

# MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

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HOUSE

NO. 184

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House of Representatives, Feb. 23, 1923.

On motion of Mr. Gardiner of Gardiner, 2,000 copies of the report together with the accompanying resolve were ordered printed, and both report and resolve referred to the Committee on Taxation and sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND TWENTY-THREE

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*Report of Committee Appointed by the 81st Legislature to  
Consider the 1922 Report of the Board of State Assessors.*

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The joint select committee appointed by the 81st Legislature to consider the recommendations in the report for 1922 of the Board of State Assessors, charged with the duty of reporting to the Legislature by bill or otherwise, beg leave to submit the following report:

Your committee has met with the Board of State Assessors and, as far as possible within the time available, has examined into the history and present aspect of taxation problems. A partial report has already been rendered covering the recom-

mendations of the Board except those pertaining to exemptions and the taxation of intangible property.

### EXEMPTIONS

The State Assessors recommend that the laws exempting property from taxation should be carefully revised, stating that some of the laws should be repealed and others amended so that the amount exempted should be fixed and certain.

In the limited time your committee has not been able to collect sufficient information to submit definite estimates, but after an examination of the available data heartily concur with the statement in the Report: "We feel very sure that the average taxpayer has little conception of the tremendous amount of property escaping taxation under existing laws."

The exemption of any property means an increased burden upon the property which remains subject to tax. The total amount of exempt property within the state has been increased from time to time by the passage of new laws, and there has been a natural increase in the value of exempt property by the acquisition of taxable property by individuals or organizations who claim exemption. As such taxable property passes beyond the reach of the assessor the inevitable result, even if the amount of revenue demanded remains the same, is that the rate of taxation upon remaining property must be increased. In certain towns the increase in the proportion of non-taxable property presents a critical situation. Even where the situation is at present less acute a revision of the exemp-

tion laws would appear to be necessary action for the relief of the average taxpayer.

There are before the Legislature certain measures affecting the exemption laws which will receive your serious consideration. But, in addition to these matters, your committee suggests that the subject of inquiry is a far-reaching one and that all the provisions in the statutes pertaining to exemption of property from taxation should be considered together. Many of the provisions have been enacted at different times and many rulings of the Supreme Court have affected the interpretation to be given them. A general revision and consolidation would seem not only desirable but a necessity in order that the burden of taxation may be distributed more equitably.

Your committee, therefore, recommends that the revision of the statutes pertaining to exemptions be delegated to some recess committee, charged with the duty of reporting a bill to the next Legislature, and clothed with sufficient authority to enable them to obtain from different parts of the state the information necessary to a full consideration of the subject.

#### INTANGIBLE PROPERTY

The report recommends to the consideration of the Legislature the matter of taxing intangible property; that is, bonds, notes, money at interest, shares of stock in corporations within or without the state, or other obligations for money or other property. It is pointed out that the present evasion of the taxation of intangibles is not authorized by law, but is toler-

ated because the imposition of a local tax rate would confiscate the income of such property.

The report briefly summarizes the reasons why such property should bear some share of the tax burden as a matter of principle. It is stated that one source of complaint against the administration of the tax laws is that real estate and tangible personal property have to bear an unjust share of the burden of taxation because of the small assessment of intangible property. (For similar recommendations, see Assessors' Report for previous years.)

As will be shown more fully, although only about fifteen million dollars' worth of intangible property is included in the valuation of the state, it has been estimated that there is in fact some four or five hundred million dollars' worth of such property.

The report alludes to the fact that several attempts have been made in the past to tax intangible property on some equitable basis. It appears valuable to summarize briefly the important features of this history.

#### HISTORY

##### REPORT OF SPECIAL TAX COMMISSIONERS, 1890

Under a resolve passed by the Legislature of 1889, Governor Burleigh appointed a commission consisting of Oliver G. Hall, Samuel J. Anderson and John L. Cutler to investigate questions of the revision of tax laws. The commission rendered an exhaustive report dealing largely with the question of taxing intangible property, and recommended a listing law

by which citizens would be required to return a list of their property to the assessors, and in default of such list should be assessed without the right of appeal a tax upon double the amount of their property, as estimated by the assessors. In concluding their report (page 88) the commission said: "Our aim has been to propose a law which, before everything else, will equalize the burden of taxes, and thus lessen the rate everywhere; decreasing the assessment of the just and conscientious citizen by increasing to its proper limit that of the tax dodger."

