

## CHAPTER V.

### TESTIMONY OF EXPERIENCE.

**§ 1. Personalty taxes in history.** It is time to test these theories by actual experience. European governments, for several centuries, persisted in the effort to appraise and tax all classes of property, real and personal, upon an equal footing. The ancient tax-rolls of England enumerate the precise number and value of the beds, tables, chairs, pots, and pans of each taxpayer.<sup>1</sup> The English tax, now called the land tax, imposed in the seventeenth century, was in fact originally a tax upon all real and personal property. As late as 1827, a trifling amount of personal property was assessed and taxed under this law. The only reason why such property dropped out of the assessment rolls was that it became increasingly impossible to reach it. Practically, it dropped out at a very early day. A similar experience in all Europe led to similar results; and the attempt to assess personal property, whether visible or invisible, otherwise than by means of an income tax, has been universally abandoned.

But the citizens of our own favored land, confident in the power of the American eagle and of republican institutions, despite the teachings of European experience and resolutely persist in the taxation of personal property. They have achieved a certain measure of success. The official assessors estimate that they have reached nearly

<sup>1</sup> Dowell's *Hist. Taxation*, 59-74; 232-235.

60 per cent. of such property in New England, 50 per cent. in some Western States and 15 per cent. in New York. If by "personal property" only visible chattels were intended, this estimate may be correct. But as this is not intended, the estimate is excessive. In no large State does the assessed value of personal property materially exceed half the assessed value of real estate, or amount to one third of its actual value. In some States (Alabama, for example) the roll of personalty is swelled by including in it all railway values. But it is everywhere conceded that personalty, if defined as including all forms of liens and loans, fully equals realty in value. It would be strange if it did not; because such a definition includes all chattels, all debts incurred in the purchase of chattels, and all debts which are made a charge upon land. This is the value which our legislators strive to tax; and it would be too liberal to allow that they reach one third of it anywhere.

Long study of all accessible statistics has convinced the writer that the average market value of improved land, irrespective of improvements, is almost exactly equal to the value of all improvements affixed to it, that the value of actual visible chattels is about the same, and that the value of unimproved land is about half as much. In other words, dividing salable property into seven equal parts, land would represent three sevenths, improvements on land two sevenths and chattels two sevenths. This appears to be the fact in every civilized country; and the reason, in part, may be readily discerned. The "value of land" consists of nothing whatever, except a power of exacting tribute from labor by means of ground rents.<sup>1</sup>

<sup>1</sup> This has just been adjudged by the U. S. Supreme Court (*Pollock v. Farmers' Loan Co.*, April, 1895). As a scientific question, it was never open to doubt.

The fruits of labor, in which alone this tribute can be paid, consist solely of improvements and chattels. It is impossible that the value of land should exceed the other values combined; because that would mean that landlords got more than there is to get. In the struggle between the landlord, the capitalist, and laborer, we might reasonably anticipate that the landlord would not get more than one third of the whole net produce; and this appears to be the actual average. Vacant land brings no present rent; but it has a market value equal to the present value of its expected future rent. And this is of course an additional value in the landlord's possession.

But nowhere are actual chattels found by assessors to anything like this proportion of the value of land. Taking only places in which there are rigid assessment laws, rigidly enforced, Boston discovers visible chattels to the amount of only  $2\frac{1}{2}$  per cent. of its real estate, Cincinnati to only 10 per cent., Ohio to only 15 per cent., Minnesota to only 20 per cent.; whereas, in each case, the proportion should be 40 per cent. Here, as in every other instance, it is noticeable that the proportion of chattels discovered by the assessor is greater and greater as the proportion of farmers to the entire population increases.

