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Financial History of Ohio

BY

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PREFACE

This work was begun some years ago at Oberlin College; laid aside for more pressing duties, it has since been carried to completion, at odd intervals and for the most part at a distance from Ohio. For some of the shortcomings this may be held responsible. It is based almost exclusively upon official sources; these had remained practically unused in other publications relating to the state, and upon the latter therefore little reliance has been placed. In the present monograph two chapters, dealing respectively with Internal Improvements and Local Finance, were omitted because of limitations of space; but it is hoped they may be published at some future time. A "History of the State Debt of Ohio" has already appeared in the Journal of Political Economy, April, May, June, 1911. Thanks are due the editor of the American Economic Review for permission to reprint part of an article entitled "Recent Economic Reforms in Ohio", which appeared in September, 1911; and to the editor of the American Historical Review, for permission to reprint a part of the article "Taxation of the Second Bank of the United States by Ohio", which appeared in January, 1912.

I desire publicly to record my obligations to Mr. A. S. Root, the Librarian of Oberlin College, to Mr. C. B. Galbreath, the former State Librarian of Ohio, and to the Librarian of the New Jersey State Library; to Mr. E. M. Fullington, Auditor of State of Ohio; to Mr. E. O. Randall, President of the Ohio Archaeological and Historical Society; and to Mr. A. R. Foote, President of the Ohio State Chamber of Commerce, as well as to numerous other persons, who have courteously aided me with information.
or access to publications. Acknowledgements are also due Professor H. B. Gardner for suggestions as to the arrangement of the material in the tables on pages 124-141, and to the Carnegie Institute for assistance in gathering material for this study.

University of Illinois,
February 24, 1912.

Ernest Ludlow Bogart.
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INTRODUCTION

TERRITORIAL HISTORY AND FINANCE.

SETTLEMENT OF OHIO.

The permanent occupation and settlement of Ohio did not begin until the passage of the Ordinance of 1787 gave assurance of a settled form of government for that territory. The first band of immigrants, comprising the van of the Ohio company, arrived on April 7, 1788, at the mouth of the Muskingum River, where they formed a settlement which they called Marietta. Soon after the adoption of the Ordinance Congress had organized the first territorial government, and appointed Arthur St. Clair governor and commander in chief; three judges were also appointed. In July, 1788, Governor St. Clair arrived in Ohio and formally established the first form of civil government in the territory. Under this the people had no concern in the actual business of government. The governor and judges were appointed first by Congress, and after the adoption of the federal constitution by the president. The whole legislative power was vested in these officials, but it was limited only to the adoption of such laws of the original states as might be suited to the needs of the new territory. In fact, all power, legislative, executive, and judicial, was concentrated in the governor and judges, and in its exercise they were responsible only to the distant federal head.

The first acts of the governor were the erection of Washington county, comprising the eastern half of the present state of Ohio, the establishment of a system of courts, and the organization of the militia. In 1790 he organized a second county, Hamilton, in the western half of the present state, and removed the seat of government to Cincinnati. St. Clair and the judges also selected laws for the use of the territory, and enacted some original

1I. Schmucker, Ohio Statisties (1876), p. 15.
2Chase, Statutes of Ohio (Cincinnati, 1833), I, 18.
ones, which was contrary to the Ordinance. Most of the legislation concerned the organization of government, but a few were financial in their character and may be briefly noted. The expenses of the government were defrayed in part by the United States; but for the most part were drawn from the pockets of the people in the shape of fees. Consequently taxation played but a small role in early territorial finance.

FINANCIAL ORGANIZATION AND TAXATION

On August 1, 1792, a number of laws were promulgated on this subject. One of the first created the offices of treasurer-general of the territory and of county treasurers, enumerated their duties, fixed their compensation at 5 per cent. of all the money that passed through their hands, and required $1500 bonds. As the territorial expenses were met either by the federal government or by special fees, the finances were as yet almost entirely local. The expenses of each county were to be estimated by the court of quarter sessions, and the estimate laid before the governor. The amounts needed were to be apportioned among the townships by commissioners appointed annually by the judges of the courts of common pleas. The commissioners were to list male persons over eighteen, stocks of cattle, and land values annually, and all other property that might affect the apportionment. Assessors were also appointed annually by the judges, who were to assess the individuals of their town . . . according to the best of their judgment in just proportion to their wealth in the county and ability to pay either in money or specific articles (§ 4).

The assessments could be paid either in money or in specific articles agreeable to the public use. Duplicates of the tax list were to be made by the prothonotary of the court of common pleas, and the taxes were collected by the sheriff. To compel the payment of taxes provision was

4Chase, op. cit., p. 18.
5Territorial Laws of 1792, ch. 25.
made for the arrest of delinquents, and if necessary the seizure and auction of their property. Other acts had to do for the most part with the regulation of fees. The first financial act enacted at this time had established an annual fee of $16 for a license to merchants, traders, and tavernkeepers, of which $15 was to go to the county and $1 as a fee to the commissioners appointed for the purpose of licensing them. Various other fees were established, but they belong to local finance.

In 1785 the governor and judges undertook to revise the territorial laws, and to establish a complete system of statutory jurisprudence, by adoption from the laws of the original states, in strict conformity to the provisions of the ordinance. Most of the laws adopted at this time were taken from the statutes of Pennsylvania. A comprehensive act "for raising county rates and levies" was passed, but no distinctively territorial tax was imposed as yet. From this time to the organization of the territorial legislation in 1799, there were no further acts of legislation, except ten laws adopted by the secretary and judges in 1798. One of these, however, was for our purposes a most important one, as it levied for the first time a territorial tax on land. It provided for commissioners or listers in each county, to be appointed by the judges of the court of quarter sessions. They were to take a written list from each land holder of all the lands he claimed within the territory, specifying the quantity and quality. The land was then to be divided into three classes, according to quality, and the first rate land should be taxed at 85

Such were T. L., ch. 36, 48, 81.

T. L., ch. 24. This repealed ch. 51, which had allowed $12 to the county and $4 to the governor. By act of Dec. 6, 1800, no fees were required. T. L., ch. 122.

Chase, I, 26.

T. L., ch. 53.

Chase, op. cit., p. 27.

Act of May 1, 1798. T. L., ch. 90.

The "land shall be divided into three classes according to their quality . . . taking into view the surface of the earth as well as the quality of the soil".
cents, the second rate at 60 cents, and the third rate at 25 cents per 100 acres.\textsuperscript{14} Taxes were paid to the territorial auditor, or to the sheriff or collector of the proper county. Clerks of the peace in each county had to list the lands of non-residents. The sheriff of each county was made the collector of taxes, and must collect them after August 1 of each year. If the taxes were not paid, the collector was directed to sell at public auction so much of the land as would pay the tax; arrears of taxes bore 10 per cent interest.

In the meantime the population of the territory continued to increase and to spread out. Before the end of the year 1798, the northwestern territory contained a population of 5000 free male inhabitants of full age, and eight organized counties. The people were now entitled under the ordinance to a change in the form of government. That instrument provided, that upon giving proof to the government that there were 5000 free males of full age in the territory, the people should be authorized to elect representatives to a territorial legislature. This privilege was, however, confined to freeholders, in fee simple, of 50 acres of land within the district. No others were entitled to vote, and only freeholders in fee simple of 200 acres within the district were eligible as representatives. When chosen, the house of representatives was to assemble in convention and nominate ten freeholders of 500 acres, of whom the president of the United States was to appoint five, who should constitute the legislative council. Representatives were to serve two, and councilmen five years. The two

\textsuperscript{14} The rates were frequently changed, according to the needs of the territorial government, as shown in the following table. The act of May 1, 1798, which was adopted from the statutes of Kentucky, laid the tax on every "100 acres of unimproved, uncleared land"; those of Dec. 19, 1799, and Dec. 9, 1800, simply taxed "100 acres of land".

<table>
<thead>
<tr>
<th>YEAR</th>
<th>FIRST CLASS</th>
<th>SECOND CLASS</th>
<th>THIRD CLASS</th>
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<tr>
<td>1798</td>
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<tr>
<td>1800</td>
<td>.85</td>
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</tr>
<tr>
<td>1801</td>
<td>.55</td>
<td>.35</td>
<td>.17</td>
</tr>
</tbody>
</table>
houses were to constitute a territorial legislature, with power to make any laws not repugnant to the national constitution or to the ordinance of 1787. The judges were thenceforth to be confined to purely judicial functions. The governor was to retain his appointing power, his general executive authority, and to have an absolute negative upon all legislative acts. The power of the governor under the new order was in fact more absolute than under the old.\textsuperscript{15}

On September 24, 1799, the first territorial legislature met for what proved to be a lengthy session, during which the finances of the territory were more carefully organized. To meet territorial expenditures the legislature created two funds—a contingent and a general fund; the latter was composed of specific appropriations, and the limit of all expenditures was placed for the year at $5000; the contingent fund was largely though not wholly left to the order of the governor.\textsuperscript{16} The office of territorial auditor of public accounts was created, in addition to that of treasurer.\textsuperscript{17} He was given the duty of receiving and liquidating authorized bills, subject, however, to appeal. The salary of the treasurer was fixed at $400 and that of the auditor at $450. Some of the provisions of the act are especially interesting for the light they throw on the crude conditions: auditor’s certificates could be received in payment of taxes; the auditor and treasurer were fined $1000 if they speculated in audited certificates, seeming to indicate depreciation and fluctuation; forgery of auditor’s certificates was to be punished with death. A regular system of taxation was also established. The tax for territorial purposes was levied upon lands; that for county purposes upon persons, personal property, and houses and

\textsuperscript{15}Chase, \textit{op. cit.}, p. 27.
\textsuperscript{16}Chase, I, 285. In 1800, only $3000 was allowed for the contingent fund, but the general fund was not limited. Chase, I, 309. In 1802 the contingent fund was made $12,000, but was withdrawn from the order of the governor, being put under the entire control of the auditor of public accounts; no limit was placed on the other fund. Chase, I, 349.
lots. During this session a bill authorizing a lottery for a public purpose, passed by the council, was rejected by the representatives. The legislature also fixed their own pay at $2.00 a day, and $3.00 mileage for every fifteen miles traveled.

On December 19 the governor terminated the first session of the legislature. He vetoed eleven acts, which were disapproved for various reasons, but mainly because the governor claimed that the power exercised in enacting them was vested by the Ordinance, not in the legislature, but in himself. This free exercise of the veto power excited much dissatisfaction among the people, which was strengthened by the controversy with the legislature as to their respective powers. As a consequence the veto power was denied the governor when the first state constitution was adopted in 1803. In other ways too the conflict between Governor St. Clair, who was an extreme Federalist, and the adherents of the Republican party influenced to a noticeable degree the character of the laws. The democratic environment of a pioneer settlement made the maintenance of an aristocratic or paternalistic form of government impossible, and the desire for political independence and home rule culminated in the demand for statehood. During the territorial period, Ohio constituted a constant item of expense to the federal government, in connection with the land sales, the salaries of civil officials, and the pacification of the Indians. In territorial finance and government there was a steady pressure towards decentralization, due both to difficulty of communication and wide dispersion of a sparse population over a large territory, and to the consequent greater economy of local administration of affairs.

Money was very scarce in the territory and revenue for territorial purposes was raised with difficulty, so that great economy was necessary to meet even the modest

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Chase, I, 29.
T. L., ch. 114.
Winsor, Westward Movement, p. 504.
necessary expenses. The revenue was raised chiefly by a tax on uncultivated lands, which were in great part the property of non-residents. This called forth a protest from Governor St. Clair, with a recommendation that new sources of revenue be sought, as there was nothing in the treasury and the revenue had not been as productive as contemplated. The House answered with a resolution defending the existing methods and expressing a hope that the present revenues would discharge all the demands against the territorial treasury. An acrimonious correspondence now followed, in which the governor estimated that there would be a deficit at the end of the year of $5,419, which would have to be met by the "wretched expedient" of a new emission of bills of credit. On the other hand, the joint committee appointed to examine the books and accounts of the territorial treasurer and of the auditor of public accounts, headed by Thomas Worthington, a political opponent of St. Clair, reported that there would be a balance of $8,978 in the treasury to meet current expenditures, which would be ample for all needs. The amount of assessed taxes for the year 1800 was $19,241 and for 1801 was $29,114, but considerable deductions had to be made from these sums on account of double entries of land, collection fees, etc. Audited certificates in circulation, not yet redeemed, were estimated at $1649.

During the whole of the territorial period there was a struggle to make ends meet, but it was accomplished, and when Ohio became a state the finances and the revenue laws were in a fairly satisfactory condition.

It will, no doubt [wrote the governor to the legislature] afford you much consolation on receiving from the proper officers, a statement of our finances, in discovering that the present revenue, if wholly reserved for state purposes, is adequate to all the necessary exigencies of government; and that by a true economy, devoid of parsimony, the public faith and credit may be maintained.

23Ibid., p. 34.
24Ibid., pp. 52-54.
The outstanding auditor’s certificates were estimated at $1758, the taxes for the year 1802 at $26,098, and the available balance for current expenses at $13,952. The examining committee, appointed for that purpose, reported that the books of the auditor and treasurer were kept in good order and with accuracy, and that no monies had been expended without legal authority.

ECONOMIC CONDITIONS.

The economic environment and the early hardships of the pioneer settlers in Ohio will perhaps be made clearest by citing a few facts as to the industrial and financial conditions during the territorial period. The first colonists came by water, for there were no roads through the forests. Indian trails were followed when land travel was necessary, and these were gradually widened into bridle paths. Later, with the growth of population, roads were cut through between the five or six centers of settlement, but judged by present standards they were miserable, hub-deep in mud, dangerous to passengers, and costly for transportation of freight. On the rivers, which were the favorite means of communication, where possible packet systems grew up, the first of which was in operation as early as January 11, 1799. Numerous boats of various descriptions were built for the freight business on the Ohio River and the tributary streams.

Money was not to be had in the earlier days of the territory, and exchange was conducted by barter or the use of some primitive substitute for money. Such industries as existed were mainly local in character, or were carried on within the family. The tax laws provided that money or “articles agreeable to the public use” might be

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27 Most of the facts brought together in the next three or four paragraphs were collected by former student of mine, Mr. E. C. Dye, of Portland, Ore.
28 Cist, Cincinnati in 1851 (ed. 1859), p. 156.
29 John Sherman, in Ohio Centennial Celebration, p. 248.
The act of 1792, in providing for fees, states that since a dollar piece varied in its real value in the several counties, the fee taker could for every one cent of the act demand one quart of Inidan corn. Auditor’s certificates circulated as money, and in 1795 the death penalty was provided for the forgery of auditors’ certificates and other public securities. After the treaty of Greenville comparative security and prosperity were brought about by the removal of fears of Indian attack, and the rapid influx of a population of greater means brought in more money.

The domestic industries provided leather and homespun clothes. Log houses and rough furniture were constructed with the use of ax, auger, hammer, and saw. Wheat, corn, whisky, maple sugar, eggs, butter, hogs, sheep, and fresh game formed the staples of their food supply. There was one commodity which home industry could not supply, however; one locality along the Scioto River for a time had almost a monopoly of its production. This was salt. The demand was great, and people traveled long distances to get it, and paid enormous prices. Salt at the Scioto salt works sold for $3 to $4 per bushel. After being transported a hundred miles the same amount commanded $6 to $7. Salt in Trumbull county, in the north-eastern part of the state, sold for $20 a barrel, and one man in Cleveland paid $40 for a barrel and then spent four days in cutting out a road through the dense forest in order to haul his purchase to his objective point about twenty-five miles distant. One bushel of salt, worth $3.20 at the salt springs, would purchase on the spot ten bushels of wheat at 32c, which was an exceptionally high price for the latter, or three deer at $1.00 apiece. But the price of iron completely eclipsed all this, for the mere carriage of a ton from Baltimore to Ohio cost $200, or ten cents a

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30 E.g. Act of 1792, Chase, Ohio Statutes, I, 118.
33 Atwater, History of Ohio, p. 11.
34 John Sherman in O. C. C., p. 248.
Every community had its mill, built beside a stream, to grind grist and flour. The first mill in Ohio seems to have been the Wolf Creek mill, built in 1789, about a mile above its junction with the Muskingum River. Saw mills were also erected, and later fulling mills for textiles. At the end of this period grazing became quite an industry, and considerable profit was made through the herds of cattle and horses, driven over the mountains to the Atlantic coast; the first such drive was made in 1805.

Wages in Ohio during the territorial period were not high. A school teacher who made $10 a month was considered well-paid; the soldiers in St. Clair's army got $2.10 for the same period. Constables received 75 cents and grand jurors 60 cents a day; a coroner was allowed $3.00 for every dead body he viewed and his jurors 50 cents apiece. Surveyors, as skilled laborers in great demand, obtained the highest wages of all, and received amounts ranging from $3.50 a day for the compass or head man down to $1.25 for his flag man. The auditors of their accounts were paid $2.00 to $2.50 per day. The auditor of the Northwest Territory received $450 a year, and the treasurer $400. The general system of fees prevalent in the territory was likewise proportionately low; for instance, the justice of peace got 5 cents a person for administering oaths. The county commissioners of assessment were allowed 60 cents a day and mileage of 2 cents a mile.
PART I  FINANCIAL LEGISLATION AND ADMINISTRATION

CHAPTER I

ECONOMIC AND FINANCIAL HISTORY OF OHIO.

THE PIONEER STATE.

Ohio was admitted to the Union in 1803,¹ and the first session of the first legislature of the newly formed state met at Chillicothe on March 1, 1803. The governor and Senate repaired to the chamber of the House of Representatives, where the governor delivered his opening message in person; in 1806-7 he sent his written message, which was read, perhaps in imitation of the practice established by President Jefferson. In his message for 1803 the governor reported that "the present revenue, if wholly reserved for state purposes, is adequate to all the necessary exigencies of government."² One of the first tasks of the legislators was to fix the pay for their own services, which they did by conscientiously reducing the rate to two-thirds of what it had been for the territorial legislature, or the modest sum of $2.00 a day with a mileage allowance of $2.00 for every 25 miles traveled in reaching the state.

¹By act of April 30, 1802, Congress directed the creation of the state of Ohio. Ohio adopted a constitution, and formed the state, on Nov. 29, 1802. Congress recognized the state as a member of the Union, by act of Feb. 19, 1803.

²The first governor's message after Ohio became a state may be found in Sen. J., 1803, p. 10, or in Ho. J., p. 11.
The tax laws of the territory were slightly modified and continued in force. An auditor and a treasurer of state were provided for by continuing the territorial officials with the same functions. In addition to his other duties, the latter officer was charged with the receipt of three per cent. of the proceeds from the sale of the public lands, to be paid by the United States. Laws were passed for leasing the school lands and the salt reservations.