The commission summarized the effect of existing tax laws as follows (page 12):

"It is evident, then, that whatever remedies law can supply, under our system of general property taxation, must be in the direction of equality of taxation. That all taxable property is not equally assessed under our present laws, and that land and houses and cattle, visible and tangible property, are bearing an unequal share of the public burdens; and that farmers especially, as a prominent stock raiser concisely puts it, are 'drawing at the short end of the yoke,' all concede. That this complaint of the escape of much personal estate from taxation, and the demand for a remedy, has not been a mere partisan cry, but a well founded desire for a much needed reform, is apparent from the following extracts from the recommendations of our governors, of both parties, during the last sixteen years, in their messages to the legislature:" (quoting from messages of the following governors: Dingley, Garcelon, Davis, Plaisted, Robie, Bodwell and Burleigh).

The commission characterized opposition to tax reform in the following language (page 22):

“The proposed law is not, therefore, an innovation, but the making prominent and potent of measures which our tax laws have always contained in a diluted and inefficient form. The bitterest antagonists of such required returns of property are invariably those who wish to avoid a fair and full assessment of their property; who, having long escaped paying their just share of taxes, desire to perpetuate their exemptions, and shift the burden they can easily bear upon the shoulders of their neighbors whose property may be open and visible to the assessor. From such objectors is sure to come the attempt to arouse public sentiment against such a law by alleging that it is inquisitorial, and an obnoxious intermeddling with private affairs. Let those whose property is in land, houses, farms, stock and other forms of visible property, see to it that those who unfairly escape, may, by the only feasible mode which law can provide under our Constitution, be compelled to bear their own just portion of the tax load.”

#### REPORT OF MAINE TAX COMMISSION, 1908

Under a resolve of the Legislature of 1907, a tax commission was appointed for similar purposes, composed of the following: Morrill M. Drew, William S. White, Milton L. Merrill, George M. Hanson, and Frank C. Deering. The report is exhaustive but is concerned chiefly with so-called indirect taxes. Great emphasis is given to the necessity of equaliza-

tion of values throughout the state, and a new method of apportionment of the state tax is strongly recommended.

On page 51, the commission, in general terms, recommended for the consideration of the Legislature a tax of three mills on intangible property.

REPORT OF THE COMMISSION ON TAXATION OF  
INTANGIBLE PROPERTY, 1917

(Printed as Appendix E to Budget Message of Governor  
Milliken, February 14, 1917.)

A committee was informally requested by Governor Milliken to consider the question of taxing intangible property in accordance with the provisions of the Thirty-sixth Amendment to the Constitution, providing that the Legislature have power to tax intangible property at such rate as it deemed wise and equitable without regard to the rate applied to other classes of property. The following served upon the committee: A. M. Spear, Charles S. Cook, Kenneth C. M. Sills, Hugh R. Chaplin and Obadiah Gardner. The committee reviewed the tax situation with particular reference to the escape from taxation of intangible property, and recommended a listing law with a tax of three mills. It was suggested that the law be administered through some state department, that the returns required should not call for itemized lists of property but that merely the totals of various classifications be given under oath, and that the returns be preserved in strict secrecy. The estimate was that such a tax would soon produce a revenue at



least equal to that being received from intangible property, and that the revenue would be gradually augmented.

The committee did not make any definite estimate of the amount of intangible property, but quoted as a very conservative estimate the sum of \$175,000,000 as the taxable intangible property in the state, and quoted also the estimate that the ownership of intangible property, including exemptions, equalled the entire ownership of other kinds of property.

The report alludes to the adoption in 1875 of a constitutional amendment compelling the taxation of personal estate. "From that time to this tangible personal property has been generally taxed. The amendment was intended to and did include all personal estate, tangible and intangible. But the same difficulty at once arose, regarding the discovery of intangible property after 1875, that had prevailed in regard to finding tangible personal property before 1875. Hence forthwith began an agitation for the adoption of some change in the law that would make compulsory the disclosure of intangible property. This agitation may be said to have culminated in 1891 when the Maine House of Representatives by a large majority passed a drastic listing bill, which was defeated in the Senate by only one vote and that given by one who believed in the bill but yielded to the great pressure brought to bear before the vote."