**§ 2. Taxation of personal property always a failure.** If anything in human experience, as applied to methods of taxation, is settled, it certainly is the fact that taxation upon personal property never can be made a success. Taxes can be raised from personal property, no doubt; for large sums are thus raised; but that they cannot be levied with any reasonable approach to accuracy or equality is demonstrated, not only by conclusive reasoning, but by the more conclusive fact that they never have been thus levied. It is not for want of earnest and long sustained effort that the failure of this system of taxation

has come to pass. For centuries the effort has been made; and for at least six centuries it was backed by all the power of a government which commanded the whole civilized world and which armed its tax-gatherers, not with the paltry weapons of oaths and penalties, but with the more substantial powers of indiscriminate search, the lash, the rack, the thumbscrew, the gridiron, and the cross. The Roman empire fell to pieces under the pressure of this vain effort to reach personal property by taxation.<sup>1</sup> The same thing was attempted, at a later period, in dealing with the Jews. It failed with them. They could be robbed and murdered; but they could not be regularly taxed.

That which all the tremendous power of Rome, in its grandest days, failed to accomplish, that which the infernal tortures of Spain could not accomplish, when it beheaded hundreds, burned thousands, and massacred tens of thousands, letting loose a brutal soldiery in a vain struggle to tax the Netherlands, American farmers are still apparently convinced that they can accomplish, by distributing blank forms, administering long oaths, and threatening penalties of fifty per cent. How far they have succeeded, governors, assessors, and tax commissions in New York, Ohio, Maryland, West Virginia, and many other States, have set forth again and again, lamenting the utter

<sup>1</sup>Gibbon mentions, quite as a matter of course, that fathers murdered their children, on a large scale, principally as a result of fear of tax-gatherers; that racks and scourges were freely used; that the approach of the tax-gatherer "was announced by the tears and terrors of the citizens"; and that false returns were punished with horrid deaths, as being both "treason and sacrilege" (*History*, ch. xiv. and xvii.). Savigny shows that the decurions, who governed the cities and were held responsible for the taxes, often sold themselves into slavery to escape the dreadful burden, but were dragged back to scourge their fellow-subjects (Smith's note, 2 Gibbon, 335, ed. 1862; Savigny, *Hist. Roman Law*, 40: 2d ed.). Even a Massachusetts farmer could ask no greater efficiency than this.

failure of the system. Their complaints have become monotonous in their uniformity. Nothing, indeed, has been added to the sum of knowledge on this point, since the calm and detailed report of David A. Wells to the New York legislature, in 1871; in which the experience of that State and many other States was luminously set forth; and it was made clear that taxes on personal property were nowhere equally assessed or efficiently collected.

§ 3. **Taxation by oath.** The result of the widespread maintenance of these taxes is to fill the land with liars and perjurers. In some States the business of perjury is mostly confined to the assessors; who regularly make returns which they know to be false, but cannot make true.<sup>1</sup> In others, such as Ohio, Vermont, Connecticut, all the Southern States and most of the Western States, perjury is the business of the taxpayers.<sup>2</sup> Their scrupulous consciences, in many cases, find a way of escape by omitting, in fact, to take the oath which they sign; and they are innocent of everything except lying. The delicately conscientious get some one to sign for them; and where an oath is absolutely required, a considerate notary certifies to the oath before it is taken; after which, of course, it is not taken at all. On surveying the whole field, however, one's faith in American truthfulness is cheered, and we entertain larger hopes for the future of humanity. For it appears that, where blanks are diligently circulated and oaths insisted upon, the average man will return ten, if not fifteen per cent. of his personal property; whereas, in the absence of this appeal to piety, he will return nothing at all. This touching proof of American reverence for the sacred-

<sup>1</sup> Hon. Martin I. Townsend, Const. Conv., 1867; Auditor's Rep., Nebraska, 1894.

<sup>2</sup> Report Ohio Com., 1893; Ely on *Taxation*; D. A. Wells's *Rept. on Local Taxation*, 1871.

ness of an oath reminds one of the famous Yankee who, hearing his father accused of having falsely warranted the quality of a trifle sold for "ninepence" (the New England eighth of a dollar) replied: "No; the old man would never tell a lie for ninepence; though he would tell eight of 'em for a dollar."

