in the last quarter of a century is an earnest of the far greater development that is imminent in the immediate future.

Before taking up the question of fiscal theory, however, one fact must be noted as of paramount importance. It is the increasing significance everywhere being attached to administrative considerations. What is true more or less of all economic institutions is particularly applicable to our special problems. On all sides we are realizing the fact that the question of efficiency is scarcely, if at all, subordinate to the question of justice. Or, let me put it rather in this way: that however well justified, and however thoroughly calculated to promote the ends of justice a given scheme may be, unless its administrative features are so arranged as to make it workable, the beneficent aims are bound to be frustrated; and a half-way good measure which is administratively unobjectionable frequently turns out to be far superior to an ideal scheme which ultimately discloses serious faults in its administrative aspects. It is for this reason that we notice so much attention paid throughout the world in recent years to the administrative machinery, or to the purely mechanical aspects of the problem. In both England and Germany, for instance, the past quarter of a century has seen a marked improvement in the administrative processes of the income tax, and especially in the former country has rendered palatable a system which was originally viewed with misgiving and distrust. Those authors—and they are not yet entirely extinct—who endeavor to draw a warning lesson from the income tax, derived from the speeches of Gladstone and the writings of an earlier generation of economists, are not alone blind to the teachings of the more recent movements of theory, of which we shall speak in a moment, but are, above all, deaf to the lessons of administrative development. Even in the United States, where great and fundamental changes in the structure of taxation are impending, it is coming more and more to be realized that even our present system, inadequate and unsatisfactory though it be, is susceptible of a prodigious improvement on purely administrative lines. We have but to call attention to the remarkable progress that has been achieved in the administration of the tax on real estate in the city of New York, under the skillful supervision of the capable head of the Commissioners of Taxes and Assessments. Another more or less familiar example is the excellent work that has been done in the state control of local officials, or the centralized administration of the general property tax, in commonwealths like Minnesota and Wisconsin, where the political powers have seen fit to call to their aid scientifically trained fiscal administrators. In fact, if there is any one thing which looms large in the history of the last twenty-five years in the United States, it is the increasing significance that is now slowly being attached to the problem of administrative efficiency. In this alone lies no small measure of our hope for the future. The administrative problem lies, however, beyond the confines of this discussion.

II. Local Considerations and the Benefit Theory

Assuming, then, that the problem of administrative efficiency is being successfully attacked, we must now address ourselves to those underlying principles which, after all, form the touchstone of ultimate fiscal success. If we take a broad survey of the theory and practice of the last twenty-five years' taxation, we shall be impressed by two fundamental reflections. The first is the emphasis that is being placed upon social rather than individual considerations; and the second is that even in so far as this is not true there has been a decided change in our attitude to the individual norm in taxation. Let us consider these separately.

The first point is one which I have repeatedly accentuated in the last few years, and which, therefore, will call for less elaboration in this place. Whatever theory the older writers on taxation might have advanced as to the obligation of the individual to contribute to the support of government, they always tacitly assumed that the so-called direct taxes rested upon the taxpayer; and in this scheme of equitable taxation there was manifestly no room for a system of indirect imposts. One of the most striking facts in the literature of taxation is that we search in vain for an adequate explanation, not to speak of justification, of a set of revenues which in almost every country forms the considerably greater part of the whole. To say, as did a well-known writer some years ago, that all indirect taxation is crooked taxation—importing into the term a moral as well as a physical connotation—is seriously to impeach the entire modern development. It is indeed true that the civilized world has abandoned the mediaeval system of a multiplicity of indefensible and burdensome indirect taxes. But it is also true that their place has been taken by taxes which are less burdensome and more defensible indeed, but none the less equally indirect taxes. One has but to run through the budgets of any modern nation, in order to realize what a very considerable share of the revenue is derived from so-called indirect sources; and in many cases the proportion is becoming greater, instead of less. Even in the United States, where the import duties and the internal revenue taxes form the almost exclusive source of national income, the trend toward indirect taxes even in the commonwealths is typified by the stock-exchange tax as in New York and the mortgage tax, which now constitutes in some states an important source of commonwealth revenue. And if we look at the admirable scheme by which Japan has been able to arrange her war and her *post bellum* finances, we are equally struck by this preponderance of the so-called indirect taxes. Of the situation as it exists in France, in Italy, in Germany, and in England, we need not speak at all.