As might be expected in a pioneer state such as Ohio then was, all the legislators were engaged in agricultural pursuits. To them no object was more important, and few absorbed more of their time and attention than road legislation. Indeed one of the terms upon which Ohio entered the Union was that five per cent of the proceeds from the sale of public lands within the state should be set aside for the building of roads. It was later agreed that three per cent. should be granted to the state for the construction of common highways in the various counties, and the other two per cent. be used in the building of a national road from tide water to Ohio. Most of the early roads in the state were built over the old portage ways between waterways, thus showing the importance of the portage in the pioneer period of development. By June, 1805, some 1030 miles of road had been built out of

The pay of members of the general assembly for the first quarter of the nineteenth century was fixed as follows:

Dec. 19, 1799............$3.00 a day and $3.00 mileage for 15 mi. travel
Jan. 1, 1802............ 3.00 a day and 3.00 mileage for 20 mi. travel
March 24, 1803............ 2.00 a day and 2.00 mileage for 25 mi. travel
Feb. 16, 1810............ 2.00 a day and 2.00 mileage for 25 mi. travel
Feb. 18, 1816............ 3.00 a day and 3.00 mileage for 25 mi. travel
Dec. 19, 1821............ 2.00 a day and 2.00 mileage for 25 mi. travel
Dec. 29, 1823............ 3.00 a day and 3.00 mileage for 25 mi. travel

The act of Feb. 18, 1816, also provided for raising other salaries, which were fixed as follows: judges of supreme court, $1200; governor, $1200; secretary of state, $800; president of court of common pleas, $1000; auditor, $1200; treasurer, $700.

*Act of April 15, 1803.
*Chase, I, 36.
the proceeds of the 3 per cent. fund. A great deal of time was taken up in the discussion of roads and the best use of the 3 per cent. fund, and many local and temporary acts were passed. Yielding to the pressure from every quarter, the legislature dissipated the fund by distributing it among the counties, no one of which secured enough to effect any large or permanent improvements. That good roads were necessary if trade were to be developed and Ohio dispose of her surplus products in the eastern markets was evident. A great stimulus was given to the movement by the first successful attempt to drive cattle from Ohio across the Alleghenies, which was made in 1805. Of the 68 head, 22 were disposed of at Morefield, Va., and the remainder were driven to Baltimore, where they were sold at a net profit of $31.77 per head.

In December, 1803, the second general assembly met. During this session the revenue system of the state was simplified and improved. The main reliance for revenue continued to be upon lands. The burden of the land tax was borne in great part by non-residents, who had no property of any other kind in the state, but it had the desirable result of hastening the transfer of lands so held into the hands of resident proprietors. Two-thirds of the tax were paid into the state treasury, and one-third into the several county treasuries. County commissioners and township trustees were also authorized to assess taxes for certain purposes within their respective limits. To encourage immigration a law was passed at this session to enable aliens to acquire and hold land within the state, and granting them the same proprietary rights as native citizens.

Burr's reputed effort to lead an insurrection in the western states against the federal government aroused considerable excitement in Ohio, but

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7 Sen. J. 1805-6, p. 25.
8 L. N. Bonham, American Live Stock, in Depew: One Hundred Years of American Commerce, I, 225.
9 Chase, I, 37.
except this event [wrote Chase, the legal historian of early Ohio\textsuperscript{19}] the period now under review was marked by few striking or important incidents. The attention of the general assembly was chiefly bestowed on local legislation. The erection of new counties, and the incorporation of towns, banks, manufacturing companies, academies, and religious societies, indicated the rapid progress of the state in population, wealth, and character.

Some of the early legislation is of great interest, as showing the minute regulation of industry that was thought necessary at this time, even in a primitive community. An act of January 12, 1805, fixed the rates of toll for grinding: for wheat, rye, or other grain, the charge was one-tenth; for corn, one-eighth, etc.\textsuperscript{11} By act of February 20, 1805, provision was made for the inspection of certain articles of exportation.\textsuperscript{12} This act provided for the appointment of inspectors in each county "to inspect or pack all wheat or rye flour, Indian corn or buckwheat meal, biscuit, butter, hogs' lard, pork or beef." The inspectors were to be paid by fees, as, for example, three cents for each barrel of flour; and articles were to be branded by them after packing or inspecting, if satisfactory. The law even described and prescribed the kind of barrel, firkin, etc. This is interesting not only as an illustration of the persistence of mercantilist notions, but also as showing the existence and character of an export trade from Ohio in agricultural products. Probably the difficulty of enforcing such an act under the conditions existing at that time made it a dead letter.

In his message of 1809 the governor\textsuperscript{13} congratulated the legislature upon the uninterrupted state of prosperity which the state had thus far enjoyed from the beginning. But an early act of the legislature thus felicitated seemed to indicate some degree of financial stringency and lack of sufficient money for the use of the community. The

\textsuperscript{19}Statutes of Ohio, I, 38.
\textsuperscript{11}O. L., 1805, ch. 20.
\textsuperscript{12}O. L., 1805, ch. 10, Cf. also act of Jan. 9, 1802, in Chase, Ohio Stat., I, ch. 151.
\textsuperscript{13}Gov. Mess. 1809, p. 43.
auditor was required to issue bills for even sums of $20, $10, and $5 in payment of accounts due individuals by the state; for any sum less than $5, a bill for the "precise balance of account" was to be drawn. These treasury warrants were intended to circulate and to serve as currency, and they seem to have served this purpose very well. By 1813 the number of banks had increased and the necessity for this form of currency was not so pressing; accordingly the auditor was authorized to draw a single warrant in settlement of any account, with the consent of the person to whom it was due. In the following year it was provided that auditors' certificates should no longer draw interest.

The progress of the state in culture and wealth is evidenced by the fact that in 1810 there were fourteen newspapers published in Ohio. In the same year the first blast furnace in the state was built and operated in Summit county. Efforts now began to be made to develop manufactures, and in his message for 1811 the governor adverts to the desirability of granting legislative aid for this purpose.

To this end [he wrote] some encouragement for the raising and improving of the breed of sheep, and granting certain privileges to individuals or associations for prosecuting the most useful manufactures, would not be unworthy of the attention of the legislature. [In the following year he recurred to the subject:] In order to encourage domestic manufactures, upon extensive plans, "an act authorizing incorporations for manufacturing purposes", would be useful, that capitalists might associate, and have the regulation of their funds established in some degree under the sanction of law.

The trade down the Ohio and Mississippi rivers was expanding during this period, and simple manufactures were beginning in the Ohio valley. While the earlier shipments had consisted only of raw agricultural products,
they later were subjected to some process of treatment, and were shipped in the form of pork, flour, etc. Soon afterwards simple manufactured articles, such as bagging, rope, twine, candles, glass, and iron, began to appear, and thereafter became increasingly important.\textsuperscript{20} The character of Ohio's manufacturing industries and ambitions at this time is probably gained most clearly from the list of taxable property enumerated in the tax law of 1831. In 1795 water, fulling, and oil mills, boats of twenty barrels burden and upwards, "and any other property producing yearly incomes," had been subjected to local taxation.\textsuperscript{21} But in 1831 the list was considerably amplified and was made to include the following:\textsuperscript{22}

all grist, oil and saw mills; all manufactories of iron, glass, paper, clocks and nails; all distilleries, breweries and tanneries; all iron, brass and copper founderies; all money loaned at interest; all stocks or capital invested in steam-boats; all pleasure carriages with two or four wheels.\textsuperscript{23}

In 1811 there occurred an event of revolutionary importance in its effect upon the subsequent development of Ohio: this was the introduction of the steamboat upon the Ohio River. Not until four years later, however, did it succeed in making the trip up the Mississippi River against the swift current. With that event began the era of successful steam navigation on the Ohio. It is impossible to give the number of steamboats in Ohio alone, but the total number on western rivers increased rapidly, from 14 in 1815 to 200 in 1829, and 450 in 1842. Following the example of New York, which had granted Livingston and Fulton a monopoly of the Hudson River, the state of Louisiana had likewise granted them a monopoly of the

\textsuperscript{20}See my \textit{Economic History of the United States}, p. 178.

\textsuperscript{21}Chase, I, 168.

\textsuperscript{22}Chase, II, 1476.

\textsuperscript{23}A curious communication from one John Geo. Baxter, a textile manufacturer of Philadelphia, Pa., was printed in the \textit{Senate Journal for 1808} (p. 20), in which the writer urged upon the Ohio legislature the desirability of establishing textile mills for the purpose of giving employment to the inmates of penitentiaries. "My weavers," he wrote, "who are all women, weave from 15 to 20 yards of cotton-bagging per day, or from 50 to 60 yards of girth-webbing per day."
lower waters of the Mississippi. This limitation upon freedom of navigation was the occasion of much injury and bitterness to steamboat owners and shippers in the Ohio valley as is evidenced by a resolution,\(^{24}\) passed in 1816 by the Ohio House of Representatives, setting forth the evils inflicted upon navigation by the attempt to enforce the monopoly, and instructing the Ohio members of Congress to endeavor to secure a settlement of the controversy.\(^{25}\)

The interests of Ohio were too vital and the matter too important not to resist such pretensions as those of New York and Louisiana, and the state did her best to protect the interests of her citizens. An act of 1822 prohibited the landing of passengers on the shores of Ohio [i. e. of Lake Erie] from any boat which shall claim the right and privilege to navigate so much of the waters of Lake Erie, as is within the jurisdiction of the State of New York, under color of any law of said state, granting the exclusive right of navigation to Robert R. Livingston and Robert Fulton.\(^{26}\)

Further reprisals were rendered unnecessary by the decision of the Supreme Court in the celebrated case of Gibbons \(v\). Ogden, which threw open the waters of the Hudson to free navigation, and by implication also those of the Mississippi and other rivers. A considerable stimulus was thereby given to steamboat navigation in Ohio.

When the legislature met in 1813 war had been declared between England and the United States. Throughout the whole of this contest, the scene of which lay at times upon her very border, the conduct of Ohio was eminently patriotic and honorable.\(^{27}\) She took occasion at this time to express her position in no uncertain language:\(^{28}\)

Impressed with a full conviction, that the war in which this nation is involved, is, on our part, just and necessary; that the course pursued by the administration, in recommending the measure, and in its mild, conciliatory and continued efforts to secure to this nation an honorable peace,

\(^{24}\)Ho. \(J\.), 1816, pp. 371-373.

\(^{25}\)Ho. \(J\.), 1816, p. 371.

\(^{26}\)Act of Feb. 1, 1822.

\(^{27}\)Chase. I, 41.

\(^{28}\)Sen. \(J\.), 1813, pp. 115-116.
merits the entire approbation of this great assembly; and that not only the honor and dignity of this people, but its continuance as a free and independent nation, depends upon a vigorous prosecution of the war—therefore,

Resolved by the general assembly of the state of Ohio, That in the name and in behalf of our constituents, we pledge ourselves to aid the national government in the present emergency, to the extent of our resources; and we do this in the hope that the goodly heritage of our freedom may descend from us to posterity as we received it, excellent and unimpaired.

Be it further resolved, That we have seen, with emotions of much concern, the protracted delay of the English government to render justice to this nation, for its outrageous depredations upon us; and that we will afford to the constituted authorities, in whose wisdom and firmness we place confident reliance, our utmost support in their efforts to sustain the honor of the nation, and to obtain suitable amends for its injuries.

But not merely in words did Ohio lend her encouragement to the national government. When Congress laid a direct tax upon the people, Ohio promptly assumed her quota and paid it out of the state treasury. "Her sons volunteered, with alacrity, their services in the field; and no troops more patiently endured hardship, or performed better service." In 1814 resolutions were passed in the House of Representatives, approving the conduct of the war by the federal government, and condemning the acts of the enemy, and also of those at home who opposed the war. A dissenting resolution was presented in the Senate, but was not passed.

Upon the conclusion of the war, Ohio took part energetically in a renewal of commercial operations with the rest of the country, and expanded rapidly. Her development at this time is described as follows by a contemporary writer:

Excessive importations were made of foreign goods. The tide of emigration, which had been restrained by the war, now poured into Ohio a large accession of population. The numerous banks, which had been chartered before and during the war, and which continued to spring into existence in every part of the state, supplied an abundant circulating medium,

26 Chase, I, 41.
29 Chase, I, 42.
Speculation, stimulated by every incentive, ran into wild and extravagant excesses. Improvements of every kind, under its strong propulsion, advanced with wonderful rapidity. But this unnatural state of things could not long continue. Men who had contracted debts found, when called upon for payment, that the means were wanting. Banks, which had made excessive issues, found themselves unable at all times to redeem their paper on demand, and the currency of course began to depreciate.

The disordered state of the currency affected also the state finances, and created difficulties in the payment of taxes by the people, and in the receipt of depreciated bank notes by collectors and the state treasurer. The governor thought it absolutely necessary, that the legislature should designate by law, what shall be received by the collectors of public money in payment of state and county taxes.  

The following year he reported that there was an unexpended balance in the treasury of about $32,000. The nominal amount of taxes received, and expected into the state treasury, would indicate its prosperous condition; were it not, that many of the bank bills, which collectors are compelled to receive, if the collection be effected, are in a lamentable state of depreciation.

Again the next year it was stated that the nature of a part of the funds, in the treasury, has caused some difficulty, in transacting the business of that department; and the public creditors remain unsatisfied, to the amount of more than twenty-six thousand dollars; which would have been discharged, but for the depreciation of the bank notes, of which the remaining fund consists.

Resort was again had to the expedient used so successfully in 1809, of authorizing the auditor to draw bills on the treasurer, in the settlement of accounts due individuals by the state, of even sums of $10, $20, "or any fraction between them, or for the whole amount to which a person is entitled"; but for any sum under $10 only one warrant should be drawn. Two years later this was re-enacted and the faith of the state pledged for the redemption of the bills. As this act was not repealed until

36Act of Feb. 22, 1822.
37Act of Feb. 24, 1824.
1831, the money stringency was evidently a long continued one, and the auditor's warrants filled a real want, taking the place of depreciated or worthless bank notes.

The reason for this depreciation was to be found in the too extensive and injudicious use of their credit by sanguine borrowers, who were unable to meet their engagements when prices fell and trade declined. The banks were thus left with unnegotiable paper on their hands, and having themselves over-issued, were unable to redeem their circulating notes. At the time, the people held the Bank of the United States, which had established branches at Cincinnati and Chillicothe, responsible for most of their financial troubles. These branches issued notes, redeemable on demand, to a considerable amount, and the presence of this convertible paper doubtless tended to hasten the depreciation of the state currency. The United States branch banks also insisted that the local banks redeem their own notes on presentation, but few could endure this ordeal, and their notes either depreciated greatly or in several cases became absolutely worthless.

In 1816 the seat of the state government was established permanently at Columbus, then a town of only three years growth, yet boasting 200 houses and 700 inhabitants. A contemporary described it as follows:

The streets are filled with stumps of trees and environed with woods, which give the town the appearance of having just emerged from the forest. The houses generally are small and indifferent as the town was laid out on a large scale, considerably scattered. The people have been collected from every quarter and having great diversity of habits and manners of course do not make the most agreeable company. An elegant state house is being erected, about eighty feet square, constructed of brick and finished with elegant white marble.

The governor, in 1816-17, used part of the contingent fund placed at his disposal for the purchase of books for

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39 For a full account of the operations of the Bank of the United States in Ohio, and the efforts of the legislature to drive the branches out of the state, see chapter on Banking, below.
40 Atwater, History of Ohio, p. 177.
the state, and thus laid the foundation of the present state library.

In spite of banking troubles and primitive conditions, the wealth and population of the state continued to increase rapidly. The lands, lots, and dwelling houses in Ohio were valued at $61,347,215 in 1815; while the population grew from 230,760 in 1810 to 581,434 in 1820. The state enumeration of free white males above twenty-one years of age showed 64,814 on May 1, 1815, 41,987 on January 1, 1820. The largest proportion of the settlers in Ohio were from the middle states, as Pennsylvania and New Jersey; these were to be found in the central and southern part of the state. Another large contingent came from the South, though not so numerous as the other; these consisted almost entirely of the poorer whites, the non-slaveholding elements. New England made the smallest contribution, and the settlers from that section were to be found chiefly in the northern tier of counties. In the Ohio legislature in 1822 there were 38 members of middle state birth, 33 of southern (including Kentucky), and 25 of New England.

The character of the composite population thus brought together soon showed itself by the stand it took upon the slavery question that was now presenting itself in Congress as a political issue. While the debate over the admission of Missouri was exciting the interest of people throughout the Union, the legislature of Ohio sent the following instructions to their representatives:13

Whereas, the existence of slavery in our country must be considered a national calamity, as well as a great political evil; And whereas, the admission of slavery within the new states or territories of the United States, is fraught with the most pernicious consequences, and calculated to endanger the peace and prosperity of our country:—Therefore,

Resolved by the General Assembly of Ohio, That our senators and representatives in congress be requested to use their utmost exertions to prevent the admission or introduction of slavery into any of the territories of the United States, or any new state that may hereafter be admitted into the Union.

EXPANSION: SCHOOLS, CANALS, AND TAXATION.

In January, 1821, the first tax for the support of schools was levied by the legislature. Up to that time they had been supported, so far as they existed, by the proceeds from the sale of school lands. When Ohio was admitted to the Union, it was on the condition that section sixteen in every township should be granted the state for the use of schools, and that additional tracts of land equal in quantity respectively to one thirty-sixth of the Virginia reservation, of the United States military tract, and of the Connecticut reserve should be ceded. In addition to this, three per cent. of the proceeds of the public lands sold within its limits were to be given the state for the construction of roads. As a return, it was provided that Ohio should not tax lands sold by the United States, for five years after sale. Efforts were made to lease the school lands, and to incorporate school societies and libraries, but these were ineffectual as the lands in their wild state could yield no income. Little was done in the way of establishing schools, as the benefits of public schools were then not fully understood, and there was little money in the state. The law of 1821 made the levy of the tax voluntary on the part of the school district, and was therefore inoperative in most sections of the state. Agitation for better schools was carried on by a committee appointed in 1822 by Governor Trimble, consisting of Caleb Atwater, Ephriam Cutler, and Nathan Guilford, and was finally made a political issue. By joining forces with the canal party, laws for the establishment of schools and the construction of canals were passed at almost the same time. The important feature of the school act was that the county commissioners were ordered to levy a tax of half a mill on the dollar "to be appropriated for the use of common schools," in their respective counties. In 1829 the tax was

45The canal bill passed Jan. 28, 1825, by a vote of 58-13; and the school bill on Feb. 1, by a vote of 46-24.
raised to three-fourths, and in 1836 to one and a half mills.