#### INCOME TAX AMENDMENT, 1920

The special session of 1919 passed a resolve offering a constitutional amendment which would give the Legislature au-

thority to impose a general income tax. This was rejected at the election in September, 1920, by a majority of 10,812, the vote being "No" 64,787, "Yes" 53,975. The question was voted upon favorably in the following counties: Hancock, Knox, Oxford, Penobscot, Piscataquis, Somerset and Washington. The vote in the other counties was fairly close with the exception of Cumberland and Kennebec. In both of these counties the matter was rejected by about 5,000 votes.

Anonymous literature and newspaper advertisements appeared urging the people to vote against the measure and to some extent, at least, misrepresenting the question. The Legislature of 1921 passed a law requiring such advertisements or circulars to be signed by the parties responsible.

#### AMOUNT OF INTANGIBLE PROPERTY

While it is difficult to give any accurate estimate of the amount of intangible property owned in the state, an indication may be obtained from the statistics compiled from the United States income tax returns. The total of the personal returns for the year 1920 filed by individual residents of Maine shows that these citizens received as dividends from shares of stock amounts aggregating \$17,123,831 and as interest upon bonds and other forms of investment income a total of \$12,398,372. If the securities from which this income was received bore an average yield of 6% it will be seen that this income of twenty-nine and a half million dollars represents a capital value of almost five hundred million. No allowance is made in this estimate for securities the income of which is

exempt under the Federal income tax law, or securities held by persons exempt from filing returns.

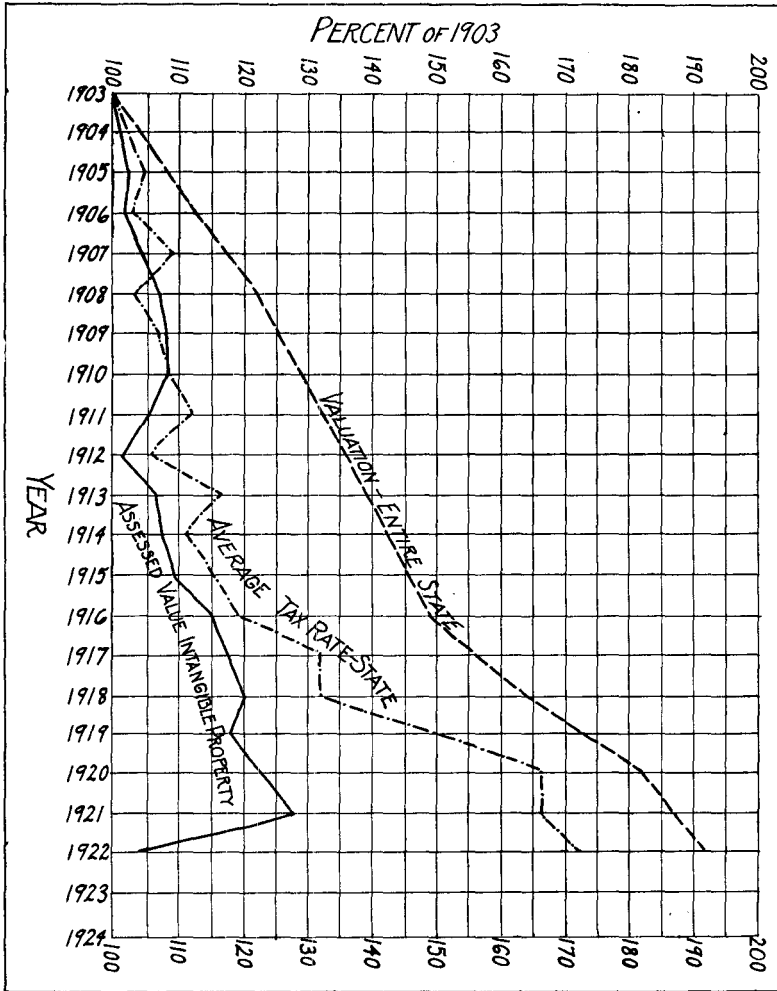
It is apparent that a considerable portion of the wealth of the state is represented by such income-bearing securities. That the taxable value of such wealth as is represented by land, buildings and other tangible forms of property is increasing is shown by the increase in the state valuation. But it must be conceded that the greater portion of the increase of wealth in the state is to be found in the increased value of intangible property purchased for investment.

The estimate based upon the United States income tax figures for 1920 showed a capital value of securities of \$492,000,000. A similar estimate based upon the figures for 1917 shows a capital value of \$383,000,000. In this short time the increase was more than 28%.