A theory of taxation which is competent to explain the modern development must, therefore, put us in the way of comprehending the real principle underlying the indirect taxes. But it must do more than that. It must also put us in a position to understand the break-up of the general property tax and the change taking place in the taxation of mortgages throughout the country. Or again, it must enable us to explain how it is that in the great city of New York almost the entire tax revenue can be derived from an impost on real estate, without engendering a revolution among the particular class of property owners that is singled out for taxation.

The truth of the matter is that things are not what they seem; that the older theory that justice can be attained by taxing every man on all his property does somehow not work out, because, as a matter of fact, the taxation of property is not necessarily taxation of the property owner. In other words, we are confronted by the great problem of the shifting, the incidence, and the effects of taxation. The individual taxpayer does not live to himself alone; he forms a part of a delicate and complex organism, and his interests are indissolubly bound up with those of his neighbors. The problem of taxation, like every problem of value, is primarily a social and not an individual problem. The striking change that has come over modern economics is the emphasis that has been put upon the social aspects of theory. If there is any one thing that is needed in the science of finance, it is the point for which I have clamored so insistently during the past few years, that the newer theory of taxation must proceed from the social, and not the individual, point of view. It is this point of view that is responsible for the more modern version of the theory of diffusion or absorption of taxation. It is this point of view which emphasizes the newer doctrine of capitalization of taxation. It is this point of view which unites the doctrines of absorption and capitalization in the wider theory that I have ventured to call the elision of taxation. Slowly we are beginning to realize—and by we I mean not alone the representatives of science, but the legislators and the courts—that to tax a particular piece of property is not necessarily to tax the property owner; that to attain justice in taxation it is not requisite to tax all kinds of property; and that in the case both of the so-called direct, and the so-called indirect taxes, the real problem is not as to which individual advances the tax, but as to what class of individuals ultimately pay the tax, or are either burdened or benefited by it.

In this respect, therefore, the progress of theory in the last twenty-five years has scarcely kept pace with the unconscious revelation of the theory in the facts of actual life. A beginning has been made, but only a beginning; and the task of the next quarter of a century is to carry out into all its ramifications an elaboration and a more adequate comprehension of this doctrine of the social, rather than the individual, forces in taxation.

It may be claimed, however, that there still remains a field for the application of the individual theory of taxation, because it is undoubtedly true that in many cases, at all events, a tax is not shifted, but is really borne by the individual who pays it. Although we may grant this contention, it is, I think, susceptible of proof that even from the individual point of view a great change has taken place in the facts of modern taxation, which must inevitably react upon the theory; and that even this putative individual basis of taxation will, on closer examination, be found to be shot through with social considerations.

We come, in other words, to the great question which has long vexed the minds of scholars and taxed the energies of statesmen, as to what really is the test and measure of the obligation of the individual to contribute to the support of government. Even assuming that every individual bears the burden of what he actually pays to the state, how shall this burden be apportioned? Two answers, as is well known, have been given to this query. Yet each has failed to satisfy the rigorous demands of modern investigation; the one because it is plainly inadequate, the other because it has hitherto been incorrectly interpreted.

The answer that was almost universally given in the earlier stage of fiscal inquiry was that individuals should contribute to the support of government in accordance with the benefits or advantages which they derived from government action. This has now become known as the Benefit Theory of taxation. The state was conceived of as a large joint-stock company, in which the individual citizens were shareholders; and each citizen was imagined to derive from the operation of this corporation a definite amount of profits in accordance with his investment in the enterprise. Since the operations of government were not designed to yield a dividend in actual money, the profits were conceived of primarily as being something in the nature of an intangible, but none the less calculable, dividend; and since, in the minds of those writers, the chief and well-nigh the sole function of government was to protect life and property, the quantum of benefit that each individual received stood in a certain proportion to his wealth. Taxes hence represent nothing but an insurance premium, or a periodic payment made by the individual in order to guarantee the continuance of his profits in this joint-stock enterprise. The theory of benefit or protection, although now almost completely abandoned by scholars, still lingers in the minds of some writers, and is found to a considerable extent in the tax decisions of the courts of Anglo-Saxon countries, where the force of precedent is so enormous.