The principle of a general school tax had now been adopted, but in practice the act remained very ineffective. During the thirties Governor Lucas urged in his messages the irrevocable appropriation of various trust funds to the support of schools, which was strongly seconded by the Educational Convention in 1836. The result was the enactment of the act of March 7, 1838, which established a permanent school fund to consist of "the interest on the surplus revenue, at 5 per cent., the interest on the proceeds of salt lands, the revenue from banks, insurance and bridge companies, and other funds to be annually provided by the state to the amount of $200,000." The proceeds from the sale of school lands were rather unfairly distributed among the counties and townships according to their respective interests in such lands. In the following table is shown the growth in the amount of taxes and funds of all kinds devoted to the support of common schools:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>STATE TAXES</th>
<th>FUNDS (STATE AND LOCAL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1825</td>
<td>$29,763</td>
<td>$29,763</td>
</tr>
<tr>
<td>1841</td>
<td>128,353</td>
<td>507,353</td>
</tr>
<tr>
<td>1858</td>
<td>1,259,092</td>
<td>2,906,020</td>
</tr>
</tbody>
</table>

The state of the treasury called for notice in the governor's message in 1822, and was described as less encouraging than I could have wished; and it will become necessary, in justice to present and future creditors, for the legislature to examine what sources of revenue they can command, to supply with least vexation, the deficiency occasioned by depreciation and defalcation; and what retrenchment can be made in expenditure, without injury to the public service . . . . The debts, some time since contracted by improvident speculation of the adventurous, and probably aggravated by a too careless economy in general, continue to bear, though with abated weight, on the industry of our community. The resource of the country's productions you will be sensible, has greatly failed to remove this embarrassment, from the want of demand and their low price, since the late war.

The staple products of Ohio were practically excluded from

the Atlantic market, owing to the heavy charges for transportation from the interior; while perishable articles were always exposed to the hazard of a too hot climate when sent to New Orleans.

The necessity of relying on our internal resources admits not of a question [concluded the governor\(^a\)] but the manner in which those resources can best be called into action, for immediate alleviation of distress, and to provide, at the same time, for future prosperity, is more doubtful, and demands the most discriminating intelligence of our statesmen. One of the evident means to mitigate the present hardships, and promote our independence, is in those manufactures which can be economically executed in our country; but to what extent the skill and industry of the inhabitants have, hitherto, been able to provide those necessaries for which they had depended on importation, appears too little known; yet it is believed to be very considerable.

In his message of 1823, the governor recurs to the subject as follows:

The industry, frugality and rigid economy so generally observed are gradually relieving the country from embarrassment, and the agricultural, manufacturing and commercial interests of the state are manifestly improving.\(^a\)

To add to the financial distress the year 1821 was "unusually sickly",\(^b\) while in 1823 "an epidemic widely extended in its range and unusually virulent in its attacks"\(^c\) visited a large portion of the state. At the same time there was a partial failure of the crops in that part of the state where the fevers were most prevalent. Nevertheless the governor believed that "the products of the year will be found sufficient for the subsistence of the inhabitants, leaving a surplus for exportation, equal perhaps, to the present limited demand for our bread stuffs."\(^d\)

By 1825 the growth of population and production had increased the agricultural surplus of Ohio beyond the then existing means of transportation. The state census of 1825 showed the number of white male persons in the state

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\(^a\)Ibid., p. 9.
\(^b\)Ho. J., 1823, p. 30.
\(^\)Ibid., p. 15.
on January 1, to be 124,724,\textsuperscript{54} while the total number of inhabitants was estimated at over 700,000. As agriculture was practically the only occupation,\textsuperscript{55} and an outlet for its products was to be found only in those districts bordering on the rivers or lake, the surplus in the interior counties was almost valueless. Thus in 1825 wheat was sold in the interior counties for 37 cents a bushel and corn for 10 cents.\textsuperscript{56} The need of an outlet for this produce to the Atlantic seashore was strongly felt, and led to the agitation for a system of canals which should connect the Ohio River with Lake Erie and provide water communication for the interior counties. Accordingly in 1825 work was begun on the Ohio canal, which crossed the state from

\textsuperscript{54}Ho. J., 1825, p. 428.

\textsuperscript{55}In 1830 the governor writes: "Our state is essentially agricultural". Ho. J., 1830, p. 10.

\textsuperscript{56}Ringwalt, Transportation Systems, p. 155. The following quotation from the History of Seneca County (Springfield, Ohio, 1880, p. 213), by W. Lang, describing conditions as they existed in the twenties, is of particular interest, and is therefore given in extenso: Great was the trouble owing to scarcity of money. Barter and trade was the order of the day, and while this exchange was all right in some respects, it would not answer for others. Taxes could not be paid in that way, and the merchant, after waiting a long time, had to have cash with which to meet his bills in New York or Philadelphia. When a man had anything to sell, it found no market for money. He could trade it away for something he wanted from his neighbor. If a man wanted an article from another, and had nothing to exchange for it, he paid in work by the day, or agreed to clear so many acres of land for the article. Men bought their cows, their horses or hogs, in that way. Corn and wheat were hauled by ox teams, generally to Mansfield or Sandusky, to be sold for money. Wheat was hauled to a market forty to sixty miles away, where it could be sold for only 30 cents a bushel in cash, or for 3 shillings [37\textsuperscript{1/2} cents] in trade. Sandusky was the principal market [of Seneca county] for wheat, and many a load was sold there, at 3 shillings a bushel, for salt at $5 a barrel, when it took about one week to make the trip.

Getting grinding done at the few mills there were then in the county, was attended with equally great hardship. After the City Mill of Tiffin was put up, farmers from Crawford, Hancock, and Marion counties, came here to get their grists ground, and at times 15, 20, or more teams waited their turn and camped out a whole week.
Portsmouth on the Ohio River to Cleveland on Lake Erie, and on the Miami canal between Dayton and Cincinnati.

During the next few years the legislature gave its almost undivided attention to the building of these canals, and devoted little to other matters. The reports of the auditor, the governors' messages, and the journals of the general assembly, contain little but discussions of the canal, and later railroad, construction, coupled with prophesies of the future greatness of Ohio as a result of the policy of internal improvements. Nor is much additional light on current events to be gained from the laws, which seem directed only to the single end of canal legislation.\(^57\)

The completion of the Ohio canal in 1833 opened up the whole interior region of the state to the northern and eastern, as well as to the southern, markets. Continuous water communication was now possible from a large part of Ohio via the Ohio canal, Lake Erie, the Erie canal, and the Hudson River to New York City and the Atlantic seaboard, and thence to Europe. As a result the agricultural exports of Ohio increased enormously and at the same time better prices were received. In 1835 there were shipped from the state of Ohio through by canal to New York 86,000 barrels of flour, 98,000 bushels of wheat, and 2,500,000 staves.\(^58\) But the effects of the canals were not confined to Ohio alone. The pouring of this vast amount of western produce into the eastern markets reduced the prices of those products in New England and the East, lowered the price of farms, and started a wave of migration to the Central West. Ohio experienced an unprecedented wave of prosperity and grew rapidly in population and resources. The population of the state increased from 937,679 in 1830 to 1,515,161 in 1840. In 1835 the white male inhabitants over twenty-one years of age were 235,225. The character of the immigrants was high; they

\(^{57}\)The financial and legislative history of this period will consequently be found at greater length in a forthcoming monograph on Internal Improvements in Ohio.

possessed habits of industry and enterprise, and speedily converted the forested areas into fruitful fields, and helped to build up thriving villages. There was a slight check to the general expansion in 1833, owing to the prevalence of the cholera in parts of the state, but it did not continue long.

A decided stimulus was given to the agricultural interests of the state, and in 1833 an act was passed by the legislature to authorize and encourage the establishment of agricultural societies. In response to this suggestion a number of such societies were formed in the counties of Licking, Washington, Greene, Clinton, and Pickaway, "exhibiting very flattering tabular statements of the condition of their respective counties in an agricultural and manufacturing point of view." The chairman of the standing committee on agriculture reported to the House in 1834 that "within a few months an association has been formed for the purpose of importing the best breed of European cattle", that "another association has also been formed with the view of selecting for this valley, some of the best stock in the northern part of the Union". Similar efforts were also made to improve the breeds of sheep and hogs.

The state was still distinctively an agricultural state, and continued to be so as long as labor could be more profitably employed in agricultural than in manufacturing pursuits. There was, however, a considerable development of domestic manufactures, which was described in the governor's message of 1834.

In speaking of manufactures, [he wrote] I do not allude to establishments that require large investments of capital and protecting duties to enable them to sustain themselves, for we have few such in Ohio, but to such as have been established by our enterprising citizens, for manufacturing materials produced within the state. Those carried on by mechanics in their shops; and particularly that description of manu-

89Ho. J., 1834, p. 622.
90Ho. J., 1834, p. 455
factures in which our industrious females are the principal operators, and may be found in the greater portion of families in the state, where the various articles of common clothing, bedding, carpeting, and sundry other necessary articles for the use of the family are manufactured; these manufactures are calculated to render us independent as a people, particularly the last which is truly domestic in its character, extensive in its benefits and cannot be too highly commended.

Of factories in the modern sense there were none, nor was production on a large scale present. “With the exception of the articles of salt and iron the manufactories in Ohio are not extensive,” wrote the governor in 1836.63

The year 1825 had also been marked by a thorough revision of the revenue laws. The act of February 3, 1825,64 for the first time abandoned the primitive practice of classifying the land according to the quality of the soil, and added other sources of state revenue to the land tax, from which almost the whole of the income of the state had up till now been derived. Town lots and buildings, dwelling houses, horses and cattle, pleasure carriages, and the capital of merchants and exchange brokers were now subjected to taxation. By this act the principle of the general property tax, and much of its administrative machinery, was introduced, though it was by no means fully carried out in practice. In 1831 the list of taxable objects was considerably enlarged, and a number of kinds of property, especially that engaged in manufacturing of all sorts, was added to the list of taxable property. No further charge was made until the thorough-going application of the theory of the general property tax in 1846. The results of the changes in the tax laws were promptly seen in the improved financial condition of the state treasury. “The receipts from taxation annually exceed our calculations,” wrote the auditor in 1831.65 There was evidenced in this fact not merely improvement in the revenue laws, but even more clearly the rapid growth of wealth and prosperity in the state. The period was one

64Chase, II, 1476.
of general expansion and of undoubted prosperity, though it was given an artificial stimulus by the over-issue of bank notes and the development of speculation. In these regards the experience of Ohio was not very different from that of other states.

The success of the Ohio canal induced the state to enter upon a more ambitious and comprehensive system of internal improvements. Additional canals were projected and begun: the Miami and Erie connecting the Ohio River at Cincinnati with Lake Erie at Toledo, the Wabash and Erie, Hocking Valley, the Muskingum improvement, etc. Every part of the state was clamorous for improvements and they were begun simultaneously at various points. Nor were they confined to canals alone; turnpikes, slackwater navigation companies, railroads, etc., also claimed assistance. The major part of the business of the legislature during this period of expansion consisted in incorporating companies for purposes of internal improvement. Thus, during the sessions of 1835-6 and 1836-7 the following local acts were passed:

<table>
<thead>
<tr>
<th>Type of Company</th>
<th>1835-6</th>
<th>1836-7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sale of public lands</td>
<td>13</td>
<td>15</td>
</tr>
<tr>
<td>Manufacturing companies</td>
<td>—</td>
<td>16</td>
</tr>
<tr>
<td>Insurance companies</td>
<td>—</td>
<td>13</td>
</tr>
<tr>
<td>Railroad companies</td>
<td>32</td>
<td>15</td>
</tr>
<tr>
<td>Roads</td>
<td>50</td>
<td>58</td>
</tr>
<tr>
<td>Turnpike companies</td>
<td>14</td>
<td>23</td>
</tr>
<tr>
<td>Bridge companies</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>relating to bridges</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>Canal companies</td>
<td>5</td>
<td>—</td>
</tr>
<tr>
<td>relating to canals</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>Slackwater navigation companies</td>
<td>—</td>
<td>13</td>
</tr>
</tbody>
</table>

Many of these projects were visionary and impracticable, but the enthusiasm of the times had blinded people and legislators alike to the usefulness or feasibility of schemes of internal improvement. Additional stimulus was given, if any was needed, by the act of Congress in distributing the surplus revenue of 1837 among the states. Ohio accepted her share of the act of December 19, 1836,
and distributed it among the counties, where it could be loaned out by the commissioners, subject, however, to the recall of the state in 1851. The proceeds were devoted to the support of the common schools. The following year Ohio passed her famous loan law, according to which the credit of the state was loaned to railroad companies; and the state was authorized to subscribe, under certain conditions, to the stock of canal, turnpike, bridge, and other companies. The result was the multiplication of these companies, and the straining of the credit of the state almost to the breaking point.

A reversal of parties in 1838 resulted in the repeal of much of the rather radical legislation of 1836, and the enactment of new measures. Provision was made for a new state house, by the appointment of three commissioners, who were authorized to offer three prizes of $500, $300, and $200 for the best plans.66 The board of public works, which had been created two years before, was abolished and the old board of canal commissioners reinstated; banking legislation was also passed. But in the following year the canal commissioners were put out of office again, and the legislation of 1838 reversed. The board of public works was restored, the commissioners for the new state house removed,67 and the banking legislation repealed. In 1838 Ohio rather tardily joined the list of states which had abolished imprisonment for debt, by abolishing it for debts under $100.68 The growth of the state and its rapid settlement is shown by the fact that there were now seventy-five counties, of which some contained towns of considerable size. The price of land varied throughout the state from $1.25 to $100 an acre. As proof of the prosperity that prevailed a contemporary writer stated that the price of labor was 50 per cent. higher than in the Atlantic states, while provisions were about 50 per cent. cheaper than there.69

67Act of March 11, 1840.
68Act of March 19, 1838.
69Atwater, History of Ohio, p. 316.
The panic of 1837, which followed the undue expansion of industrial activity, the investment of so much capital in fixed and often unproductive forms, and the excessive currency inflation and speculation, affected Ohio along with the rest of the country. Conditions were never so bad in the Ohio valley, however, as in the East. "In this state", wrote the governor in January, 1839. our citizens have felt the pressure to a considerable extent, and are still laboring under its unfavorable influence. It has not, however, fallen with the same force on us as on the citizens of some other portions of the Union. This is owing to the fact that we are more an agricultural, than a manufacturing or commercial people; and, comparatively speaking, but little in debt. The embarrassment and pressure among our business men in Ohio, I am convinced, will be of but temporary duration. Their business habits, energy of character, with the great and increasing resources of the country, will soon enable them to recover from their present difficulties. The mechanical and agricultural portions of the community being generally out of debt, have not experienced the same embarrassments that have been felt by the merchants, and those engaged in heavy business, demanding large capital and extensive credit.

The contraction of the banks, and the consequent scarcity of a circulating medium, when compared with former years, increased the embarrassment. Between April 30, 1837, and September 30, 1838, the discounts of the banks were reduced $8,237,537 and the circulation $1,824,419. A still more drastic reduction of the circulation was made the following year, between April 30 and September 30, 1839, of $4,460,775; the outstanding bank notes were now only $3,697,098. At the same time an unusually abundant harvest of wheat depressed the price of that staple, and made the payment of debts contracted under the regime of high prices still more difficult.

As a consequence of these embarrassments, the legislative session of 1840 showed great economies: the loan law was repealed, as was also the act for the erection of the new state house; the number of members on the board

of public works was reduced, the receipts and disbursements of the canal fund were brought under the control of the auditor, and canal appropriations were cut heavily. As evidence of good faith in their economies, under the heavy pressure that was brought to bear upon them, the legislature soon after reduced their own pay and that of most of the state officers. But as soon as the immediate pressure was removed they restored their own pay again to the previous rate, and the following year repealed the rest of the act. But not merely were public economies affected; "a laudable spirit of economy seems to pervade the whole community". There was during this whole period a large balance of indebtedness against Ohio in favor of the East for manufactured goods and for interest on borrowed capital, which necessitated an excess of exports every year. To the payment of these obligations the people of Ohio manfully and energetically applied themselves. The interest on the public debt was faithfully met, and private debts were rapidly paid off.

That the economic foundations upon which Ohio had reared her structure of credit during these years was at basis sound, is shown by the exports from the state in 1840.

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12 Act of Jan. 27, 1844. The pay of members of the general assembly was fixed at $2.00 per day, and $2.00 for every 25 miles traveled to the state capital. The governor was allowed a salary of $1,000; the secretary of state $500; auditor, $730; treasurer, $730; judges of the supreme court, $1000; president judges of the courts of common pleas, $730; etc.

13 Act of Jan. 29, 1847. The rates were now $3.00 per day for the first sixty days of the session, and $1.00 per day thereafter; and $3.00 mileage for every 25 miles travel.

14 Act of Feb. 7, 1848.

15 Inaugural address of Governor Shannon, Dec. 14, 1842, p. 4.

Exports in 1840

<table>
<thead>
<tr>
<th>Description</th>
<th>Estimated Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breadstuffs, mostly wheat and flour</td>
<td>$7,098,810</td>
</tr>
<tr>
<td>Other agricultural products, including distilled spirits</td>
<td>1,874,402</td>
</tr>
<tr>
<td>Products of domestic animals, chiefly pork, lard, butter, cheese, and wool</td>
<td>2,315,069</td>
</tr>
<tr>
<td>Domestic animals driven from the state on foot</td>
<td>2,600,000</td>
</tr>
<tr>
<td>Products of mines and forests</td>
<td>782,700</td>
</tr>
<tr>
<td>Manufactured articles</td>
<td>5,000,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$19,670,981</strong></td>
</tr>
</tbody>
</table>

During this same year 7,500,000 acres of land were reported to be in cultivation, most of which was devoted to wheat growing. Ohio every year sent a considerable surplus of this staple to the East, and some of it abroad. "A large amount of the wheat of Ohio and Michigan has found its way to England, through the Canadas, within the past few years, by paying mere nominal duties." The depression in the value of wheat made it difficult for the farmers to pay their taxes, which the extravagant undertakings of the state had raised to a high rate, while even at this early date the soil began to show signs of exhaustion from steady cultivation of wheat and lack of fertilizers.

By neglect and unskilful tillage [wrote the governor in 1843] nearly one-half of the products of this great source of wealth and prosperity [i.e., agriculture] may be lost. Already it is apparent in some parts of the state that a deterioration of the soil has taken place, and great want of skill exists in the production of crops. The agriculturists in our state have not adopted those improvements and useful discoveries which have been made in the cultivation of the soil.

One interesting and natural result of the panic was the almost complete cessation of works of internal improvement. Thus the laws incorporating new companies, and providing for works of this sort, dropped to almost nothing. In 1843 acts of incorporation were passed for only three banks, one canal company, five turnpike companies, and to lay out two state roads. As contrasted with the feverish activity displayed in 1835-36 or 1836-37 this marked a great decline. Such a change must be regarded

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"Gov. address, Dec. 14, 1842, p. 7.
"Exec. Doc., 1845, I, 6."
as a gain, for the time and attention of the legislature had been absorbed in the work of special and local legislation for years, and evils of lobbying and illegitimate influences had inevitably grown up at the state capital under such a system. The banks had possibly been the worst offenders, as they were the greatest beneficiaries. So great had grown the evil that in 1844 the governor devoted special attention to it in his annual message to the legislature.\textsuperscript{79} The following extracts are of especial interest:

It is apparent that special and local legislation in this State has been indulged until it has truly become an evil. Within the last six years, two thousand and fifty-nine acts have been passed, of which seventeen hundred and forty-six are special statutes, and three hundred and thirteen fall under the denomination of general laws. . . . . Of the seventeen hundred and forty-six special acts above mentioned, eleven hundred and twenty-seven relate to corporations—the grants of exclusive privileges and special immunities to associations of individuals. This class of special legislation has been continued in nearly an equal ratio for the last ten years; and should it be persevered in, and corporations continue to multiply as heretofore, for the next twenty years, the State will be literally thatched with charters of incorporations, and the past subterfuges, pretenses, frauds and profligacy of corporations will form but a miniature epitome of what will be exhibited in future. . . . . One of the evil tendencies of the present age is a venal spirit of adventure, stimulated by a thirst to acquire property without earning it, and a desire to transact business through the agency of acts of incorporation. Wealth has its appropriate influence, and possesses naturally intrinsic advantages over labor; but when associated under charters, and favored with special immunities, and exclusive privileges, it builds up oppressive monopolies in the business of the country, and acquires an undue ascendency over the interests and rights of the private citizen.