The proportion of this property which is actually taxed is not only extremely small but the significant thing is that the assessed value is not increased at anywhere near the rate of estimated increase. For 1917 the assessed value of such property was \$24,374,619 and for 1920 \$25,533,560. This is an increase of less than 5%. In other words, the estimated actual increase in the value of this class of property is growing five or six times as fast as the increase which the assessors are able to record and tax.

#### DIAGRAM

The accompanying diagram shows the comparative increase in the total valuation of the state, the average local tax rate



(state tax included), and the assessed valuation of intangible property subjected to taxation. From 1903 to 1922 the assessed valuation of the entire state increased from \$352,228,897 to \$672,767,742, or 91%, while the average tax rate increased from 20.25 mills to 35.77 or 77%. In 1903 the value of intangible property assessed was \$20,775,774; in 1921 it was \$26,414,744, an increase of only 27%. In 1922 the assessed valuation of intangible property as returned for the state valuation was \$14,863,133. This sharp reduction results from the law passed in 1921 providing a new method of taxing bank stock.

In 1921 the assessed value of such stock was \$9,401,011, and such value was subject to state, county and municipal taxes. The new law excludes bank stock from local or state valuations and no state or county tax is collected from such property. The State Assessors determine the value of the stock and a tax of 15 mills is assessed and returned to the municipalities where the owners of the stock reside or where the bank is located. In 1922 as no bank stock was exempt, however held, the total value increased to \$15,162,585. The rate of 15 mills was applied to this valuation and the revenue to the municipalities was \$237,438. As this fifteen million of intangible property is assessed at less than half rate, the full value of this item is not made to appear in the diagram, but there is included in the total only the proportional taxable value of bank stock.

The line for 1922 represents the assessed value of all in-

tangible property subject to regular taxes, with the addition of \$6,637,930, which is the value of property which it would be necessary to tax at the average rate of 35.77 mills in order to obtain the revenue now obtained from the 15 mill tax on bank stock. This figure is \$21,501,063, an increase of but 3% over the corresponding figure for 1903.

The assessed value of intangible property other than bank stock for the last three years is as follows:

1922 .....	\$14,863,133
1921 .....	17,013,733
1920 .....	15,710,721

#### CONCLUSION

Under the present situation much intangible property escapes taxation, while intangibles in the hands of a certain class of investors is now indirectly subject to an intangible tax in the form of a franchise tax, notably deposits in savings banks. From this class of investor the state now receives a substantial revenue, while from large owners who make their investments independently, no tax is obtained. This is inequitable and remedial steps should be taken. The alternatives that present themselves are either some form of listing bill with a flat rate of tax upon intangible property, or some form of tax upon the income derived from such property. The imposition of a fair rate of tax upon this amount of property must result in a fairer distribution of the tax burden. If, as seems likely, the revenue of the state is increased, that increase must serve either to reduce the amount required to be raised by

other taxes or, if expenses are not cut down, to meet the increased demands for money.

The committee is of the opinion that the fairest method of tax that may be imposed upon intangible property is some form of income tax. Stocks and bonds are of value as investments chiefly to the extent which they yield income to the owner, and the amount of the income enjoyed from securities is the best test of the ability of the holder to pay a tax. Furthermore, there appears at the present time a growing sentiment in favor of the income tax as a means of raising revenue. In order that the Legislature may have power to pass a suitable form of income tax law, even on this limited class of property, it appears necessary to amend the constitution.

While any succeeding Legislature which might pass an income tax, if the constitution should be amended, would have power to exempt altogether the income from such kinds of securities as they desired, the committee is of the opinion that the granting of exemptions should be strictly limited. However, if intangible property is to be taxed, it would seem wise that the Legislature should have the power to give some preference to Maine securities, and it is evident that constitutional authority would be necessary for such discrimination. If a lower rate of tax were imposed upon the securities of such corporations as own property and do a substantial portion of their business in the state, there would be some inducement to investors to add their funds to capital invested in local enterprises tending to develop prosperity at home, rather than

to invest in securities representing industries or developments in other states or foreign countries.

While the committee has not had sufficient time to outline any specific income tax bill which it would recommend in the event that the constitution should be amended, it suggests the obvious principles that such taxation be administered by a department of the state, that secrecy of returns be assured, and that the forms of the return not only be as simple as possible but that they be made conformable to the data prepared for the purposes of rendering a Federal income tax return.