The reason why the benefit theory of taxation has been abandoned is two-fold. In the first place, even on the assumption that the theory involves a correct interpretation of the relations of the individual to the government, a more rigid analysis discloses the fact that the benefits conferred by government on individuals do not stand in any such relation to wealth—whether to property or to income—as had been imagined. Even granting that the sole function of government is to protect property, it does not follow either that it costs the government twice as much to protect property of twice the amount, nor that the smaller property owner feels that he is getting only one-half the benefits on his own property that the larger proprietor receives on his. Furthermore, it is obvious that the government protects persons as well as property, and the personal protection realized by a poor man is no less valuable to him than the personal protection afforded to a rich man. Still further, however, it soon became apparent that government is more than the mere watchdog of society, and that protection does not exhaust its functions. As soon, however, as we consider the other functions of government, the fallacy of the benefit theory becomes evident. For the advantages derived by individuals from government action are found to be in large measure not in direct, but in inverse, proportion to their wealth. The poor man sends his children to a public school, the rich man resorts to a private school; the poor man depends for fire protection or sanitation upon the efforts of government, the rich man avails himself of the services of the best appliances and the foremost experts; the poor man, in last instance, resorts to poor relief or state pensions; the rich man needs no such assistance. In almost every domain of modern governmental activity, it may thus be contended with some degree of truth that the direct benefits of state action are frequently in inverse proportion to the wealth of the individual. A theory which would practically result in placing greater burdens upon the poor man than upon the rich man must, therefore, be defective in one of its premises.

The second and chief reason, however, why the benefit theory of taxation was abandoned is that the whole foundation of political philosophy on which it was erected was recognized as insecure. The modern theory of political science rests upon the more organic conception of the relation of the individual to the state; it recognizes the fact that the public collective wants are as much a part of the nature of civilized man as are his individual private wants; and that the essence of taxation is a morale as well as a legal, obligation. The government, indeed, must do something for the community in return for the support which it receives. But this reciprocal obligation on the part of the government is not toward the individual as such, but toward the individual as a part of the greater whole. The special benefit is swallowed up in the common benefit. The special benefit to the individual is, in most cases, even not measurable; for the distinguishing characteristic of modern civilization is the spread throughout the community of these impalpable, non-material results of good government which make for the common welfare, and especially for the higher life. In its ideal form at all events, the state must be likened not to a joint-stock company, but to a family. The citizens are not stockholders but brethren, animated, if they are patriots, by the same ideals and by the same fine sense of co-operation in the common interest. Whatever the test of this moral obligation to contribute to the support of the whole may be, it is, in the state as little as in the family, assuredly not the measure of benefit received. Not only is the test wholly impracticable, but if it were practicable it would be completely inadequate.

It may be claimed, indeed, that this analogy of the state to the family is strained, and that cases do arise where the government undergoes a certain expense, and actually performs a definite service, for the particular individual, the benefits of which are separably and measurably calculated. Such a case obtains, for instance, when the government sells gas to the individual, or makes a charge for a certain permit, or demands that the cost of an improvement which inures particularly to the benefit of a given set of individuals be borne, in whole or in part, by them. While this claim may at once be conceded, it must be pointed out that such payments do not come under the head of taxes properly so called. Even though there is still much confusion in the minds of our legislators and our judges, we cannot help realizing, as we look back upon the progress of the last twenty-five years, that one of our chief steps in advance has been a more proper classification of public revenues, and a recognition of the fact that taxes must not be confused with prices or with fees or with special assessments. What we have to treat of here is not the whole subject of government revenues, but the special topic of taxation. In a tax the point of chief importance is the prevalence of the common benefits and the purely incidental character, if it exists at all, of the special benefit to the individual. Where the special benefit to the individual is separately calculable, and is no longer a purely incidental result of government action, we are dealing with something that is not a tax at all.

III. Social Considerations and the Faculty Theory

When the benefit theory of taxation was abandoned it was replaced by the faculty or ability theory. This theory taught that the measure of general obligation to the support of government is, in the state as in the family, the capacity on the part of the individual to contribute to that support. This seemed to be an enlightening and comprehensive proposition. But, as in the case of the benefit theory, the difficulty arose when an attempt was made to analyze more closely exactly what was meant by the faculty principle. Perhaps the most important step in the analysis was taken by those writers who, like John Stuart Mill, conceived the essence of faculty or ability to reside in equality of sacrifice. That is, they measured the ability of the individual to pay taxes by the amount of sacrifice that would be imposed upon him by the burden of the payment. I do not here speak of the various suggestions that have been put forward to ascertain the objective norm of this faculty so interpreted, further than to recall the gradual evolution from the test of expenditure to that in turn of property, of product, and of income. The important point for our purpose is that the subjective measure of the obligation was found to consist in sacrifice. It is true, indeed that in recent times this explanation of Mill has been further elaborated, as, for instance, in the suggested substitution by Professor Edgeworth and by Professor Carver of the principle of minimum sacrifice, in lieu of that of equal sacrifice. But apart from the peculiar difficulties inherent in this newer version, upon which this is not the place to touch,[1] we are confronted by the fact not only that fiscal practice does not conform to the general theory of sacrifice, but that the doctrine of ability or faculty itself has been assailed by recent thinkers as in some respects unsatisfactory.