Although the activities of the state were checked in works of internal improvements, the local governments did not withdraw so quickly from the field. When once the virus had entered the blood the fever of speculation was not so easily cured. An act of 1846 provided for holding a referendum in counties, in case the county commissioners wished to subscribe to the stock of a railroad, turnpike road, or other incorporated company.\textsuperscript{80} There

\textsuperscript{80}Act of Feb. 28, 1846.
seems to have been a shifting of these works from the state to the local governments, rather than a complete withdrawal from works of public improvement. By vigorous efforts and loans at almost ruinous rates of discount the state pushed the work on the canals to completion by 1848. In that year the state debt reached its highest point, and measures were taken to create a sinking fund for its liquidation. The effect of these acts on the credit of the state was at once apparent, and Ohio's credit rose high in the loan market; the six per cent. stock of the state was quoted in New York at 103 1/4.81

Meanwhile another problem was pressing for solution at the hands of the legislature—that of banking. In Ohio, as elsewhere at this time, the idea had prevailed that the prosperity of the state was dependent upon the increase in banking institutions and the expansion of bank issues. At the sessions of 1835-6, 1836-7, 1838-9, and 1840-41, petitions for more banks were crowded upon the legislature in unequaled numbers.82 A majority of the bank charters were to expire in 1843 and 1844, and it was now possible for the legislature to prescribe more carefully, if they wished, the conditions of banking. This they did by a general act of March, 1842, which superseded the old special charters and imposed rigid restrictions on the abuses heretofore practiced. This was alleged to be too severe, and though it was modified the following year, no banks were organized under it. Finally, by act of Feb. 24, 1845, the State Bank of Ohio was established with seventeen branches, and nine so-called independent banks were chartered; in addition to these there still remained eight banks doing business under charters granted under the old banking system. The aggregate amount of the banking capital of these thirty-four banks on November 1, 1846, was $5,826,677, and the whole circulation was $5,674,769.83 The new law provided for a more careful regula-

82Exec. Doc., 1844, Doc. No. 1, p. 11.
tion and supervision of the banks than had been the practice, and limited the circulation so as to provide a more uniform and stable currency.

And already [wrote the governor at the beginning of 1846] the people of Ohio begin to feel the influence of this system in the restoration of confidence, the revival of business, the increase of the wages of labor, and the rising prosperity of the State.84

But the hard times were by no means over, as is evidenced by an act of 1845,85 for the relief of borrowers of the surplus revenue fund in the hands of the counties, extending the time of payment of interest and of execution for non-payment. To meet the needs of the state and make good the decline in ordinary revenue, the legislature sought out new sources of taxation, as money brokers in 1845.86 They also proceeded to close the doors as far as possible to loose use or misuse of the public funds by an act of 1846,87 to punish embezzlement of the public moneys. This was broadly defined as using, loaning, or investing such money and was punished by a fine of from $50 to $500 and the loss of office; contracts for personal advantage were also forbidden. The enactment of such a law certainly points to the existence of loose methods of handling the public moneys, and a desire to improve conditions.

Progress along cultural and industrial, as well as financial lines, was evidenced by a number of isolated events. In 1844 public executions were abolished.88 Two years later a state board of agriculture was established;89 it met and organized April 1, and made its first report on December 25 of the same year. The wave of democracy that swept over the country at this time affected Ohio also. In 1850 it was provided that the members of the board of public works, the attorney general, and other appointive state officers, should thereafter be elected by the people.90

85March 11, 1845.
86March 12, 1845.
87March 2, 1846.
88Act of March 12, 1844.
89Act of Feb. 28, 1846.
90Act of March 22, 1850.
The industrial development of the state also claimed the attention of the legislature: in 1847 an act was passed “to facilitate the construction of the Electric Telegraph”, by providing that lines might be constructed in any place “so they do not incommode the public”; and in 1851 lotteries were absolutely forbidden. The following year the legislature passed the first state law regulating the hours of labor for children under 18 years of age and for women. This antedates the law of Massachusetts, claimed to have been the first on the subject, by fourteen years, and is consequently worth quoting at length:

Section 1. That in all manufactories, workshops and other places used for mechanical or manufacturing purposes, in the state of Ohio, where children under the age of 18 years, and women, are employed, the time of labor of the persons aforesaid, shall not exceed 10 hours for each day. (Employers who offended were to be fined from $5 to $50, and all fines were to be used for the support of the common schools).

Section 2. That in all engagements to labor in any mechanical or manufacturing business, a day’s work, when the contract of labor is silent upon the subject, or where there is no express contract, shall consist of 10 hours.

As the act was rather loosely drawn, especially in the second section, which was not expressly limited to women and children, and no provision seems to have been made for the administration or enforcement of the law, it is probably to be regarded rather as a “pious wish” than a practical measure.

The need of a new and more commodious and better built state house had long been felt, and after the destruction of the old one by fire it became imperative. Accordingly, when the pressure of financial stringency was removed, the legislature returned to the work, which had been begun in 1838 and suspended in 1840. Three commissioners were appointed in 1846 to take up again the work of building. The work dragged along for six years and then the

81 Act of Feb. 8, 1837.
82 Act of March 19, 1852.
83 E. g. by C. D. Wright, Industrial Evolution of the United States, p. 267.
84 Act of Feb. 21, 1846.
acting commissioners were removed and others appointed, for the “more efficient and expeditious completion of the state house”. An act of 1848 provided for the use of convict labor in its construction, and convicts from the state penitentiary were employed to cut stone and as laborers, thereby saving considerable for the state. It was not completed, however, without some suspicion of graft. The state house then erected still serves the state, though rather inadequately, and stands as a monument to the architectural taste of the designer and the efficiency of the builders.

Since the inauguration of the system of state taxation by means of a general property tax in 1825 the state had grown greatly in population and wealth; new forms of property had come into existence and new sections of the state had been settled. The law of 1825 had exempted numerous forms of property from taxation, and although this was largely corrected by the act of 1831, the system was still very unequal and full of favoritism and inconsistencies. Accordingly the act of March 2, 1846, was passed, “for levying taxes on all property in this state according to its true value”. The general property tax, which had simply been initiated in 1825, was now introduced in modern form, with the necessary administrative machinery, and an effort was made to tax all property in the state with some few exceptions. It was slightly amended by two minor acts, and was then entirely repealed and replaced by the long act of March 25, 1851, which, however, introduced few changes except the extension of the list of property exempt from taxation. Hardly had this act been passed when it was rendered obsolete by the adoption of the new constitution, and was swept out of existence together with a mass of other legislation.

*Act of Feb. 24, 1848.
*See chapter III, on Financial Administration.
*Feb. 8, 1847, Feb. 22, 1848.
THE CONSTITUTION, CURRENCY, AND CORRUPTION.

For almost half a century no change had been made in the fundamental law of the state, and the constitution that had been framed for a pioneer population of 50,000 scattered agriculturists did not meet the needs of a larger and more heterogeneous population with diversified interests. An attempt to call a constitutional convention in 1820 had been defeated by the decisive vote of 29,315 to 6,987, although only about one-third of the qualified voters of the state expressed their preference on the ballot. In 1851, however, it was decided to amend the old constitution. The convention that was called at this time consisted for the most part of representatives of the agricultural interests of the state, and were animated by a determination to subject the corporations, and especially the banks, to taxation equal to that borne by the rest of the community. They accordingly embodied in the new constitution the requirement of equal taxation and uniform treatment of all property, corporate as well as individual.

One great improvement, involving an enormous economy of time and effort to the general assembly, was the passage of a general incorporation act in 1852. Thus the local laws passed by the session of 1850 comprised 709 pages, as opposed to only 98 pages of general acts. Of these local acts the majority related to the incorporation or amendment of the charters of corporations. For instance, in 1850 there were 42 acts to incorporate turnpike companies, and about as many more to repeal or amend previous incorporation acts; in 1851 there were 21 acts to incorporate rail-road companies, 29 acts to amend previous incorporation acts, and 36 other acts relating to subscriptions, stock, and other business of rail-road companies. On the other hand, in 1852, after the passage of the general incorporation law, there were only 24 local acts passed during the whole session, and most of

90May 3, 1852.
these related to counties and townships. A more striking example of the value of such a general act would be difficult to find. The session of 1852 was a long and hard working one, continuing until May 3. The time was taken up largely with overhauling and codifying and reenacting laws, so as to bring them into conformity with the new state constitution.

One of the results of their labor was a long and carefully worded act,\textsuperscript{100} applying the principles of the constitution—"an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money". This was a thorough-going attempt to tax all property uniformly under the same law, which has since given so much trouble in the taxation of corporations, but which has so far resisted all efforts to change it,\textsuperscript{101} although amendments to the constitution have been repeatedly urged. In addition to the tangible real and personal property hitherto taxed, money and credits, securities of every sort, corporations, and banks were specifically enumerated and listed. The list of property to be returned was lengthened, and the duties and powers of officers entrusted with the assessment and collection of the taxes employed. Numerous amendments corrected the faults of the original act, and closed the doors to evasion and fraud.

The banks resisted the act vigorously and refused to pay taxes levied under its provisions, questioning its fairness and its constitutionality. In consequence the legislature in the following year directed a savage act\textsuperscript{102} against them, giving the county treasurers the right to seize coin and securities if the tax were not paid, and imposing penalties of $1000 fine or imprisonment in jail for 60 days, or both, for any official who concealed coin or securities for

\textsuperscript{100} Act of April 13, 1852.

\textsuperscript{101} In the elections of Nov., 1909, the voters approved of a constitutional convention to revise the constitution. This section will undoubtedly be changed by the convention now in session (March, 1912).

\textsuperscript{102} Act of March 14, 1853.
the purpose of evading the tax. Not until after four years of constant struggle between the banks and the legislature was this act repealed, and a compromise effected by which they were taxed very clumsily upon their business instead of their property. The following year a constitutional amendment was presented to the people on the subject of the separate taxation of banks. It was provided that in voting on this proposition the voter should write on his ballot the words: "Bank and individual taxation equal—yes; bank and individual taxation equal—no". This looks like a shrewd method of defeating the proposed amendment, and the banks evidently so regarded it, for upon its rejection, they again resisted the collection of the tax, and the law of March 14, 1853, was virtually re-enacted. Although they succeeded in breaking down these laws in the courts, the banks were finally forced to yield, as their charters needed renewing; while other banks, whose charters guaranteed them other methods of taxation, were induced to assent to the provisions of the general tax law of 1852.

The burden of high taxes was more than once complained of during this period, and they certainly showed an alarming increase. Between 1846 and 1859 the aggregate taxes increased 255 per cent.; the rate of increase for the state taxes being 165 per cent., and for local taxes 329 per cent. The state taxes made up barely one-third of the total, so that complaints were more justly directed against the local taxes, especially those levied by the counties. It was estimated in 1853 that the total state and local taxes constituted an annual exaction of $25 from every voter and of nearly $6 from every individual in the

104 Act of April 1, 1856.
105 Act of April 12, 1858.
106 Under act of Feb. 24, 1845.
107 Act of April 8, 1856.
In addition to these taxes there were considerable fees paid to county, township, and other local officers. But the taxes had not grown any faster than the wealth of the people and their taxable property.

At no former period in the history of the state [wrote the auditor in 1854] has her population, and the various avocations in which they are engaged, been more abundantly prospered, than in the golden era in which they are now embarked.

The following year witnessed a slight set-back and the auditor noted "the financial embarrassments which have prevailed among states as well as individuals" during the year, in spite of which Ohio discharged all current liabilities, paid the interest of the public debt, and redeemed almost $700,000 of the principal.

Provision had been made by the law of February, 1825, which provided for the construction of the canals and created the state debt, for the establishment of a sinking fund, by which the debt should be paid. During the period of state encouragement of internal improvements, however, this fund had been used to provide means for additional undertakings without resorting further to taxation. In 1848 the plan of a sinking fund was revived, and three years later was made compulsory by the constitution. The provisions of the constitution were carried out by the act of 1853, which provided for an appropriation for the current year of $100,000, and for each year thereafter compounding at the rate of 6 per cent. per annum until the debt should be paid.

The decade was characterized by loose financiering, and even by graft and corruption, for the statute books of this period are full of enactments designed to check abuses. In 1856 three joint investigating committees were appointed to investigate (1) the acts of all public agents

111 Aud. rep., Feb. 12, 1853.
112 Act of Feb. 24, 1848.
113 Act of March 14, 1853.
who have or had the custody or disbursement of public moneys; (2) the acts of the board of public works; and (3) all the transactions and expenditures about the new state house, the penitentiary, the three lunatic asylums, the blind, and deaf and dumb asylums. This was followed the next year by an act which provided that all state officers should keep accurate and distinct accounts. Meanwhile, however, the treasury had been looted and in June, 1857, when it was necessary to provide funds for the payment of the semi-annual interest on the state debt, the state treasurer confessed to a defalcation of over $580,000. Subsequent investigations raised this amount to $744,000. A commission appointed the following year to investigate the subject discovered that the misappropriation of state funds ran back almost a decade and involved the good name of two state treasurers, while the officials of various banks were not altogether free from blame or from suspicion of sharing in the spoils.

MATERIAL DEVELOPMENT: AGRICULTURE AND TRANSPORTATION.

In spite of official corruption, of disordered currency, and of the prostration of credit resulting from the panic of 1857, the material development and prosperity of Ohio proceeded without abatement. During the panic year of 1857 the harvests were abundant, and the general health unbroken.

117 Act of April 11, 1856.
118 Act of April 16, 1857.
119 April 12, 1858.
120 See below, p. 88.

The wheat crop for this year was the largest, with one exception, in the history of the state (3rd an. rep. Com'r of Stat. Exec. Doc., 1859, I, 767). The following table shows the crops in millions of bushels:

<table>
<thead>
<tr>
<th>Year</th>
<th>Wheat Crop</th>
</tr>
</thead>
<tbody>
<tr>
<td>1849</td>
<td>14.4 bu.</td>
</tr>
<tr>
<td>1850</td>
<td>31.0 bu.</td>
</tr>
<tr>
<td>1851</td>
<td>25.3 bu.</td>
</tr>
<tr>
<td>1852</td>
<td>22.9 bu.</td>
</tr>
<tr>
<td>1853</td>
<td>17.1 bu.</td>
</tr>
<tr>
<td>1854</td>
<td>11.8 bu.</td>
</tr>
<tr>
<td>1855</td>
<td>19.5 bu.</td>
</tr>
<tr>
<td>1856</td>
<td>15.3 bu.</td>
</tr>
<tr>
<td>1857</td>
<td>25.3 bu.</td>
</tr>
<tr>
<td>1858</td>
<td>17.6 bu.</td>
</tr>
</tbody>
</table>
No year [wrote the governor¹²⁰] since the organization of the state govern-ment, has been more conspicuously distinguished by substantial increase in all the elements of real wealth, permanent power, and true greatness.

The panic affected Ohio but slightly, and though the suspension of specie payments was general in the eastern states, not a bank in the Ohio valley found it necessary to resort to this expedient. The state was still predominantly agricultural, probably four-fifths of the total population being engaged in farming.¹²¹ Practically all of the 25,776,960 acres of land in the state had now been reduced to private ownership, and was in the hands of 270,000 proprietors, exclusive of the owners of town lots, each cultivator holding on an average about 90 acres.

During this period a new plant, sorghum, was introduced into Ohio, probably about 1852. By 1857 the practicability of its culture had been fully demonstrated, an event of which the governor said "no single fact . . . . is probably of greater importance".¹²² It is interesting to note in passing that this was the only commercially important plant introduced into the United States during the century after the adoption of the Constitution.¹²³ An exaggerated idea of the importance of this plant as a substitute for sugar cane was entertained at first and considerable land was planted with it; and an especial impetus was given to its culture by the Civil War, which cut off the southern supply of sugar. The statistics of production were given for the first time in 1863, and by 1866 the production of both sugar and molasses had doubled, the product for this year being 55,147 pounds of sugar and 4,696,089 gallons of molasses, which sold for 75 cents a gallon. The culture of the plant was similar to that of corn, and the yield was about 75 dollars an acre.¹²⁴ The number of acres planted with sorghum was 46,239 in 1866, but de-

¹²³See my Economic History of the United States, p. 67.
clined after that until the crop became negligible and dropped out of the reports.

During the twenty-year period from 1840 to 1860 there was a rapid filling up of the middle states east of the Mississippi; as most of the settlers took up land the production of agricultural commodities was greatly stimulated. Even more important were the improvements in agricultural machinery, which economized the labor needed and permitted an expansion otherwise impossible; and in transportation facilities, which made it profitable to market the increased production. The aggregate of all cereal crops, including potatoes, was as follows: 1839—71,464,603 bushels; 1849—92,945,164 bushels; 1859—152,349,155 bushels. This increase was nearly double the ratio of increase in the population. The total products of Ohio in 1857 were put at $261,867,500, and the exports from the state at $70,000,000, leaving $191,867,500 worth of domestic commodities to be consumed at home. Three years later it was estimated that Ohio raised breadstuffs enough, in addition to feeding domestic animals, for ten millions of people, or four times her actual population. At the same time the prices received for the crops were good.