The amount of revenue to be expected would depend upon the particular terms of a tax act, but the committee is of the opinion that just and fair provisions properly enforced would produce a revenue at least in excess of that at present derived from intangible property; and would afford a means whereby the revenue from such property would increase gradually in keeping with the actual increase in the total value of intangible property owned in the state. A maximum tax of six per cent upon the income received would seem a fair rate.

#### RECOMMENDATION

Your committee, therefore, submits to the consideration of this Legislature the resolve accompanying this report. The resolve provides for the submission to the voters of an amendment to the constitution, which would authorize the Legislature to levy a tax upon incomes derived from intangible property, to grant reasonable exemptions and to prescribe a different rate of tax upon income from intangibles based upon prop-



erty subject to other forms of taxation in the state, or upon the bonds of the state or subdivisions, from the rate upon income from other intangible property. The committee recommends the passage of this or some other resolve that will accomplish the same intended purpose.

Respectfully submitted,

ALLEN C. T. WILSON,  
VARNEY A. PUTNAM,  
H. E. WADSWORTH,  
W. T. GARDINER,  
M. J. BARTLETT,  
WILLIAM V. PHILLIPS,  
O. K. STORY,  
THOMAS A. SANDERS.

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RESOLVE, Amending Section Eight of Chapter Nine of the Constitution as Amended by Article Thirty-six of the Constitution Providing for a Tax upon Income Derived from Intangible Property.

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Resolved: Two-thirds of the legislature concurring, that  
2 the following amendment to the constitution of the state be  
3 proposed: Article nine, section eight of the constitution,  
4 as amended by article thirty-six of the constitution, is here-  
5 by amended by adding to said section as amended the fol-  
6 lowing words: 'including the power to levy a tax upon  
7 the income derived from intangible property, and shall have  
8 power to grant reasonable exemptions and to prescribe a  
9 rate of tax upon the income from intangibles based upon

10 property which is subject to other forms of taxation in  
11 the state, or upon income from bonds issued by the state  
12 or by any county, municipality, village corporation or water  
13 district therein, different from the rate upon income from  
14 other forms of intangible property,' so that said section as  
15 hereby further amended shall read as follows:

'Sect. 8. All taxes upon real and personal estate, assessed  
2 by authority of this state, shall be apportioned and assessed  
3 equally, according to the just value thereof; but the legis-  
4 lature shall have power to levy a tax upon intangible per-  
5 sonal property at such rate as it deems wise and equitable  
6 without regard to the rate applied to other classes of prop-  
7 erty, including the power to levy a tax upon the income  
8 derived from intangible property, and shall have power to  
9 grant reasonable exemptions and to prescribe a rate of tax  
10 upon the income from intangibles based upon property  
11 which is subject to other forms of taxation in the state,  
12 or upon income from bonds issued by the state or by any  
13 county, municipality, village corporation or water district  
14 therein, different from the rate upon income from other  
15 forms of intangible property.'

Resolved: That the aldermen of cities, the selectmen of  
2 towns, and the assessors of the several plantations in this  
3 state are hereby empowered and directed to notify the in-  
4 habitants of their respective cities, towns and plantations  
5 in the manner prescribed by law, at the next biennial meet-  
6 ing in the month of September, to give in their votes upon

7 the amendment proposed in the foregoing resolution, and  
8 the question shall be: "Shall the constitution be amended  
9 as proposed by a resolution of the legislature providing that  
10 the legislature shall have the power to lay and collect taxes  
11 on incomes derived from intangible property and to pre-  
12 scribe the rates thereon?"

And the inhabitants of said cities, towns and plantations  
2 shall vote by ballot on said question, those in favor of the  
3 amendment voting "Yes" upon their ballots and those op-  
4 posed to the amendment voting "No" upon their ballots,  
5 and the ballots shall be received, sorted, counted and de-  
6 clared in open ward, town and plantation meetings and  
7 return made to the office of the secretary of state in the  
8 same manner as votes for governor and members of the  
9 legislature, and the governor and council shall count the  
10 same and if it shall appear that a majority of the inhab-  
11 itants voting on the question are in favor of the amend-  
12 ment, the governor shall forthwith make known the fact  
13 by his proclamation and the amendment shall thereupon as  
14 of the date of said proclamation become a part of the con-  
15 stitution.

Resolved: That the secretary of state shall prepare and  
2 furnish to the several cities, towns and plantations ballots  
3 and blank returns in conformity with the foregoing resolve  
4 accompanied by a copy thereof.