While there is some force in the objections that have been urged, they are, in my opinion, not sufficient to invalidate the doctrine of ability or faculty, if correctly interpreted. Almost all the modern writers on finance, in Germany as well as in England and elsewhere, have regarded faculty too exclusively from the point of view of consumption. The whole sacrifice theory, whether in the equal-sacrifice or in the minimum-sacrifice version, deals only with this phase of the problem. It asks what is the burden that rests upon the individual in virtue of his payment of taxes; and how much of his property or income remains for purposes of his own consumption. It is through and through an essentially consumption theory of finance. A more careful analysis of the doctrine, however, and one that is more in harmony with the actual facts, forces us to the conclusion that the consumption side of the theory must be reinforced by the production side. In estimating a man's faculty or ability to pay we must not alone think of the burden imposed upon him in parting with his property or income, but we must also consider the opportunities which he has enjoyed in securing that property or income.

But what, it may be asked, is the real import of this? The answer is obvious. Manifestly, as soon as we regard the production side of the

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[1] For a discussion of these doctrines see Seligman, *Progressive Taxation*, 2 ed. (1908), pp. 2S5-289.

problem, we are confronted by the phenomenon of privilege in all its manifold forms. If an individual secures his wealth largely through his own unaided exertions, that is one thing. If, on the contrary, his fortune is in great measure ascribable to the privileges conferred upon him by law, the situation is a very different one. The privileges render it easier for him to create and to augment his wealth, and the real sacrifice involved is the sacrifice of acquisition, as well as that of disposition. The older theory of faculty dealt only with the latter kind of sacrifice; the newer theory of faculty must include both kinds.

The doctrine of ability or faculty, as thus reinvigorated, is not only free from objection; it is, because more inclusive, superior to any of the rival conceptions that now divide the camp of fiscal thinkers. Our friends, the single taxers, for instance, who have done such yeoman's service in many phases of fiscal reform, commit a double mistake; first, in singling out a particular privilege as the only one to be reckoned with; and, secondly, in erecting the principle of privilege into an independent and all-sufficient explanation of the relation of the individual to the government. Some of them, in the ardor of their reaction against the faculty theory, even go so far as erroneously to identify the privilege theory with the benefit theory, and thus revert to the old and discredited explanation. But even those who do not go to this length nevertheless see in the doctrine of privilege an all-embracing and adequate principle. As I have attempted to point out above, however, this view is essentially incorrect, because it looks at only one-half of the problem. It regards solely the acquisition of wealth, and is oblivious of the disposition of wealth. The older faculty theory, as it has been almost universally expounded, errs on one side of the question; the privilege theory errs to an equal extent on the other side. The only satisfactory solution of the problem is, while upholding the faculty theory of taxation as over against the old benefit theory, so to broaden and interpret the faculty theory as to make it include all of what is legitimate in the privilege theory, without incurring any of its extravagances.

This new interpretation of the faculty theory also enables us to explain the actual progress of events during the past quarter of a century. On the one hand, we have the great movement toward the income tax, a movement which is perceptible in the United States as well as in France and the other European countries. This movement is the direct result of the older elements involved in the faculty theor3^ It is a recent movement in the United States simply because the whole faculty theory of taxation is of comparatively modern acceptance. But the two newer modifications of the income tax which are now being so hotly discussed all over the world, the principle of graduation, and the principle of differentiation, are, consciously or unconsciously, the result in part at least of the other side -of the faculty conception. As I attempted, many years ago, to point out in the discussion of progressive taxation, the consumption side of the theory alone does not suffice for an adequate defence of the principle. And in the case of the distinction between earned and unearned incomes that has now come to the fore with such insistence in Great Britain as elsewhere, the justification of the higher rates on unearned incomes is to be sought in large measure in the principle of privilege, and especially the privilege of inheritance. It is the same privilege of inheritance which is responsible for the great development in recent years of the progressive and the collateral inheritance taxes all over the world; and it is a social privilege of a different but of not less important kind, which has brought into the forefront of political discussion in Germany, and in England, the increment duties on land. In the United States also the federal corporation tax and the corporate franchise taxes in our commonwealths are all of them referable at bottom to this newer idea of social or legal privilege as augmenting the faculty or ability of the taxpayer, whether individual or corporation. Far from working away from the theory of faculty, the events of recent years show a decided approximation to the doctrine as correctly interpreted.