The proportion of the population and of the capital in the state engaged in mining, mechanical and manufacturing industries was rapidly increasing. In his annual message for 1856 the governor warns the legislature that the financial burdens of the state be not permitted to press, in disproportionate measure, upon them. These pursuits of industry supply a great

\[\text{PRICE.} \]

<table>
<thead>
<tr>
<th>YEAR</th>
<th>WHEAT</th>
<th>CORN</th>
<th>SUGAR</th>
<th>COFFEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1829</td>
<td>.50 per bu.</td>
<td>.25 per bu.</td>
<td>.09 per lb.</td>
<td>.15 per lb.</td>
</tr>
<tr>
<td>1858</td>
<td>1.03 per bu.</td>
<td>.70 per bu.</td>
<td>.0734 per lb.</td>
<td>.12 per lb.</td>
</tr>
</tbody>
</table>
market, constantly becoming greater, for the productions of agriculture.\textsuperscript{128} He also called attention to the growing importance of railroads in Ohio—among the instrumentalities by means of which intercourse is carried on between different parts of the state and different sections of the country, railroads may now be regarded as the most important.\textsuperscript{129}

In other lines of material development, Ohio's progress was even more marked during this period than in agriculture. As early as 1854 Ohio had more miles of railroad in operation than any other state in the Union, namely 2367; by 1857 the mileage had grown to 2844, built at an estimated cost of $90,000,000.\textsuperscript{130} Of 352 vessels built in 1856 on the waters of the west, 97 boats with a tonnage of 29,636 tons were built in Ohio.\textsuperscript{131} The improvement and cheapening of transportation indicated by this growth made possible a rapid development in mining and manufactures. Between 1840 and 1860 there was an extraordinary expansion in the mining of coal and iron, which increased more rapidly than agriculture or population. Coal as a fuel was coming more and more into use, while the use of it for driving machinery was also fast increasing; there was also a growing exportation of coal to the upper lakes, to Canada, and down the Mississippi.\textsuperscript{132} The most noteworthy advance in manufactures had been in the production of salt, iron, wood, and distilled liquors, all closely related to the extractive industries. The following table presents some of these facts concisely:\textsuperscript{133}

<table>
<thead>
<tr>
<th>Year</th>
<th>Iron furnaces</th>
<th>Pig iron tons</th>
<th>value</th>
<th>Coal bu.</th>
<th>value</th>
<th>Salt bu.</th>
<th>value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1840</td>
<td>19</td>
<td>29,939</td>
<td>$648,975</td>
<td>3,513,400</td>
<td>$286,000</td>
<td>297,310</td>
<td>$89,205</td>
</tr>
<tr>
<td>1860</td>
<td>59</td>
<td>105,500</td>
<td>3,171,000</td>
<td>50,000,000</td>
<td>5,000,000</td>
<td>2,000,000</td>
<td>500,000</td>
</tr>
</tbody>
</table>


\textsuperscript{129} Ibid.


\textsuperscript{131} 1st an. rep. Com'r of Stat. Exec. Doc., 1857, II, 517. In 1846 the number was 52, with a tonnage of 9616.


\textsuperscript{133} Gov. Mess., Jan. 6, 1862. Exec. Doc., 1861, I, 333. The increase in the production of coal was stated by the commissioner of statistics to have been as follows: 1840—3,513,409 bu.; 1850—8,000,000 bu.; 1857—46,100,000 bu. 3rd an. rep. Exec. Doc., 1859, I, 787.
Indeed the growth of the state in population and resources during the decade 1850-60 was marvelous. The states between the Alleghanies and the Mississippi River entered upon an era of extraordinarily rapid railroad construction during this decade. Chicago was connected with New York City in 1853, and the following year the Mississippi was reached. Ohio probably profited as largely as any other state as a result of these improvements in the means of transportation, as it was the thoroughfare for all the through movements of freight. The price of practically all agricultural products was increased when the outlet on the seaboard was made cheaper and easier, and the value of farm lands went up at the same time that the yield increased. Some statistics taken from the census reports show a wonderful development for this period.

PERCENTAGE OF INCREASE, 1850-60.

<table>
<thead>
<tr>
<th>Population</th>
<th>18</th>
<th>Manufacturing, Mining and</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grain crops</td>
<td>50</td>
<td>Mechanical industries</td>
</tr>
<tr>
<td>Pig iron</td>
<td>100</td>
<td>Railroads</td>
</tr>
<tr>
<td>Coal mined</td>
<td>600</td>
<td>Cash value all property</td>
</tr>
<tr>
<td>Manufactures proper</td>
<td>112</td>
<td></td>
</tr>
</tbody>
</table>

Two or three isolated and disconnected facts call for mention at this point. The constitution of 1851 had provided for biennial sessions of the general assembly, but that body had evaded the constitutional requirement by holding regular sessions during the even and adjourned sessions in the odd years. In 1855 the legislature did not meet, but this was the only year in which they did not hold a session until 1895, when biennial sessions were made an actual as well as a legal fact. There was a steady growth in the numbers and importance of the German element in the population, many immigrants of this nationality having found their way to Ohio, where they had bought up the supposedly deteriorated farms from their former careless owners. They were now sufficiently numerous to secure the translation and printing in German of various public

134Quoted by Gov. Chase in his message of Jan. 7, 1861.
the establishment of German schools was also authorized in Akron, a strong German settlement, and such other places as wished them. The canals showed a deficit over and above their expenses of operation after 1856, and partly owing to this fact, and partly owing to public dissatisfaction with the manner in which they had been administered, a movement began for their sale or lease. Finally, in 1861, they were leased for a period of ten years, at an annual rental of $20,075. For almost twenty years after this the canals practically cease to figure in the legislative annals.

SLAVERY AND CIVIL WAR.

There is clearly perceptible during this period a growing friction over the problem of slavery and the presence of free negroes in Ohio. Slavery had been forbidden in the state, but at the same time measures were taken to prevent the immigration of free blacks. By reason of her position Ohio had developed a very profitable trade down the Ohio and Mississippi rivers with the southern states. Many of her citizens looked with favor upon slavery, though they did not wish to see it introduced into the state; this was particularly true of the southern counties and of Cincinnati, between which and the South the economic ties were especially close. As a state it is our interest, in Ohio [wrote Caleb Atwater in 1838], to leave slavery in the slave-holding states for a century yet, otherwise our growth would be checked. The broad and deep streams of wealth, numbers, enterprise, youth and vigor of the slave-holding states, now rolling into Ohio like mighty floods, would be stayed.

In order not to lose their profitable trade and to retain the goodwill of the south during the growing bitterness of the slavery controversy, the people of Ohio, in legislature,

135 Act of March 24, 1860. 57 O. L. 92.
136 Act of April 12, 1861.
137 Act of May 8, 1861.
138 R. E. Chaddock, Ohio before 1830, p. 82.
139 History of Ohio, p. 331.
press, and public meetings endeavored to suppress the abolition movement in Ohio, and declared in favor of letting the slave-holding states settle the problem for themselves. The passage of the national fugitive slave law, however, injected the question into Ohio politics and aroused the people to take sides in the slavery controversy. The influence of the southern members is evident in the repeal by the general assembly in 1859 of various acts prohibiting slave-holding and kidnapping in Ohio, though such laws would seem to have been superfluous in view of the provisions of the Northwest ordinance. Governor Chase, an anti-slavery Republican, in his next message urged the re-enactment of these laws because of the growing practice of seizing free persons, without process of law, under guise of their being fugitive slaves. Before any further legislation was enacted the outbreak of war rendered it useless.

With the actual outbreak of the Civil War Ohio proved herself thoroughly loyal, and was among the first states to rally to the support of the federal government. Within a week after Fort Sumter was fired on, the legislature made generous provision for calling out and equipping the militia. For arms and equipment $450,000 was appropriated; $500,000 additional to be expended by the governor to carry into effect any requisition of the president of the United States; and $50,000 as an extraordinary contingent fund under the control of the governor. To raise this money a loan of $750,000 was authorized by the same act. Fortunately, the condition of the treasury was exceptionally strong. "The finances of the state have not, for several years," reported the auditor, "been in as good a condition as they are at this time". To meet military expenses the commissioners of the sinking fund in 1861 borrowed and paid into the state treasury $1,212,134, which, with $345,000 refunded by the United States

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141 Act of April 18, 1861, 58 O. L. 89.
and some small sums in addition, constituted the "military fund", which was drawn against for military purposes exclusively. Other funds were also established during the war, such as the soldiers' allotment fund, the soldiers' relief fund, etc., which make a clear understanding of the war finances difficult. Upon the conclusion of the war the auditor reported that the expenditures of the state for military purposes during the four years, 1861-65, was $10,410,239.143

In addition to this direct outlay the state also contributed its share to the federal treasury by its assumption of the direct tax of $1,587,089, which had been imposed by Congress by act of August 5, 1861. By prompt payment of this tax Ohio secured a reduction of 15 per cent. To raise the necessary money for this purpose, an additional levy of 1½ mills was added to the general property tax.144 But in spite of this addition to the tax rate, the total burden of taxation was but slightly increased because of great economies effected in both state and local expenditure. The taxes too were unusually productive. Under the stimulus of patriotism, taxes were paid promptly and without complaint, while the delinquencies were never so small: in 1861 the collections amounted to 99½ per cent. and in 1862 to 99 per cent.145 The taxable valuation of property in the state increased in 1863 over 1862 by $47,085,952. At the same time the debt was being paid off more rapidly than at any other time in the history of the state.

But Ohio's loyalty was shown not merely by her contribution of money, but even more by the number of men she sent into the field. On December 31, 1861, there were 100,224 men enlisted in Ohio for the Civil War, of whom 77,844 were for three years and the others for three months.146 A year later the total number of Ohio men

144 Act of April 16, 1862. O. L., p. 52.
enlisted in the state organization was 170,121, in addition to whom there were many men in the regular army and navy, as well as in regiments mustered in neighboring states, such as Indiana and Illinois. In 1863 an act was passed "to organize and discipline the militia of Ohio", requiring all white males between 18 and 45 years of age to perform military duty. At the end of the war the adjutant general reported that Ohio had sent 310,650 men to war, or 10,811 more than her quota under various calls. This was considerably more than half the number of able-bodied men between the ages of 18 and 60, who were estimated at 554,857 on December 1, 1864.

LABOR, IMMIGRATION AND INDUSTRY.

The effect of this wholesale withdrawal of the active laborers of the community was gradually manifest in the agricultural and industrial operations. Up to the summer of 1863, the war had produced no sensible effect on the market for labor. Labor was abundant in this state, and she had sent out 100,000 laborers before the diminution began to be sensibly felt in the operations of farming. One great reason for this was the introduction of agricultural machinery. The reaper, mower, thresher, etc., were doing in Ohio the work of 50,000 men.

Notwithstanding this, in 1863 the want of labor was seriously felt, and in 1864 the harvesting could not be got through with without the aid of female hands in many places, and in some it was scarcely done at all.

As a result of the scarcity of labor, there was a falling off in the cultivated land of Ohio to the extent of more than 700,000 acres between 1862 and 1864. The cereal

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crops were diminished somewhat in amount in 1862 and 1863 owing to drought, but the value was greater than in previous years; in subsequent years the scarcity of labor was the chief factor in reducing the output.

The agriculture of the state was developing during the war period, and a more serious loss was prevented by the introduction of various improvements, especially agricultural machinery. The commissioner of statistics enumerated the following causes of advance: the introduction of agricultural machinery, drainage and manures, the introduction of new plants, such as Hungarian grass, sorghum, the vine, and other fruits, deep plowing, and the spirited efforts of agricultural societies. The diversification of crops and changes in methods of culture were evidence of the increasing competition of the newer states in the growing of the great staple crops of corn and wheat. The production of these had practically reached their limits in Ohio, and were now being displaced or supplemented by crops requiring more intensive cultivation. The culture of flax, clover seed, potatoes, fruit, sorghum, and tobacco were all increasing. This was the same process that had taken place in all the older states as they had grown populous; New England, New York, and New Jersey had all been declining in the production of grain for many years. In 1866 there were 1,295,530 acres in the state planted in wheat, or almost half a million less than in 1850; the crop was almost a total failure, yielding only 5,824,747 bushels, or one-sixth of the yield in 1850. On the other hand the corn crop was a good one and showed an increase over earlier years.

In 1863 a commissioner of immigration was appointed and for the few years the office remained in existence some

154 Ohio received in 1864 a grant of land for agricultural education, under the Morrill act of July 2, 1862, amounting to 630,000 acres. As the amount of good land in Ohio open to entry was only 80 acres at that time, she received this in land scrip, which entitled her to locate that amount elsewhere in the public domain.
interesting information on this subject was collected. As no salary was provided for the commissioner, nor provision made for his going outside the state and soliciting immigrants, the purpose of the legislature in establishing this office could not have been very serious. The first incumbent of the office, however, Benno Speyer, a German American, took his appointment very seriously, and visited Europe at his "own exclusive expense" for the purpose of disseminating information as to the advantages Ohio offered the immigrant. In Europe he distributed pamphlets and information, chiefly in Germany, where he encountered some opposition from agents working in the interests of Brazil and Canada, and also of New York, Illinois, and Missouri. The two latter states had especially favorable laws for immigrants, and attracted a great many. In 1868, of 32,620 immigrants who passed through Ohio, 3757 remained in the state; the greatest number, 7314, went to Missouri, while 5725 went to Illinois. The following year California passed laws to induce immigration, and began to attract an increasing number. During the four calendar years 1863-66 the number of immigrants to Ohio was as follows: 1863, 6574; 1864, 8782; 1865, 10,383; 1866, 15,000. The Germans constituted over two thirds of the total number, with English and Irish ranking next in importance.

A new industry of great importance in the state of Ohio was born with the discovery of petroleum in 1859. The first official recognition of this industry in the laws was in the act of May 1, 1862, providing for "inspectors of petroleum oil". The general assembly raised the pay of its own members in 1866 to $5 a day and $3 mileage for every 25 miles traveled to or from home to the state capital,

156 Act of April 14, 1863.
159 Rep. Com'rs of Immigration. Exec. Doc., 1868, II, 878. The name of the office was changed this year—why, it is difficult to see.
160 O. L., 1862, p. 84.
and also increased the salary of the governor to $4000.\textsuperscript{161} In view of the general rise of prices and the growth of the state these payments were still very modest. In 1868 the legislature abolished the office of commissioner of statistics, but created a bureau of statistics in the office of the secretary of state and directed that officer to make an annual statistical report.\textsuperscript{162} This was done very perfunctorily for a few years, when it was finally entirely discontinued. For the student of the economic or social history of Ohio the excellent reports of the commissioner of statistics constituted a storehouse of material, and their discontinuance is much to be regretted.

The legal rate of interest was fixed at 8 per cent in 1869. As the interest rate indicates the opportunities for profitable investment, and throws some light upon the supply of capital in a community, it will be of interest to trace the changes from the beginning. By the act of November 15, 1799, the legal rate of interest had originally been fixed at 6 per cent. The first state act was that of December 29, 1804, which stated that interest on bond, bill, promissory note or other instrument in writing . . . on all judgments . . . and on all decrees . . . [should be] at the rate of 6 per cent. and no more, and if any person shall demand or receive more than 6 per cent. per annum . . . that person shall forfeit the whole amount of the debt on which such illegal interest was charged and received.\textsuperscript{163}

In 1824 this was re-enacted, but the penalty clause was omitted.\textsuperscript{164} By act of March 14, 1850, the maximum legal rate of interest was fixed at 10 per cent; but at 6 per cent if there were no stipulation to the contrary.\textsuperscript{165} Governor Chase urged the repeal of this law and the reduction of the

\textsuperscript{161}Act of April 2, 1866. \textit{O. L.}, 1866, p. 65. Gov. Tod had urged an increase of 50 per cent. in the salaries of state officers, in his message of Jan. 4, 1864, p. 3.
\textsuperscript{162}Act of April 17, 1868. The first statistical report of the secretary of state is in \textit{Exec. Doc.}, 1868, I, 297.
\textsuperscript{163}\textit{O. L.}, 1804-05, p. 149.
\textsuperscript{164}\textit{O. L.}, 1824, p. 108.
\textsuperscript{165}\textit{O. L.}, 1850, p. 87.
maximum rate. On the other hand the auditor advocated raising the legal rate, where no stipulation existed, to 10 per cent: "Ohio capitalists are to a large extent investing in New York, where the rate of interest is 7 per cent and in Illinois and other western and northwestern states, where the rates are still higher." In 1869 it was provided that the rate of interest on any bond, bill, promissory note, or other instrument in writing, should not exceed 8 per cent; on all judgments, decrees, etc., where no stipulation was made, it should not exceed 6 per cent. This law is still in force. 

After the Civil War the finances of the state as well as the industrial life of the people returned very speedily to normal conditions again. The cessation of the extraordinary war expenditures enabled the legislature in 1867 greatly to reduce appropriations and to lower the tax rate, making a saving over the previous year of about $3,000,000. The auditor thought $500,000 more could be spared, and urged economy and the cutting down of unnecessary expenses. The following year he pointed out the alarming growth of taxation, especially for local purposes, the aggregate of taxes for 1867 being greater than for any year during the war. Two years later he spoke of the "frightful rate" at which taxes had increased in Ohio during the past twenty years, the largest proportion of which came from expenditures for benevolent institutions, and also for the judicial and legislative depart-

168 Act of May 4, 1869. O. L., 1869, p. 91.
169 Bate's Annot. Stat., § 3179-83.
170 The governor wrote on Jan. 3, 1865, "the machinery of the state government has worked so smoothly under existing legislation, that I have few recommendations as to modifications". Exec. Doc., 1864, I, 47.
172 Aud. rep., Dec. 12, 1868, p. 94.
ments. The panic of 1873 affected Ohio in common with the rest of the country and made the high taxes prevailing especially burdensome. Economy was urged upon the legislature by Governor Allen in 1874, and repeated the two following years.

In 1871 Ohio was surpassed in wheat production only by Illinois, but the following year a poor crop pushed Ohio down into seventh place. The crops of 1873 and 1874 were normal and Ohio in these years held fifth and fourth places respectively. The center of wheat production was moving steadily to the northwest and the great wheat states of Minnesota, Wisconsin, Iowa, and California were taking the lead. In Ohio, on the other hand, the number of acres in wheat was steadily declining; from 1,667,659 acres in 1871 they fell to 1,354,569 in 1877. The rank of the principal wheat producing states in the years 1871-4 was as follows (the number in brackets beside Ohio indicates the crop in millions of bushels): 1871, Illinois, Ohio (22.2), Pennsylvania, Indiana, Wisconsin, Iowa; 1872, California, Illinois, Minnesota, Wisconsin, Iowa, Indiana, Ohio (18.0); 1873, Iowa, Illinois, Minnesota, Wisconsin, Ohio (21.9); 1874, Iowa, Illinois, California, Ohio (26.8).

In the business of pork packing, too, Ohio had now lost her pre-eminence to Illinois, and the business was moreover declining from year to year. Between the years 1873-4 and 1874-5 there was a decrease in the number of hogs slaughtered in Ohio of 25,891 and an increase of those in Illinois of 233,915.

Ohio was now no longer predominantly an agricultural state; manufacturing and mining and commercial pursuits absorbed an increasing proportion of the labor and capital in the state. Unpleasant evidence of this fact was given by the riots in Cincinnati and in the Hocking Valley, and by

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the great strikes of May, 1886. Business of every kind was then suffering from the industrial depression of 1884 and the subsequent years. Many of the most important industries were suspended and thousands of laborers were without employment. By 1889 general prosperity had returned and the governor was able to congratulate the legislature upon the improved conditions both of the people and of the state treasury.\textsuperscript{178}

On Washington's Birthday, 1887, the legislature repealed the so-called "Black Laws", which had provided for separate schools for colored children and prescribed penalties for the intermarriage of white and colored persons.\textsuperscript{179}

Beginning with the year 1893 Ohio entered upon the policy of deriving a larger state revenue from corporations, especially those engaged in transportation and communication, and leaving the general property tax, particularly the tax on realty, to the local governments for local purposes. The segregation of the sources of revenue for state and local purposes has since been carried almost to complete realization. In 1903 the state debt was finally expunged, seventy-eight years after its first creation. At the same time the canals, to build which the debt was chiefly incurred, were rescued from the decay into which they were falling, and increased appropriations were made to repair and improve them.