§ 4. **The Experience of New York.** How is it in the State of New York? One of the most experienced assessors in that State, Mr. George H. Andrews, addressing a legislative committee on October 6, 1874, said:

"No man and no corporation, banks only excepted, needs pay a tax upon personal property. Widows and orphans must pay. Upon them in the extremity of their distress, the law lays its heavy hand. It bereaves the bereaved. Moribund itself, it has an affinity for the effects of the dead. The records of the surrogate furnish the schedule, and the machinery of the law used in adjusting an estate is not sufficiently flexible to regularly permit such a transfer of securities as would insure an exemption."

As might well be expected, the State assessors, on January 21, 1874, reported "that less than fifteen per cent. of the personal property of the State liable to taxation finds a place on the rolls of the assessor, and that of mortgages, not over five per cent. of the value is assessed." In one town the proceeds of a single auction sale of cattle, belonging to one resident, amounted to \$360,000; while the whole assessment of personal property in that town was \$28,850; "a sum very much less than that obtained for one cow." The assessors say: "A large percentage of all the personal property assessed is found entered on the rolls to women, minor heirs, lunatics, who cannot watch with the eagle eye of business men, or to trustees or guardians." In some towns these classes held more than one half of all the personal property on the assessment roll. Two women, residing in the village of Batavia, were assessed for more personal

property than all the individuals in the neighboring city of Rochester, with a population of 70,000. In one town a girl, mentioned in the assessment as a lunatic, was assessed \$5000 for personal property; which the assessor stated was the full amount of her personal estate. All over the State "the amount of assessment depends more on the will, craft, conscience (or want of conscience) of the party assessed than upon the law or its enforcement."

The state of affairs has grown worse with each succeeding year. In 1892 a ridiculous law was passed, much lauded by the governor, requiring applicants for reduction of assessment to make oath that they had not incurred debts in the purchase of non-taxable property or for the purpose of avoiding taxation. It ought to have been entitled: "An act to punish truthfulness and to reward perjury."<sup>1</sup>

Experienced assessors in every state say that the most honest returns of property are always made by the poorer classes, and the most inadequate returns by millionaires; while widows, who have no experience in business, and trustees, who represent widows and orphans, are taxed upon every dollar that they own.

**§ 5. Experience of California.** The experience of California furnishes perhaps the latest example of the utter failure of all schemes for taxing personal property to work out anything like an approximation to justice.

In 1879 a new constitution was adopted. It was carried through solely by the farmers' votes; merchants, bankers, and capitalists, whether large or small, voting almost unanimously against it. Under this constitu-

<sup>1</sup> Who can tell just what is meant by "non-taxable property"? Hardly any two lawyers would at once agree upon a definition. And who can tell precisely for what "purpose" he incurred a debt? The statute is only one more premium upon either shrewdness or perjury.

tion and these laws, not only were bonds, money, and credits made taxable, without any deduction on account of debts, except from credits, and then only such debts as are due to residents of the State of California; but holders of stock in corporations were avowedly and intentionally subjected to double taxation, first, upon the corporate property, and again upon the capital stock, which is merely their evidence of title to that property. It was supposed, alike by the friends and enemies of the new constitution, that under its operation personal property of every description would be thoroughly reached, and at any rate, that whatever was by any chance overlooked would be more than made up by double taxation upon that which was found. The actual result has been to falsify all the predictions of both the friends and enemies of the constitution; for it has done almost none of the good or evil which was anticipated; for the reason that the capacity of the patriotic taxpayer to commit perjury, and the susceptibility of assessors to bribery had been altogether underestimated. Some of the results are positively ludicrous.

**§ 6. Poor California!** If the assessment returns are to be believed, in nine tenths of California there is not a pound of butter; in four fifths of the State the sheep do not produce any wool; fifty counties have quantities of beehives, but only four have any honey; personal property is vanishing from San Francisco; loans of money are becoming unknown in the rest of the State; municipal bonds of all kinds are not held within the State to an amount equal to one tenth of those outstanding; and, finally, money has been smitten by a pestilence, two thirds of all that was there before the adoption of the constitution having already taken to itself wings, and showing no sign of returning. One of the great objects of the new