We see, therefore, that the chief development of the last quarter of a century, in the practice as well as in the theory of taxation, has been the increasing emphasis laid upon the social point of view. In a great domain of taxation, as we have just learned, the individual point of view has been completely superseded by the social point of view, and the study of the incidence and effects of taxation has emphasized to a continually greater extent the fact that the individual who pays a tax is by no means always the person who bears the tax. And secondly, as we have also seen, even in that remaining field of taxation where the individual taxpayer is the tax-bearer, and where the theory of faculty or ability to pay has been predicated as a fundamental principle, the individual element in this theory has been supplemented by the social element. The older conception of sacrifice was an individual conception; the newer idea of privilege is a social conception; these two conceptions have joined to form the modern doctrine of capacity or ability to pay.

Thus, from every standpoint, the individual idea has been permeated with social considerations, and the theory of finance is taking its place side by side with the other economic doctrines, as forming an outgrowth of the modern application of social considerations to the older individual conception. Economics is now sometimes called Social Economics; the newer theory of finance might also well be called the Social Theory of Finance.[1]

IV. Conflicts Between Tax Jurisdictions

No survey of recent tendencies in taxation would be complete, however, without some allusion to the changes that have been brought about by the question of various tax jurisdictions, and of the conflicts between them. In all modern nations we are struck by the attempt to adjust the fiscal relations of state and locality; and in all federal commonwealths we have the added complication of the adjustment between state and nation. What does the experience of the last twenty-five years teach us with reference to both the theory and the practice of these problems?

Let us take up first the question of the relation of general and local finance. Here we at once notice the obvious fact that the tendency everywhere is to confine the local tax to real estate. Originally, as is well known, all taxes were primarily local; and we therefore find local revenues derived from a whole category of imposts. Everywhere the general property or the general income tax formed a large part of the local revenue, and in earlier times it was supplemented by a code of taxes on consumption, a system which still survives in many cities of the European continent. When state taxes developed, they were either tacked on to the local revenue, as is still the custom

[1] This theory is not to be confused with the socio-political theory of taxation which is sometimes associated with the name of Adolf Wagner, and which has been elsewhere discussed by me. See Seligman, *Progressive Taxation*, 2 ed. (1908;, pp. 129-132.

in the United States; or where tax administration had become national, as in France and some other European countries, the reverse process occurred and local taxes were now tacked on to the state revenues. It is here now that we notice a most instructive evolution. I need not stop in this place to emphasize the great economic changes which rendered the general property tax of earlier days unfitting and inoperative. But I do want to accentuate the fact that has been lost sight of, that the reason of the decay and the disappearance of the general property tax all over Europe was not only the break-up of the original mass of property into its constituent elements, but also, to an equally great extent, the fact that the administration of the general property tax remained local, while the basis of the revenue derived from property was now becoming general. In other words, an important cause of the failure of the general property tax was the attempt to apply local administrative methods to what was now essentially fitted only for general administrative methods. Individual property and individual income can not, in modern times, be localized; and therefore a local tax on general property or general income becomes increasingly difficult to administer. This is one of the chief reasons why the general property tax is becoming a farce in the United States, just as it explains why it has long since disappeared practically everywhere else in the civilized world. But it also enables us to understand the reason why the modern income taxes, and even the property taxes where they exist, are based upon the broader, and not the narrower, administrative foundation.

What applies to the general property tax applies to many other general taxes. The one important category of revenue, however, to which this administrative shortcoming does not apply is the tax on real estate, and thus everywhere we find local taxation coming more and more to assume the form of a tax on real estate. In some countries, as in England and Australia, this is now the fact by law. In some places, like the more developed industrial centres of the United States, it is now virtually a fact by custom. In France, indeed, the movement has only just begun, but is quite perceptible; while in Germany the well-intentioned reforms of the early nineties have been in part blocked by the selfish but unreasoning opposition of the landowners, who do not quite realize the true economic significance of the process. Indeed, with all the disadvantages and absurdities of our

American system I should say that the system of local taxation in the United States, as it is fast developing in actual practice in the most advanced communities, is superior to that which exists in Germany or in France, and even in some important respects not inferior to that which is found in England. The trouble with our American scheme is that the facts are developing in spite of the law, and not in accordance with the law. The tendency, however, throughout the world toward reliance for local revenues upon the real estate tax is not alone indisputable, but also in complete harmony with the newer theories of finance.