In conclusion we may briefly characterize Ohio's industrial position at the beginning of the twentieth century. Between 1850 and 1905 the number of industrial establishments in Ohio has increased from 10,622 to 13,785; the capital from $29,000,000 to $857,000,000; and the average number of wage-earners from 51,491 to 364,298.\textsuperscript{180} There has been a large growth in the manufacturing and mechanical industries of the state during the past half century, and the population has steadily become more industrial

\textsuperscript{180} \textit{Census of Manufactures}: 1905. \textit{Ohio}. Bulletin 58.
and less agricultural. Of the various causes which have contributed to the early development and steady progress of manufacturing in Ohio, the great commercial advantages of the state are undoubtedly the most important. Water communication, by lake, river, or canal has always been excellent, and this was early supplemented by the building of railroads. The effect of the water routes is clearly seen in the localization of some of the great manufacturing centers on them. Among the natural resources of Ohio are a fertile soil, extensive hard-wood forests, and an abundance of coal and natural gas, though the last has been nearly exhausted by now. Waterpower is not very extensive.

Of the industrial establishments in Ohio in 1905, 48 per cent were owned by individuals, 22 per cent by firms, 29 per cent by corporations, and 1 per cent were miscellaneous. Thirty-five per cent had capitals of less than $5000; 30 per cent of $5000 to $20,000; 23 per cent of $20,000 to $100,000; 11 per cent of $100,000 to $1,000,000; and 1 per cent of $1,000,000 or over. From these figures it is evident that Ohio is still in the main the home of the comparatively small individual undertaking, though it must be said that the number of establishments declined slightly between 1900 and 1905, showing a movement towards concentration.

The manufacture of iron and steel is the most important industry in Ohio, and since 1870 the state has ranked next to Pennsylvania in the whole United States. In 1905 the value of the products was $152,859,124. This is due to the presence or proximity of ore and fuel, as well as to her advantageous situation for the distribution of the finished products. Closely allied to this are the foundry and machine shop products, which rank second in Ohio, with a value in 1905 of $94,507,691. Third in rank come flour and grist mill products, with a value of $40,855,566; and fourth, slaughtering and meat packing, with products valued at $26,380,884. These last two are more closely allied to agriculture than pure manufactures, and are due to the
large corn and wheat producing area in or near the state. After these come in order boots and shoes, malt liquors, cars and general shop construction, pottery and clay products (in the production of which Ohio ranks first in the United States), men's clothing, and lumber products. The census of manufactures enumerates forty selected industries, but it will not be necessary to continue the list in order to show the character of the chief industries in Ohio.
CHAPTER II

RECEIPTS AND EXPENDITURES.

EARLY PERIOD, 1803-1824.

The early accounts of the finances of Ohio are very meager and present no detailed information as to receipts and expenditures. Detailed statements of the revenues were not printed in the auditors’ reports until 1814, and those of expenditure not until 1822, with the exception of two isolated statements, one for the year 1803 and the other for 1813. As a matter of interest these two are here given in detail, after combining some of the scattered items; for purposes of comparison the territorial budget for 1799 is also given. The act of April 16, 1803,\(^1\) appropriating these sums, was the first appropriation bill passed after the state was admitted to the Union.

**Appropriations for 1799, 1803, and 1813\(^2\)**

<table>
<thead>
<tr>
<th>Item</th>
<th>1799</th>
<th>1803</th>
<th>1813</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contingent fund(^a)</td>
<td>$5,000</td>
<td>$10,950</td>
<td>$2,034</td>
</tr>
<tr>
<td>Governor</td>
<td>500</td>
<td></td>
<td>1,112(^3)</td>
</tr>
<tr>
<td>Secretary(^4)</td>
<td>50</td>
<td>7,350(^5)</td>
<td>6,400(^7)</td>
</tr>
<tr>
<td>Judges</td>
<td>250</td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>Attorney general</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Treasurer</td>
<td>400</td>
<td></td>
<td>500</td>
</tr>
<tr>
<td>Auditor</td>
<td>450</td>
<td></td>
<td>1,900</td>
</tr>
<tr>
<td>Members of legislature</td>
<td>12,000</td>
<td>6,000</td>
<td>12,626</td>
</tr>
<tr>
<td>Special Agent to Congress</td>
<td></td>
<td>582</td>
<td>1,024(^4)</td>
</tr>
<tr>
<td>Distribution of laws</td>
<td></td>
<td>100</td>
<td>830</td>
</tr>
<tr>
<td>Listers of land</td>
<td>2,000</td>
<td></td>
<td>1,229(^9)</td>
</tr>
<tr>
<td>Military</td>
<td></td>
<td></td>
<td>3,748(^8)</td>
</tr>
<tr>
<td>Interest and rent</td>
<td>1,230</td>
<td>248</td>
<td>84</td>
</tr>
<tr>
<td>Printing</td>
<td>678</td>
<td>81</td>
<td>1,727</td>
</tr>
<tr>
<td>Furniture and repairs</td>
<td>24</td>
<td>116</td>
<td>597</td>
</tr>
<tr>
<td>Stationery, postage, and fuel</td>
<td>111</td>
<td>36</td>
<td>3,940</td>
</tr>
<tr>
<td>Wolf bounties</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Auditor's office</td>
<td></td>
<td></td>
<td>212</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>309</td>
<td></td>
<td>122</td>
</tr>
</tbody>
</table>

\(^1\)Chase, II, 377.

\(^2\)Acts of Dec. 19, 1799, and April 16, 1803. Rep. of Joint Com. of Finance, *Ho. J.* 1814, p. 144. Similar appropriation acts were passed on Dec. 9, 1800; Jan. 23, 1802; Feb. 18, 1804. The members of the legisla-
Even such totals as were printed in the legislative journals are not very reliable, and do not agree with one another from year to year.\textsuperscript{11} No regular record was kept of warrants issued prior to the year 1803, but during the six years ending November 10, 1805, it appeared that $88,693 of warrants had been redeemed. From the fact that more warrants were redeemed than were drawn during the year 1806, there appears to have been a deficit on November 10, 1805, of upwards of $9000. The first few legislatures were compelled to resort to the issue of treasury warrants in excess of the available receipts, in anticipation of taxes, because of the difficulty of getting

ture must have been very dependent on their pay to meet their expenses, for on Jan. 16, 1804, they passed what might be called an "emergency appropriation" of $4000 for part payment of the "wages of members and officers of members of the general assembly"; it was the third act of the session. On Dec. 27, 1804, they again appropriated $4,400 for this purpose at the opening of the session.

\textsuperscript{*}The contingent fund was placed at the disposal of the governor to be expended by him. That for 1799 included items for printing, clerk hire, copying land entries, etc.; that for 1803, the payment of members of the constitutional convention, the distribution of the laws of the state, the pay of members of the legislature, printing, the state seal, stationary [sic], etc.

\textsuperscript{4}In 1799 this item was for the governor’s secretary; at the other dates for secretary of state.

\textsuperscript{5}There were included under this single item the salaries of governor, judges of the supreme court, presidents of the courts of common pleas, secretary of state, auditor, and treasurer.

\textsuperscript{6}Salary of governor, $900; clerk hire, $212.

\textsuperscript{7}There were three judges of the supreme court at $1000 each; four president judges of the courts of common pleas at $850 each.

\textsuperscript{8}Compensation to federal electors.

\textsuperscript{9}Compensation to town director, $503; refund of tax improperly collected, $726.

\textsuperscript{10}Compensation to adjutant general and inspectors of brigade, $1027; to provide blankets, etc., for the Ohio militia, $2721.

\textsuperscript{11}In view of this fact reliance has been placed in this study on a table prepared in 1825 by a committee of audit, although the figures differ slightly from those given in the auditor’s and treasurer’s annual reports, which in turn do not agree with one another. Table in Ho. J., 1825, pp. 16-20.
the tax machinery quickly in running order. The lack of specie, too, rendered it difficult to make the necessary payments on the part of the treasury and to collect the revenue. The auditor was therefore required to issue treasury warrants for $20, $10, and $5, payable at the treasury, and bearing interest. These warrants went into circulation and served the double purpose of maintaining the credit of the state and of supplying the lack of currency. By 1805, however, the governor was able to congratulate the legislature on the increased revenue "sufficient to justify, after this year, a cessation of issuing paper, which, at our first essay towards self-government, the legislature were compelled to resort to."

In 1808 excessive appropriations again left some $4000 of unredeemed treasury warrants in circulation. The following year a loan of $9000 was made from the three per cent. fund, thus avoiding a deficit of that amount. This was the first occasion on which was practiced that method of transferring money from one fund to another, which was later to prove such a source of confusion and even deception in Ohio finance. The "loan" was repaid the following year with interest, leaving the treasury with a nominal deficit of $290 but with unredeemed warrants outstanding of over $12,000. A reduction in appropriations and an increase in revenue sufficed to wipe out this deficit the next year, and by 1812 a surplus of over $8000 stood in the treasury. In his report for the next year the auditor recommended, in view of the "prosperous situation of our finances", that the method of drawing treasury warrants in small amounts with interest be discontinued and that instead a single warrant be drawn for each separate account without interest. This was done, though the

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12E.g. Act of Feb. 18, 1809, § 2.
15The calculations in the report of the auditing committee of 1825, which state a deficit of $9000 for this year, are evidently in error.
act stated that the person to whom it was due must agree to accept a single warrant for the whole sum. A "moderate reduction of the present burdensome rate of taxation" was also urged.

Before this suggestion could be acted upon, however, the breaking out of the War of 1812 necessitated a resort to heavier taxation and to a policy of loans in addition. The war spirit ran high in Ohio, and considerable was spent directly in arming and equipping troops to take part in the struggle. Thus $4000 was appropriated to purchase blankets for the Ohio militia, in the service of the United States, and $40,000 for the purpose of paying bounties of $12 a month to the members of the militia who continued under the command of William H. Harrison. The federal government also levied upon the states. To meet, partially at least, the expenses of the war, a direct tax of $3,000,000 was laid upon the states, of which Ohio's quota was $104,150. This tax was apportioned among the states on the basis of the census returns of population of 1810, and within each state it was even apportioned among the counties. The option was given the state, however, of assuming the whole amount apportioned to it, and in order to ensure prompt payment a discount of 15 per cent. was granted if paid before February 10, 1814. Ohio willingly assumed her quota and by act of December 20, 1813, appropriated $88,528 for that purpose, having saved the difference by her early action. To raise this sum, the surplus of $26,000 was used, together with the proceeds of a loan of $55,000 for one year at 6 per cent. from the banks of Chillicothe and the Miami Exporting Company.

In the year 1814 the auditor's report for the first time states the sources from which the revenue was derived, from which we see that $62,000 was obtained from the tax

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17 Act of Feb. 19, 1813.
on land.22 As the ordinary expenses of the state government for the past six years had averaged less than $35,000 a year, the state's finances were in a strong position. In 1814 Congress levied a second direct tax of $6,000,000, which was made annual; Ohio's quota was $208,300. Again the state accepted the burden promptly and almost eagerly,23 securing the discount offered by her prompt payment. The reduced amount of the tax was $177,055, which was met by a loan of $104,000 and by the appropriation of a surplus of $25,000 and of current revenues to the amount of $30,000.24 To provide the means for meeting these enlarged expenditures, the joint committee of finance of the general assembly recommended an addition of 75 per cent. to the present land tax, a tax on bank stock, and a tax on processes and proceedings in law and equity.25 These suggestions were adopted, and as a result the taxes on land increased from $62,000 in 1814 to $201,000 in 1816. The tax on processes and proceedings in court was trifling, and was repealed three years later, but the 4 per cent. tax on the dividends of bankers brought over $5000 into the treasury in 1816. It is interesting to note that these were the first state taxes, other than those on land, levied in Ohio. In 1816, however, the system of bank taxation was changed, and the plan was adopted of having each bank give the state one share in every twenty-five in lieu of taxes. After 1817 the effect of this plan is apparent in the decline of the revenues from this source.

The United States direct tax of 1816 was $3,000,000, and for the third time Ohio met her quota promptly, and

22No figures are given in the auditor's report for 1815, so details as to receipts for that year are lacking. The total amount is given in the report of the Com. of Audit of 1825. Ho. J., 1825, p. 16.
23"From a full persuasion that it will operate materially to aid the general government in its operations". Rep. of Com. of Finance, Sen. J., 1815, p. 337.
24The act of Feb. 14, 1815, authorized a loan of $155,000 for one year at 6 per cent., but the whole amount was not necessary.
thus secured the discount for early payment. This time
the legislature did not wait for the tax to be assessed, but
authorized a loan to the amount of $200,000 for one year
at 6 per cent;26 the following year they authorized another
similar loan "in case Congress should continue in force
the direct tax";27 but this was not needed, as no further
requisitions were made upon the states. The revenue from
the tax on land for 1816 was about $200,000, and from
banks about $500; to make up the balance required, a
third loan of only $32,000 was necessary. In 1817 the land
tax brought in $162,000 and the tax on banks $1250, or
much more than was necessary for the ordinary expenses
of government. Accordingly the auditor, in his report for
1817, estimating the available surplus at $30,000, recom-
mended a reduction in the rate of taxation to what it had
been in 1814, which was done.28 The legislature, after
considerable discussion, voted to raise the per diem pay
of its members from $2.00 and mileage, at which it had
stood since 1803, to $3.00 per day.29

It is impossible to trace the financial operations of
this period with any accuracy, for no information exists
in the reports of any state officer or in the legislative pro-
ceedings to show how the loans made necessary at this
time were paid. But from the fact that the receipts aver-
aged over $200,000 a year for the five years 1814-1818 or
almost double what was necessary to pay the direct tax
and to repay the loans, it is safe to assume that the loans
did not run over one year each, and were immediately
repaid out of the proceeds from the increased taxes.

During the year 1818 there was a general reduction in
both revenue and expenditure and a return to normal con-
ditions. The finances of the state were now "in a flourish-
ing condition".30 In 1819 there was a decided decrease in

26Act of Feb. 7, 1816.
27Act of Jan. 27, 1817.
28Ho. J., 1818, p. 68.
the returns from the land tax, to $75,000, and in total receipts to about $100,000. In this year for the first time appear the receipts from the Ohio penitentiary. The year 1820 was marked by several events which united to plunge the state, which had successfully weathered the burden and stress of the War of 1812, into a deficit. The legislature first of all reduced the rate of taxation about 25 per cent. The death of the treasurer, H. M. Curry, revealed a defalcation in his accounts of $11,112. And the report of a committee to investigate the condition of the treasury showed about $20,000 in the treasury in depreciated bank notes, and paper, together with $6,583 outstanding loans to individuals that had been authorized by the general assembly, none of which would be collectible under two years and probably not then.31 Furthermore, there was owing to the state for back taxes, with interest and penalties, a sum not less than $50,000. No arrears in taxes had been collected since 1816.

This all indicated very loose management of the finances. Down to 1816, during the incumbency of Benjamin Hough as auditor, the treasury had been economically and efficiently conducted; but his successor, R. M. Osborn, who was auditor from 1816 to 1830, was engaged in outside enterprises, paying little attention to the duties of his office, and not safe-guarding so carefully the finances of the state.32 The receipts fell off for the year 1819 to $101,000 and for 1820 to $94,000, which might have been sufficient for the ordinary needs of government, but instead of reducing expenditures the legislature increased them. Consequently, a deficit was estimated for the year 1821 of $30,000, to meet which a loan of $20,000 was advocated.33 This was not made, but to tide over present embarrassments a transfer of $5000 was made to the general fund from the

31Ho. J., 1821, p. 355. The treasurer a year later reported that only $432.50 of these loans had been paid back, and that judgment was secured against the others. Ho. J., 1822, p. 48.
32See chapter III.
33Ho. J., 1821, p. 559.
Virginia military district school fund. The effect of this shiftless financiering was to cause a depreciation in the treasury warrants, of which some $32,212 were outstanding and unpaid on December 3, 1821. To relieve this situation, and probably also to relieve the money stringency which made itself felt after the failure of the banks and the panic of 1819, the legislature in the following session authorized the issue of treasury warrants for $10, $20, or for any fraction between them. Two years later the faith of the state was pledged for the redemption of these bills.

The legislature of 1822 faced a truly embarrassing situation, but acted resolutely. Mr. Thomas Worthington, of the committee on the revenue, brought in a thorough-going report. He advised retrenchment in appropriations, the suspension of the road tax for one year—or rather its application to the deficit instead of to roads,—the doubling of the tax on land, and that all treasury warrants bear interest at 6 per cent. until redeemed. While this report was not adopted, rigid economies during the next two years and a fifty per cent. increase in the land tax made it possible to redeem the outstanding warrants by the spring of 1823, and to leave a nominal surplus of almost $50,000 in the treasury. Of this nominal surplus, $33,933 consisted of bank notes for which specie could not be obtained at the banks issuing them: $11,081 was "tolerable current"; $1,483, "immediately lost to the state"; the rest doubtful. Only one bank in twenty-one redeemed any of its notes, and that one redeemed only $5000 out of $16,000.

One of the economies effected was a reduction in the pay of members of the legislature from $3.00 per day, at

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36 Act of Feb. 24, 1824. This legislation was not repealed until 1831.
38 The rates of the land tax are given in ch. V, on the General Property Tax.
which point it had been fixed in 1816, to $2.00 a day.40 In 1823, however, the same pressure for retrenchment no longer existing, the legislature restored its pay to the figure of 1816. The effects of the crisis of 1819 had now passed away and good times had returned. "It is gratifying to state", wrote the governor,41 "that the collection of the revenue within the last year has been attended with less difficulty and inconvenience to our citizens than for some years past. It is expected that the receipts of the present year, will be sufficient for the redemption of the audited bills in circulation, amounting to about $30,000, to defray all the expenses of the government for the ensuing year, and leave a balance in the treasury unexpended". Improvements in the tax laws and the remission of penalties on delinquent lands in 1822, to induce the prompt payment of taxes, were attended with a very happy result and the revenue increased beyond the most sanguine expectations;42 in 1822 it was $51,000 and in 1823 it had grown to $85,000. A more thorough-going revision of the system of taxation in 1825, by which numerous forms of personal property in addition to land were subjected to taxation, led to a still further increase, to $103,000 in 1827. From 1823 to 1827 there was a yearly balance in the treasury of between $50,000 and $60,000, and the finances were in a most prosperous and well-managed condition.

The detailed expenditures of the state were published by the auditor in his annual report for the first time in 1822, with two isolated exceptions. From this report we see that the executive, legislative, and judicial branches spent considerably more than half the modest total. The Ohio penitentiary called for $10,000, but returned to the state $2,700; printing the journals, etc., cost $2,400; the militia spent $3,300; while $10,600 was paid to counties—the state here acting simply as collecting agent,—and $2,200 was refunded for taxes improperly collected. Other

miscellaneous items brought the total up to $77,000.  