constitution was to tax railroad, telegraph, and telephone companies to the last cent of their value. The actual result has been that telegraph and telephone companies were assessed in 1886 for less than the cost of their bare poles, or about \$65 per mile. The railroad companies resisted taxation for one or two years; at the end of which, by a singularly simultaneous impulse of virtue, some thirty boards of supervisors directed their district attorneys rigorously to prosecute the railroad companies to the uttermost of the law. Thirty district attorneys forthwith dragged the railroad companies before the judicial tribunals. With equal promptness the thirty boards of supervisors met, and, without any consultation with each other, passed resolutions directing the district attorneys to compromise all suits at 60 per cent. of the amount claimed; and the thirty district attorneys obeyed before the State officers could protest, even by telegraph.

The general result has been that the proportion of personal property to the whole assessed value of property has steadily fallen from 50 per cent. in 1861 to 34 per cent. in 1874, 26 per cent. in 1880, and 13½ per cent. in 1894.

**§ 7. Cities relieved; farmers burdened.** The following table will show the working of a series of measures which were expected, above all things, to increase the burdens of taxation upon San Francisco on personal property, and especially upon money. For convenience, thousands are omitted in this table, and the figures "ooo" must be added in every case:

## CALIFORNIA ASSESSMENTS

IN THOUSANDS OF DOLLARS.

1880.	Land.	Improvements on Land.	Money.	Other Personal Property.	Total.
San Francisco.....	122,030	42,969	19,747	68,584	253,330
Remainder of State.	227,127	68,568	4,931	81,072	381,698
	349,157	111,537	24,678	149,656	635,028
1886.					
San Francisco.....	120,375	55,034	6,188	48,705	230,302
Remainder of State.	340,274	100,775	2,887	94,022	537,953
	460,649	155,809	9,075	142,727	768,255
1894.					
San Francisco.....	178,000	83,879	7,100	56,130	325,109
Remainder of State.	537,000	160,935	3,187	80,430	791,043
	715,000	244,814	10,287	145,560	1,116,152

In the foregoing table no account is taken of railroads which are separately assessed by State officers. There was an increase in the valuation of railroads from \$31,174,000 in 1880 to \$48,051,000 in 1886, which was reduced in 1894 to \$42,730,640; of course nearly all outside of San Francisco. The valuation of San Francisco in 1894 was arbitrarily increased by the State officers 15 per cent. above the figures here given.

In reviewing this table it will be seen that while improvements upon land in San Francisco increased about one third in six years, money fell off more than two thirds, and other personal property nearly one third. In the rest of the State, which is mainly agricultural, the value of improvements increased nearly one half; personal property, other than money, increased nearly one sixth; while the loss of money among the farmers, though

severe, did not compare with the affliction which befell the capitalists of San Francisco. The general result was to reduce the share of San Francisco in the State tax from 40 per cent. to 30 per cent. In other words, the city paid 25 per cent. *less*, and the farmers 16 $\frac{2}{3}$  per cent. *more*.

This result has continued ever since. The assessments for 1894 show that San Francisco still pays only 31 per cent. of the State taxes on property outside of railroads. And even this result is only obtained by an arbitrary increase of 15 per cent. in the city's share by State officers.

**§ 8. Taxation of merchandise and bonds.** Looking into the details of personal property, attention is naturally attracted toward the three items of merchandise, bonds, and credits; all of which it was supposed that the new methods of assessment would reach to a degree never before known.

The actual result was as follows:

CALIFORNIA ASSESSMENTS

IN THOUSANDS OF DOLLARS.

	Mdse.	Bonds.	Credits.	Total.
1880.				
San Francisco .....	16,146	2,311	5,973	24,430
Remainder of State.....	11,504	729	14,740	26,973
	27,650	3,040	20,713	51,403
1886.				
San Francisco .....	15,713	449	6,379	22,541
Remainder of State.....	15,042	678	6,211	21,931
	30,755	1,127	12,590	44,472
1894.				
San Francisco .....	16,123	3,696	8,474	28,293
Remainder of State .....	17,462	128	5,858	23,448
	33,585	3,824	14,332	51,741

Here it appears that a very small increase (less than one per cent.) has been returned at the end of fourteen years; all of which dates only from 1892, up to which time the return bonds continued insignificant.