The other side of the problem, namely, the relation of state to federal finance, has come to the front primarily in great empires like Germany, Australia, Canada and the United States. In this country we are at the present time in the very throes of the discussion. As we have pointed out elsewhere at some length,[1] the real considerations involved in the choice of revenues for conflicting tax jurisdictions are the considerations of efficiency, of suitability, and of adequacy. Into the further discussion of these subjects I do not intend here to enter. But one point calls for especial emphasis. The situation in the United States is far more difficult than that in most of the other empires mentioned, because of our system of constitutional restrictions. The older I grow and the more deeply I work into our economic and fiscal problem, the more seriously do I question the value of our much-lauded system of constitutional restrictions, at all events as applied to the problems in hand. We see the embarrassments on all sides. All the other countries have been able, for instance, to rid themselves of the general property tax, while we shall have to devote many an arduous year to the effort to overcome the initial restrictions in most of our state constitutions. And so far as this particular problem of the relation of federal and state finance is concerned, the much greater progress that has been shown by our Canadian neighbor, not to speak of some of our friends across the seas, is due to their happy immunity from the dogma of state rights. Simply because of the accident that when our constitution was formed the separate states were independent and jealous of each other, we have embedded into our constitution the theory that all rights not expressly

[1] Infra, chap. xii.

granted to the national government are reserved to the states. Yet immediately across the border we have a nation which is to-day more than twice as populous as was ours when the constitution was framed, and which in no distant future is bound to become as great and as mighty an empire as our own; and yet Canada has prospered on just the reverse theory, namely, the theory that the rights not granted to the states are reserved to the national government. Under this system Canada is solving not alone her fiscal problems, but many other economic problems, in a far more successful way than are we. And what is true of Canada is true, in a large measure, of the other great federal states. We have shackled ourselves with bonds which now cramp and bind our well-rounded development. We have erected into a fetish of so-called state rights or local self-government, a theory which the successful career of other Anglo-Saxon empires has shown to be unnecessary and embarrassing. The experience of the last twenty-five years, if it conveys any lesson at all in fiscal as well as in economic matters, teaches us that our whole constitutional theory deserves considerable overhauling.

Putting these considerations into practical form it means, as I have attempted elsewhere to indicate, that the income tax of the future in this country is to be a national and not a state income tax; and that so far as the corporation tax and the inheritance tax are concerned, the almost insuperable obstacles to overcoming the difficulties of interstate conflicts of tax jurisdiction may be removed by a national supervision of the taxes imposed by the states, or by some scheme whereby the taxes in question will become national, so far as the methods of assessment are concerned, even though the proceeds may be apportioned in whole, or in part, to the separate commonwealths. In some way or other the legal facts must be made to conform to the economic facts. In some form or other the structure of government must be put into harmony with the content of economic life.

The last quarter of a century, therefore, which has seen such enormous changes in the economic basis of society, is bringing about equally vast changes in the theory and practice of taxation. Summed up in a few words, this movement means, on the one hand, the reconciliation of efficiency with justice, or rather the attainment of justice through efficiency; and, on the other hand, it means the correlation of the older individual and the newer social elements in the problem. The struggles over the budget in England, over the income tax in France, over the revenue code in Germany, are all of them symptoms of this newer spirit. And in the United States the effort to abolish the iniquitous general property tax; the attempt to secure a separation of the sources of state and local revenue; the endeavor to hold individuals and corporations up to their obligations to the treasury; the movements to modify our system of import and internal revenue duties, and to supplement them by an income tax; and above all, the tendency toward the spread of the inheritance tax and the incipient discussion as to the applicability of the theory of unearned increment to land taxes,—all of these but emphasize the lesson which I have sought to convey. The civilized world, in its rapid onward sweep, is fast realizing all these newer ideas in taxation. It remains for the student to analyze and to explain the situation, and by clarifying the conceptions of statesmen as to the real import of these vast changes, to put them in a position to become the leaders of the people, who are the ultimate arbiters in this quest for justice and in this endeavor to reflect in fiscal institutions the highest aims of economic and social progress.