**PERIOD OF INTERNAL IMPROVEMENTS, 1825-1845.**

The year 1825 marks the beginning of a new epoch in Ohio finances. In that year commenced the policy of granting aid to public improvements, and a beginning was made with the killing of wolves, foxes, or wildcats. In 1799 it was offered for wolves alone, because "the raising of sheep ought to be encouraged in this territory"; and in 1802 for wolves and panthers; in 1810 the panthers were eliminated. As it survived beyond the time of its actual need, it called into existence a regular wolf breeding industry. This was recognized by the act of 1852, reviving the system after its abolition in 1851, which required of the person receiving the bounty an oath "that you have not spared the life of any she wolf . . . with a design to increase the breed". As the legislation was so continuous and so interesting in itself the acts and the rates of bounty offered are appended. Quite as interesting was a related act passed December 24, 1807, "to encourage the killing of squirrels". This provided that all persons subject to a county tax should produce annually from 10 to 100 squirrel scalps (the number to be decided annually by the trustees); if any person failed to produce the required number, he was to be fined 3 cents for each one lacking; if he had an excess, he should be paid 2 cents for each one over. The table of bounties for killing wolves follows; the amount actually paid out for this purpose may be seen in column 12 of the table of expenditures. (Appendix, Table III.)

<table>
<thead>
<tr>
<th>Date of Act</th>
<th>Under 6 months of age</th>
<th>Over 6 months of age</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 19, 1795</td>
<td>$1.00</td>
<td>$2.00</td>
</tr>
<tr>
<td>Dec. 19, 1799</td>
<td>.50</td>
<td>1.25</td>
</tr>
<tr>
<td>Dec. 2, 1800</td>
<td>1.00</td>
<td>2.00</td>
</tr>
<tr>
<td>Jan. 9, 1802</td>
<td>1.50</td>
<td>3.00</td>
</tr>
<tr>
<td>Dec. 20, 1803</td>
<td>.50-.3.00</td>
<td>1.00-4.00</td>
</tr>
<tr>
<td>Feb. 19, 1810</td>
<td>2.00</td>
<td>4.00</td>
</tr>
<tr>
<td>Dec. 22, 1821</td>
<td>1.50</td>
<td>3.00</td>
</tr>
<tr>
<td>Dec. 24, 1829</td>
<td>2.50</td>
<td>4.25</td>
</tr>
<tr>
<td>Feb. 9, 1831</td>
<td>2.50</td>
<td>4.25</td>
</tr>
<tr>
<td>March 25, 1851</td>
<td>Repealed previous legislation</td>
<td></td>
</tr>
<tr>
<td>April 26, 1852</td>
<td>2.50</td>
<td>4.25</td>
</tr>
<tr>
<td>April 9, 1856</td>
<td>4.00</td>
<td>8.00</td>
</tr>
</tbody>
</table>

The last payment was made in 1873, but no law repealing them appears in the index of the laws.
made in canal building. This was a momentous step financially, for it increased the expenditures greatly, added to the taxes, and involved the state in a debt which was not paid off for almost eighty years. A thorough revision of the laws at the same time gave the state practically a new revenue system. A new method of stating the receipts and expenditures was also begun, which makes them not easily comparable with the previous reports. In 1829 the system of book-keeping changed also. Warrants were not all issued by the auditor and redeemed by the treasurer; but the funds for canal purposes were transferred to a board of canal fund commissioners, who checked them out independently of the auditor. Consequently, after 1829 canal expenditures do not appear in the auditors' reports, and a full account of them must be sought in an account of the canals themselves.

The subject of the construction of a canal across Ohio to connect the Ohio River with Lake Erie had been discussed in the state and broached to the legislature as early as 1817, but no decisive action was taken until 1825. In that year, after two or three years spent in preliminary surveys, etc., the work of actual construction was begun, and $46,000 appropriated for that purpose. This expenditure appears in the auditor's reports for only five years, after which it is transferred to the reports of the board of canal fund commissioners and of canal commissioners. It may, however, be traced in column three of the general table of receipts and expenditures, in the constantly increasing gross expenditures, which culminated in the year 1839.

The effect of the new revenue act is also clearly seen in the increasing receipts from land and property, and in the more strict enforcement of the law. In 1824 for the first time appears the item of payments on land delinquent for taxes and sold therefor. The easy going methods of

"As had been done hitherto under the act of Feb. 18, 1809.

"This will be contained in a forthcoming monograph on Internal Improvements in Ohio.
collection and the remission of penalties for non-payment of taxes were stopped, and the law administered strictly. There was a steady and gradual increase in the revenues until 1839, with a temporary set-back in 1835, owing to a reduction in the tax rate, the first change that had been made since 1826.46 The tax on banks was renewed in 1826, the sale of public lands began—but as the proceeds from this were used for canal purposes they were soon thereafter transferred to the control of the board of canal fund commissioners—and other taxes were resorted to increasingly. In 1831 the property tax was revised, and a number of things such as personal property and manufacturing companies were taken out of the exempt class and subjected to taxation.

The state government seems to have been conducted economically and well during these years; the expenditures grew slowly and normally, keeping pace with the growth of the state in population and wealth. The only item that shows any considerable expansion is that of expenditures for charitable, correctional, and penal institutions. Ohio now entered upon the policy of state care of the dependent and defective classes, and began to erect buildings in which to place them. In 1829 the first appropriation was made for the education of the deaf and dumb, and in 1833 was begun the erection of buildings for this purpose. The first appropriation for a lunatic asylum was made in 1835 and for a blind asylum in 1837, while continuous appropriations for a new penitentiary were made during the years 1832-39. The total amount spent on the construction and repair of buildings for all these purposes during these eight years was $120,986, while the expenditures for care and maintenance during the same period were $285,725. On the other hand, it should be noted that during the period 1838-44 the Ohio penitentiary turned back into the state

46The act of March 9, 1835, fixed the state rate at 1¼ mills on the dollar. It had been 1½ mills. In 1830 the auditor reported, "the receipts from taxation annually exceed our calculations". Aud. rep. in Ho. J., 1830, p. 24.
treasury an average of over $11,000 a year, from the labor of the convicts.

The canals, too, were economically and honestly managed down to 1833 at least, and probably down to 1837. In his report for the latter year the auditor made a detailed comparison of the expenditures in Ohio with those of the neighboring states of New York, Pennsylvania, and Kentucky, and showed that practically every item of expense was smaller in Ohio than in the other states. But in 1837 the legislature entered upon the unfortunate policy of loaning the state's credit in support of turnpike and canal companies, railroads, and similar works of internal improvement, and was soon involved in debt to the amount of about $3,000,000. This law was repealed in 1840. Indeed this year saw great economies along a number of lines—the loan law and the law for the erection of a new state house were both repealed, the receipts and disbursements of the canal fund were brought under the control of the auditor, the number of members on the board of public works was reduced, the appropriations for canals were cut heavily, and in other ways expenses were reduced. The most notable economy was in the work of internal improvements. The appropriations for this purpose had been steadily expanding until in 1839 they reached the enormous total of $366,000, in addition to the proceeds of loans. All work was now suspended except that necessary to complete improvements almost finished; during the five years 1840-44 the appropriations for canal purposes averaged only $38,000 a year. This economy permitted a reduction of over half in the gross expenditures of the state during this period.

The expenditures for state purposes only also show a considerable decline, from $266,000 in 1839 to $201,000 in 1845. Drastic economies were effected in every branch of the public service; a general reduction of salaries took

place, in some cases even below those of 1813. The year 1839 measured the high-water mark of both expenditures and receipts. There was then a tremendous shrinkage in the gross receipts of the state treasury, from $529,000 in 1839 to $164,000 in 1845, of which almost seven-eighths is attributable to the decline in the general property tax from $397,000 in 1839 to $125,000 in 1845. Wholesale evasion of taxes occurred, and the list of delinquencies grew alarmingly. Eloquent testimony to the hard times of these years is furnished by the sudden growth in the item of taxes on lands in arrears for taxes, from $307 in 1836 to over $20,000 in 1844. The surplus in the state treasury was reduced from $127,000 in 1838 to $23,000 the following year, and to $11,000 in 1840. Not only was the surplus smaller, but the character of the funds, of which it was composed, deteriorated. Of the nominal balance in the treasury in 1842 of $64,361, over $25,000 consisted of depreciated funds—certificates of deposit and notes of failed or suspended banks. In all these changes is seen the effect of the crisis of 1837, which affected Ohio as it did the rest of the country, though the full effects were not evident for a couple of years. At no time, however, was the credit of Ohio seriously affected, nor did she ever repudiate any of her legitimate obligations. Bravely and successfully she met all burdens and was able to weather the storm that ruined the credit and reputation of so many of her sister states. Gradually the economies of these trying years restored order to the finances; expenditures were kept well within actual receipts, loans were made to

48 By act of Jan. 27, 1844, the following salaries were fixed: members of general assembly, $2.00 per day and $2.00 for every 25 miles traveled; governor, $1000; secretary of state, $500 and fees; auditor, $730; treasurer, $730; judges of supreme court, $1000; president judges of courts of common pleas, $730; etc. The pay of members of the general assembly was raised again by act of Jan. 29, 1847, and the rest of the act was repealed Feb. 7, 1848. Cf. table on p. 20 above.

49 See column 3 in Table of General Revenue, in Appendix.

50 Aud. rep., 1842, p. 11.
complete the public works, and the balance on hand steadily grew until it amounted to $133,000 in 1844.

During the years 1843 and 1844 the payments made by the auditor's office under the appropriation acts were stated separately for each item of appropriation and the totals under each head in the general tables could be ascertained only with a disproportionate amount of labor, for the system of keeping a separate fund for each branch of expenditure was used. As there were 37 of these funds under the general revenue fund alone, and the totals were nowhere given by the auditor, it is clear that to the average legislator or layman the great detail and unsystematic arrangement must have precluded any clear understanding of the finances. The practice was a common one in state finance of assigning sources of revenue to different objects and having all expenditures for that purpose defrayed out of the "fund" so created. Even after the system of distributing income in this way was given up, the method was maintained of keeping separate the different funds for which the appropriations were made. It was then only a book-keeping device, and served merely to confuse the accounts. From a study of receipts and expenditures in Ohio, and the steady growth of the balance on hand, it may safely be concluded that the finances were economically administered down to 1844.

PERIOD OF EXTRAVAGANCE AND DEFALCATION, 1845-1860.

In 1845 a new method of stating receipts and expenditures begins in the auditor's reports. All receipts and expenditures, whether for the state or for schools, or canals, etc., passed through the auditor's office, and were reported in one set of tables; these I have called gross receipts and expenditures. Those for state purposes alone are entered under the head of the general revenue fund, and correspond with the figures hitherto given in the auditor's reports. It has seemed best therefore to continue to trace, in the detailed tables the net receipts and expenditures of the state government, rather than the gross revenue and
expense account handled by the auditor's office. As a specimen of the latter the first statement under this system, in the auditor's report for 1845, is given:

<table>
<thead>
<tr>
<th>RECEIPTS.</th>
<th>DISBURSEMENTS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) State revenue........ $154,533</td>
<td>State government........ $201,472</td>
</tr>
<tr>
<td>(2) School revenue........ 191,235</td>
<td>School funds............... 282,960</td>
</tr>
<tr>
<td>(from ½ mill on grand list, interest from counties on surplus revenue, taxes on lawyers and physicians, banks, bridge and insurance cos., from auction duties, and peddlers' licenses.)</td>
<td>Canals..................... 307,641</td>
</tr>
<tr>
<td>(3) Canal revenue........ 726,343</td>
<td>Interest on domestic debt 44,237</td>
</tr>
<tr>
<td>(from 5½ mills on grand list.)</td>
<td>Interest on foreign debt. 1,033,628</td>
</tr>
<tr>
<td>(4) Tolls, water rents, etc., on canals........ 466,599</td>
<td>Total ..................... $1,869,938</td>
</tr>
<tr>
<td>(5) Miscellaneous ........ 44,740</td>
<td>Balance .................. 232,594</td>
</tr>
<tr>
<td></td>
<td>$2,102,532</td>
</tr>
</tbody>
</table>

| Total ..................... $1,583,456 |
| [Balance from 1844]..... 519,076 |

$2,102,532

The management of the finances of Ohio was marked by the most extraordinary looseness and corruption during the decade and a half from 1845 to 1860. A crowd of professional office-holders and grafters were in control of the state administration, and they strained the resources of the state worse than had been the case in the days of greatest legislative extravagance during the period of internal improvements. Hardly once in this period were the finances in a normal condition, for no sooner was one financial difficulty disposed of than another arose. Graft in the construction of public buildings, embezzlement and defalcation on the part of public officers, and laxity of oversight and administration all contributed to the financial disorder. For the ten years 1845 to 1854 inclusive the disbursements for state purposes exceeded the receipts
by $426,000, showing that appropriations during this period far exceeded the legitimate revenue. Three times actual deficits occurred, and the rest of the time were obviated only by the existence of a large cash balance in the treasury, by transfer of money from other funds, or by loans. Indeed the receipts exceeded the disbursements only four times during this whole period. The legislature must be held in part responsible for this condition of affairs, for they did not attempt to grapple with the situation energetically until 1856. But the corruption was deep-seated and involved bank-presidents, contractors, and public officials in a general raid upon the state treasury.

A new revenue law was passed in 1846, which really introduced the system of the general property tax into Ohio, and made a determined effort to tax personal property as well as realty. At the same time a revaluation of the real property of the state added considerably to the amount of this form of property subject to taxation. The effects are clearly seen in a prompt increase of receipts from this source and of revenue for state purposes. But, rapidly as the revenues grew, the appropriations expanded even more rapidly. The fiscal year 1844 had closed with a very respectable balance of $133,000 in the treasury. This was cut down to $86,000 the following year by appropriations which were over $50,000 in excess of revenue; those for 1846 were $30,000 in excess. Appropriations for 1847 were quite as large, but a large increase of over $60,000 in receipts fortunately restored the shrinking balance, and obviated the deficit which such a policy would ultimately make inevitable. The legislature took advantage of this favorable opportunity to raise the pay of its own members, restoring them to the level that had existed before the reduction in 1844, namely $3.00 a day and $3.00 for each twenty-five miles travel. This pay was limited, however, to a session of sixty days only; after that it was only $1.00 a day, a rate of remuneration that ensured short sessions.

The appropriations were largely increased again in
1849 and 1850, without any corresponding tax being authorized by the general assembly to meet the payment of the additional appropriations. There was an actual deficit the latter year of $83,000. In his report for 1850 the auditor warned the legislature that such a course left "only one alternative—the general assembly must provide for borrowing the money, or adequate taxes must be levied to make up the deficit". The latter was, however, the last thing the legislature wished to do, as the constitutional convention was even then revising the constitution and a change in the tax laws was probable. Things were therefore permitted to drift for another year, when appropriations almost $100,000 in excess of revenue swelled the deficit to unmanageable proportions—$195,534. On November 16, 1851, the excess of expenditures over revenue had reached an aggregate of $225,021. This situation was met by permitting the money raised for the payment of the debt and subject to the control of the sinking fund commissioners, to remain in the treasury, where it was used to pay the ordinary expenses of government. The auditor warned the legislature that the light tax of one mill on the dollar then in force would not be sufficient to liquidate this overdraft in addition to the ordinary expenditures of the year, and urged heavier taxation. Moreover the auditors' reports for 1852 and 1853 pressed upon the legislature the necessity of limiting the appropriations to the amount of revenue which would accrue under the tax levy of the previous year, "but in neither case was the advice regarded". At the same time that the treasury was so embarrassed for want of funds the prosperity of the people in this "golden era" is commented upon, showing that the shiftless financiering of the legislature was not due to the poverty of the people.

51 Aud. rep., 1850.
52 Special rep. of aud., Feb. 12, 1853.
55 Spec. rep. of aud., Feb. 12, 1853.
The sinking fund was now exhausted, so that resort to that again was impossible, but the line of least resistance was once more followed, and instead of raising additional taxes, the legislature transferred $250,000 of the surplus revenue fund,\(^{56}\) which had been loaned to the counties, to the general revenue fund for state expenditures.\(^{57}\) Extravagant appropriations for this and the next year again plunged the state into debt, the deficit for 1854 amounting to $44,000, but this time relief was found in great economies in expenditure the next session, combined with largely increased revenues. Part of the increase in appropriations was due to the raising of the level of salaries for the judiciary and members of the legislature after the adoption of the new constitution. But by far the greatest part was caused by the construction of new buildings for state institutions, on which expenditures began in 1848, and which had swelled to alarming proportions by the end of a decade.

A new state house had been projected in 1838 and the preliminary work begun, but after a couple of years had been given over in view of the hard times. It was now revived on a larger scale, and appropriations were made for this purpose continuously from 1848 to 1861,\(^{58}\) which far exceeded the original estimates. In 1852 new lunatic asylums at Cleveland and Dayton were authorized,\(^{59}\) but it was stipulated in the law authorizing them that "the entire cost to the state, of each of said asylums, shall not exceed in the aggregate, when perfectly completed", $70,000. The amount of money originally appropriated was $140,000, but the trustees contracted for the erection of buildings costing far more, and persuaded the legislature in 1854 to grant an additional $50,000. By the end of

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\(^{56}\)This was the surplus revenue fund distributed among the states by the federal government in 1837.

\(^{57}\)Act of May 1, 1852. In his report of Feb. 12, 1853, the auditor suggested that this transfer be made permanent; i.e. that no attempt be made to restore the money to the surplus revenue fund.

\(^{58}\)See column 8a in Table of Expenditures, in Appendix.

\(^{59}\)Act of April 30, 1852.
1855, there had been drawn from the treasury $198,989, and the buildings were still uncompleted.\textsuperscript{60} In 1854 the legislature began the improvement of practically all the other state institutions, and the erection of new buildings, for the penitentiary, the blind, and the deaf and dumb asylums. The expenditure in many cases was prodigal.\textsuperscript{61} Charges of graft and fraud were freely made in connection with the letting of contracts and the work of construction and repair, and apparently not without warrant. The debts for these buildings far outran the appropriations, though these were increased greatly beyond the original estimates. Finally, in 1856, the legislature was forced to meet the accumulated liabilities by a special appropriation of $493,138, which cleaned up the bills temporarily. The completion of the buildings, however, called for still further appropriations even after this, which continued until 1860. The responsibility for this extravagance must be divided between the legislature and the administrative officers entrusted with the erection of the buildings.

More careful provision was made in 1853 "for the publication of an accurate and detailed statement of the receipts and expenditures of the public revenues."\textsuperscript{62} It provided that every officer of the state who was charged with the receipt and disbursement of public money, should make a detailed annual report. The auditor was required to classify and arrange these under proper heads, "so as to present in detail an accurate account" of the finances. The only discernible effect of this was to introduce a new method of keeping accounts in the auditor's office and to render his reports comparable with earlier ones with difficulty. Itemized expenditures are given under the heading "net amount drawn on the treasury", which does not correspond with the item called "audited bills redeemed" of previous reports,\textsuperscript{63} for it includes bills outstanding and

\textsuperscript{60}Aud. rep., 1855.
\textsuperscript{61}See columns 5 and 5a in Table of Expenditures, in Appendix.
\textsuperscript{62}Act of March 14, 1853.
\textsuperscript{63}See Table of General Revenue and Expense Account in Appendix.
not yet presented for redemption, and is therefore larger. Nor does it agree with the item called "bills drawn on the treasury", i.e. appropriations, for it does not include unexpended balances of appropriations, and is therefore smaller than this. The table, however, has been carried on as before.