**§ 9. Experience of Boston.** According to unanimous testimony, the city of Boston is so fortunate as to possess a board of assessors, in whose honesty and ability every one has confidence, and who are fanatical believers in the taxation of personal property. These assessors are armed by law with almost despotic powers of search and with absolutely despotic powers of valuation. They can ransack every man's books; they can disregard all the evidence, when they have finished. After exhausting all their powers of inquiry, they are allowed to meet in secret, to go through a process of arbitrary assessment, fitly known by the name of "dooming." Their return of details for the year 1889 showed that the whole amount of taxable property, which they were actually able to discover, was \$39,000,000, exclusive of bank stock. Being dissatisfied with this estimate, which was all that was justified by any facts which they could state, they proceeded to multiply it four and a half times by a mere guess. In their dooming chamber they guessed that personal property, other than bank stock, ought to be valued at \$186,000,000; and the citizens of Boston were compelled to pay taxes upon that amount. Could anything be more monstrous or more absurd than a system of taxation which, even when administered by phenomenally honest and competent men, produces such results?

The items of which the \$39,000,000 actually discovered consist are in the following proportions, in round numbers:

Visible to assessors.....	\$14,570,000 or 37 $\frac{1}{2}$ %
Invisible to them.....	24,650,000 or 62 $\frac{1}{2}$ %

Almost the whole of the things visible to Boston assessors consisted of merchandise and machinery. Taxes upon these, of course, if equally distributed, simply increased the cost of goods to consumers, just as excise duties on whisky increase the cost of whisky to drinkers. But it is manifest, from the arbitrary increase made by the assessors, that these taxes were *not* equally distributed and therefore one large section of taxpayers was robbed for the benefit of the other section. For unequal taxation upon producers makes it impossible for those who are taxed beyond their just share to recover such excess from their customers; while those who are taxed below their share recover all which they would have paid under strictly equal taxation. It follows that those who are taxed most are simply plundered, under forms of law, for the profit of their competitors who are taxed least. If Havemeyer and Spreckels were the only refiners of sugar, and both were taxed equally upon their production, both would recover the tax from their customers. But if Havemeyer should be taxed, while Spreckels went free, Spreckels could undersell Havemeyer, who would be practically robbed for Spreckels' benefit.

§ 10. **Double taxation.** Passing to the invisible property assessed in Boston, we find that \$4,000,000 consisted of cash, \$7,700,000 of stock in foreign corporations, and \$12,500,000 of debts, of which two thirds were secured by mortgage on real estate. Thus more than half of all the personal property returned for taxation consisted of mere paper titles to or liens against other things, which were taxed somewhere else. If this is not double taxation, what is?

See how the system works. Smith forms a little corporation, to own a railroad in Vermont. The railroad is fully taxed there. But Smith lives in Boston; and, as

he owns all the stock, say \$100,000, and stock in a foreign corporation is assessed there, he is taxed on the whole amount a second time. He mortgages the road for \$100,000, and spends the proceeds on improvements. This additional value is taxed in Vermont. But he sells the mortgage bonds to Brown, of Boston; who is thus taxed again upon the whole \$100,000 there. Brown pledges the bonds to Jones, as security for a loan of \$100,000; and forthwith Jones is taxed upon the whole amount. This makes three taxes upon only one piece of real property.

This is the way in which the wise men of Massachusetts mean that their laws shall work; but as the taxpayers revolt against such injustice, and protect themselves in the only way open to them, to wit, by hard swearing or by refusing to make returns, Massachusetts counteracts that evil, by imposing an arbitrary tax upon those who do not make returns, four times as large as is paid by those who do.

In Illinois an even more drastic method prevails. A Board of Equalization, if of opinion that the valuation of any county is too low, increases everybody's taxes fourfold, on the assumption that all have made false returns alike. Thus the conscientious taxpayer is made to feel that virtue must indeed be its own reward.