It seemed as though the worst financial difficulties of the state had now been weathered. Acts were passed in 1856 providing for the appointment of investigating committees to inquire into the expenditure of public moneys, to punish embezzlement, and to define more carefully the duties of the auditor and treasurer. Suddenly a new financial complication arose. On June 10, 1857, William H. Gibson, the treasurer of state, announced a deficit in his office, occasioned, as he alleged, by the defalcation of John G. Breslin, his immediate predecessor. Three days later he resigned his office. On that date he stood charged on the books of the treasury with an aggregate balance of $776,141. Instead of this sum only $99,055 was actually found in the treasury, of which but $34,940 was available and only $170 in cash. The actual deficit proved to be $744,084. Most of this—$411,312—belonged to the general revenue fund and reduced by so much the amount immediately available for state purposes; $337,324 belonged to the sinking fund, and was designed for the payment of the interest on the state debt, due July 1. Immediate steps were taken to meet this crisis and an arrangement was made with the Ohio Life Insurance and Trust Company under which that institution advanced to the state in New York City, on July 1, the sum of $150,000, which, together with what had been previously provided, paid the interest on the debt, and fully protected the credit of the state.

To meet the outstanding warrants of the auditor and

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**Spec. Rep. on the Condition of the Treasury, Nov. 15, 1857.**
**Rep. of Board of Sinking Fund Commissioners, Feb. 15, 1859.**
**Gov. Mess. Exec. Doc., 1857, Pt. I., p. 357.** The Ohio Life Insurance and Trust Co. was wrecked a few weeks later by the defalcation of its cashier.
provide for paying those which would necessarily have to be drawn before other means could be provided for their payment, an arrangement was made with the State Bank and branches by which these institutions agreed to pay direct to parties holding auditor’s warrants the amounts due them, and await reimbursement from the incoming revenues. Immediate necessities were thus tided over and the state was enabled to meet all its obligations punctually. The financial condition of the state treasury had apparently never been stronger than it was in 1855, but the double coincidence of extravagance and corruption had proved too great a strain for even an apparently full treasury. As Governor Chase said: “If there had been no defalcation, the means in the treasury would have been ample to pay the debts of 1855 and meet all other demands. . . . If there had been no debts, the defalcation would not have sensibly embarrassed the operations of the treasury”. The debts thus alluded to amounted, at the end of 1857, to $639,666. These had been contracted as to the greater portion without warrant of law; but as they originated in supplies and labor furnished to the state and its institutions, for the most part in good faith, payment could not properly be denied the creditors.

On the convening of the legislature at the opening of 1858, the governor clearly stated the situation to the legislature: it will now be necessary to reduce the appropriations of the current year by an equal amount, or to authorize a temporary loan to make good the deficiency, and to increase the taxes of the coming year by the small addition needed to discharge it. The first was manifestly impossible, though a slight reduction of about $35,000 below the previous year was made in appropriations. Accordingly a temporary loan of $700,000 at 6 per cent. was made, to be paid before March 1,
1861. The act also levied a tax of 7-20 of a mill for the years 1858, 1859, and 1860, for the payment of the loan, “the proceeds of which tax is hereby irrevocably pledged to the purpose aforesaid”. A commission was also appointed by another act on the same day, to examine into the condition of the treasury, and the causes of the defalcation. The following year the slate was wiped clean and a number of unusual charges were met by the general revenue fund. These consisted of various old and unavailable claims, which had been accumulating for years, and counterfeit notes, together amounting to $64,853; extraordinary expenditures for canals, including the purchase of the Lewistown reservoir and the National Road; and the expenses of the treasury investigating committee. They aggregated about $175,000, and reduced the balance in the treasury to $4,569, but at least they left the docket clear. It is indispensable to every sound financial system, [wrote Governor Chase] that the appropriations be limited by revenues, and expenditures by appropriations. The derangements which have sometimes embarrassed our finances may be traced, almost invariably, in the absence of crime, to a disregard of this salutary principle.

In order to meet the existing deficiency the auditor had urged strongly the selling of the state’s railroad and turnpike stock, pointing out that it had already depreciated considerably, and that this should be done rather than increase the taxes. The governor, however, though he had expressed himself previously in favor of their sale, thought the time an ill-advised one, and that the proceeds of the sales ought not “to be applied to any other purpose than the reduction of the public debt”. This was the beginning of an agitation in favor of the sale, not only of the stock owned by the state, but also of the public works themselves, and finally resulted in the lease of the canals in 1861 and the sale of the stock a few years later, in 1865 and 1866.

\(^n\)Act of April 12, 1858.
\(^b\)Aud. rep., 1857.
At the outbreak of the Civil War the finances of the state were on a firm basis; they "have not, for several years, been in as good a condition as they are at this time", wrote the auditor. The revenue system was now in good working order, the old debts had been cleared up, expenditures on the public buildings and institutions had come to an end, and the recent experiences of the state had resulted in a thorough political house cleaning, so that the state government was practically free from extravagance and corruption. Under these circumstances the burdens imposed by the war rested more lightly upon the people of Ohio than they did in most states. The most serious loss involved was occasioned by the drain of men from farm and city; between 1861 and 1865 Ohio sent 310,654 of her sons into the Union armies. The war expenses of the state government during these years was as follows:

<table>
<thead>
<tr>
<th>YEAR</th>
<th>EXPENSES</th>
<th>RELIEF FUND</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1861</td>
<td>$1,458,482</td>
<td>none</td>
<td>$1,458,482</td>
</tr>
<tr>
<td>1862</td>
<td>1,386,614</td>
<td>$533,179</td>
<td>1,919,793</td>
</tr>
<tr>
<td>1863</td>
<td>420,260</td>
<td>935,703</td>
<td>1,355,963</td>
</tr>
<tr>
<td>1864</td>
<td>878,301</td>
<td>2,012,050</td>
<td>2,890,351</td>
</tr>
<tr>
<td>1865</td>
<td>597,717</td>
<td>2,137,933</td>
<td>2,735,650</td>
</tr>
<tr>
<td></td>
<td>$4,741,374</td>
<td>$5,618,865</td>
<td>$10,360,239</td>
</tr>
</tbody>
</table>

Claims allowed and not yet paid, but for which the state is liable 50,000

$10,410,239

Of this state expenditure, $1,059,079 was raised by means of loans still outstanding at the end of the war; and $1,851,899 was refunded by the federal government on account of the direct tax levied on the states, leaving a

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56 Rep. Adjutant General. Exec. Doc., 1866, I, 29. In addition to these
balance of about $7,500,000 to be raised by taxation. In spite of this extraordinary drain upon her resources, Ohio yet succeeded in reducing the state debt $1,374,921, and found it necessary to raise the rate of taxation by only 1.35 mills. The explanation of this seeming miracle is to be found in the increase in taxable property returned for taxation, and the promptness with which taxes were paid under the stimulus of patriotism, the delinquencies falling in 1861 to less than 1 per cent. of the total. At the same time economies were introduced in expenditures for ordinary purposes and these were maintained nearly on a stationary level in spite of rising prices. Not until the last year of the war, 1865, was there any marked increase in expenditures.

But even more striking than the economies in state administration were those effected by the local governments. Of the local revenues, the governor wrote in 1861, expenditures on the part of the state government a much larger amount was raised for local bounties to enlisted men.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>NUMBER MEN</th>
<th>AMOUNT OF BOUNTY</th>
<th>TOTAL AMOUNT OF BOUNTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1862</td>
<td>42,031</td>
<td>$25</td>
<td>$1,050,775</td>
</tr>
<tr>
<td>1863</td>
<td>16,472</td>
<td>100</td>
<td>1,647,200</td>
</tr>
<tr>
<td>1864</td>
<td>96,457</td>
<td>400</td>
<td>38,582,800</td>
</tr>
<tr>
<td>1865</td>
<td>22,212</td>
<td>500</td>
<td>11,106,000</td>
</tr>
<tr>
<td>Veterans</td>
<td>20,708</td>
<td>100</td>
<td>$52,386,775</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2,070,800</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>54,457,575</td>
</tr>
</tbody>
</table>

Of which there was paid by municipal corporations $14,000,000
By individual subscription

$54,457,575

In the auditor's report for 1865 there is a mistake in subtraction, the latter figure being given as $8,449,261. Exec. Doc., 1865, I, 329.

The rate of state taxation was as follows: 1860, 3.95 mills; 1861, 4.55 mills; 1862, 4.65 mills; 1863, 5.05 mills; 1864, 5.30 mills; 1865, 5.30 mills.

See chapter V, on the General Property tax.

it is believed that at least 33 per cent. may, without serious and but temporary detriment to the people of the state, be withheld from the several special purposes and made applicable to the general treasury. So energetically was this principle carried out during the first two years of the war that, in spite of heavy war expenditures, there was a decrease of over $1,000,000 in the aggregate taxes for all purposes within the state. The following table makes this point clear:

<table>
<thead>
<tr>
<th>1861</th>
<th>1862</th>
</tr>
</thead>
<tbody>
<tr>
<td>State taxes for ordinary purposes $3,744,454</td>
<td>$3,285,609</td>
</tr>
<tr>
<td>State taxes for war purposes $311,925</td>
<td>$843,863</td>
</tr>
<tr>
<td>County taxes $3,222,373</td>
<td>$2,737,353</td>
</tr>
<tr>
<td>City, town, and special taxes $3,972,376</td>
<td>$2,849,301</td>
</tr>
<tr>
<td>Aggregate $11,071,128</td>
<td>$9,762,508</td>
</tr>
</tbody>
</table>

The laws of 1860 did not contain the word "militia" in the index, and the state expenditures for militia and military affairs amounted to only $6,656, which was double that of the previous year. With the outbreak of war, however, Ohio promptly appropriated the money necessary to arm and equip her soldiers. The act of April 18, 1861, provided for the rapid organization of the militia, appropriated $450,000 for arms and equipment, and $500,000 for the support of the federal government, to be spent under the direction of the governor; a contingent fund of $50,000 was also placed at the disposal of the governor, and a loan of $750,000 was authorized. The following years still greater expenditures were authorized. As Ohio's southern boundary was exposed to invasion, the legislature showed itself very fearful of attack from that source; by act of April 11, 1863, a loan of $500,000 was authorized in case of invasion, which, however, was not made. The same year Morgan's raid (June 27-July 26) showed the danger to be a real one, and during the next session $35,000 was appropriated to repel invasion and

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"O. L., 1861, p. 89.
"Acts of May 1, 1862; Jan. 20, 1863; April 13, 1863; March 30, 1864; April 13, 1865."
suppress insurrection, while a loan of $400,000 for the same purpose was authorized. This bore 6 per cent. interest and the bonds were exempt from state taxation; it was sold to the citizens of Ohio and yielded a premium of $502. The following year an appropriation of $500,000 was made, to be used if necessary to repel invasion or suppress insurrection.

The war governor of Ohio was David Tod, but on January 11, 1864, John Brough, who had formerly been one of Ohio's most able auditors, was inaugurated. In his last official message, Governor Tod urged the abolition of the office of comptroller, as useless and unnecessary—a recommendation also made by the auditor—and also an increase in the salaries of state officers by 50 per cent. The over-issue of paper money by the federal government had led to a rise in prices, but the pay of state officials had remained constant at the point at which they had been fixed years before. Two years later, when the war was over, the legislature followed this advice, taking care at the same time to raise their own pay to $5.00 a day and $3.00 mileage for every twenty-five miles traveled; the salary of the governor was fixed at $4000.

Partly as a result of extraordinary expenditures occasioned directly or indirectly by the war, partly as a result of the higher prices, and partly as a result of normal growth, and possibly of growing extravagance engendered by the paper money regime, the disbursements of the state government were steadily mounting upwards. The gross expenditures of the state grew from $3,683,000 in 1860 to $12,435,000 in 1865, while the net expenditures of the general revenue fund increased from about $800,000 to $2,275,000 in the same period. The year 1865 was, however, an abnormal year, being more than double the

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84 Act of March 30, 1864. O. L., p. 81.
previous year, and the largest in the history of the state down to the present time. Part of this increase was occasioned by the payment of the direct tax of $766,897 to the federal government, while the benevolent institutions called for $225,000 more than the previous year, and printing, binding, and stationery showed an excess of $110,000. In even greater degree the local expenditures and taxes grew. The state budget became permanently larger from this time on, and, though economies along some lines were effected and the swollen items of 1865 were cut down, it was never again brought back to the ante-bellum figures.

DEFICITS AND TRANSFERS.

Upon the cessation of war the state tax rate was restored to the old figure of 1859, and an effort was made to cut down expenditures. The act of April 5, 1866, fixed the rates of taxation for state purposes as follows: state government, including benevolent institutions, 1 mill; sinking fund 1.2 mills; common schools, 1.3 mills. The lowness of these rates led to the boast that Ohio had the cheapest state government, in proportion to population, that could be found. The whole amount of salaries paid to state officers in 1866 was only $21,207. This was soon altered by an act of this same year, providing for a general salary increase.

The budget of 1867 and 1868 accordingly saw a great increase in the salaries of administrative and judicial officers and in the pay of members of the general assembly. The cost of maintenance of the charitable, correctional, and penal institutions also showed a rapid and continuous expansion, from $375,000 in 1864 to $645,000 in 1865, $780,000 in 1866, and $935,000 in 1867. In the following year it passed the million dollar mark, and only once since has fallen below that figure. This growth of public expenditures called forth a protest in 1868 from the

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He thought $500,000 a year could be saved, "and the public service be better performed than under the present wasteful system of management." To carry out this policy of retrenchment he urged shortening the term of the legislative sessions, docking the pay of absentees, forbidding extra compensation, etc. Not all of the expenditures, however, were caused by legislative extravagance, for the decade following the war saw the application in Ohio of a vigorous policy of debt payment. In 1867 the claims due the state from the federal government and the balances of various funds then in the treasury were transferred to the sinking fund and used to pay the debt.

By 1867 the extraordinary expenditures belonging to a state of war had ceased, thereby making an annual saving to the people of Ohio of about $3,000,000. The state tax was reduced to the same point as before the war, and a decrease in expenditures might have been anticipated. Such was far from being the case, however. Rising prices caused by depreciated paper money induced legislative and administrative extravagance and also necessitated higher taxes, while the growth of population and the rapid increase of cities and towns called for larger expenditures to satisfy legitimate needs. A comparison of the various rates of taxation for state and local purposes makes it evident that the real growth during this period was in the local governments rather than in the state. This is clearly shown in the following table:

<table>
<thead>
<tr>
<th>PURPOSES.</th>
<th>1859.</th>
<th>1866.</th>
<th>1867.</th>
</tr>
</thead>
<tbody>
<tr>
<td>State tax</td>
<td>3.5</td>
<td>3.5</td>
<td>3.5</td>
</tr>
<tr>
<td>Aggregate local taxes</td>
<td>7.7</td>
<td>10.0</td>
<td>12.5</td>
</tr>
<tr>
<td>Other special taxes</td>
<td>1.3</td>
<td>1.4</td>
<td>1.4</td>
</tr>
<tr>
<td>Aggregate</td>
<td>12.5</td>
<td>14.9</td>
<td>17.4</td>
</tr>
</tbody>
</table>

During all this period the receipts from taxation were steadily increasing, although the rate for state purposes

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Footnotes:

83 Ibid., p. 147.
remained unchanged. In 1867 the valuation of the taxable property in the state increased $32,545,858 over that of the previous year; this the governor thought was due to the increased care and accuracy in the administration of the tax laws, and the growing familiarity of local boards of equalization with their duties. More important, however, was probably the general rise of prices, which by this time had affected real estate and property values.

But in spite of the growth of revenues, expenditures were growing still more rapidly. In 1868, as a result of the increase of legislative appropriations $90,000 in excess of the estimates, and other causes, a deficit appeared in the state finances. To avoid borrowing or raising the tax rate the auditor suggested a transfer of $200,000 from the sinking fund. In spite of its unconstitutionality this advice was followed, and $175,000 was transferred from the sinking to the general revenue fund, on condition that it be repaid by January 1, 1871. This method of covering deficiencies and yet permitting extravagant appropriations was so easy, that it was resorted to again in 1869. This time there was transferred from the sinking fund $150,000, from the school fund $71,000, and from the canal fund $25,000, or a total of $246,000. In spite of these temporary loans, there were on November 15, 1869, outstanding appropriations against the general revenue fund amounting to $1,303,407, for which there were no monies available. For the coming year the auditor estimated that there would be, on the basis of existing revenues and expenditures, a deficit of $510,000, to meet which he urged an additional tax levy of .5 mill, and in case the taxes could not be collected in time then a temporary loan of $300,000 would be necessary.

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98 Act of May, 1868. For a full discussion of these transfers and their legality, see The History of the State Debt of Ohio, in Journal of Political Economy, June, 1911, p. 464.
99 Authorized by appropriation act of May 5, 1869.
The embarrassment of this fund [he wrote] has been produced by the last two sessions of the General Assembly, by the addition of eleven new judges to the judicial forces of the state, by the purchase of lands, and establishing thereon a Reform School for Girls, the unusual expenses of traveling committees of the Legislature, and the extraordinary appropriations for miscellaneous purposes made at the last two sessions of the General Assembly. . . . There is such a mania for office, for squandering the public moneys, in fat jobs to favorite contractors, and improvident purchase of property from favorites at exorbitant prices, that without some such restraints as are here indicated there is danger of great public demoralization; of oppressing the enterprising and industrial classes of the people, and driving whole communities into bankruptcy.

The largest item in the increased expenditures was for the construction and support of the benevolent institutions of the state. Ohio was at this time entering upon the policy, which has been adopted now by all the advanced states of caring for the defective and dependent classes at state expense, instead of leaving them to the mercy of the local governments. In carrying out this policy there were built during this period state asylums for the deaf and dumb, for the blind, and for imbecile youth. The Northern Lunatic Asylum had been burned and was rebuilt. Although the governor urged that the state also undertake the complete care of the insane, this reform was not effected until the end of the century, and the insane poor remained in county almshouses. Indeed the reforms undertaken threatened to equal the aggregate revenues. "The people of Ohio are grievously taxed", wrote the auditor in 1871, and in the following year he pointed out that 54 per cent. of the entire receipts of the state, or 72 per cent. of the amount received from taxation, was disbursed for the State public benevolent institutions. . . . More than 98 per cent. of the entire receipts from taxes into the revenue fund are to be absorbed by state charities. The estimated receipts of the general revenue fund for 1872 were $1,627,625, and the estimated disbursements for the benevolent institutions were $1,600,000.

109 Ibid., pp. 373, 381.
Desirable as were the reforms which the state was carrying out, they were threatening to absorb the funds needed to defray the ordinary expenses of government. The general revenue fund was actually overdrawn during most of the year 1872, but transfers from the sinking fund and the common school fund were authorized by the general assembly and an actual deficit was thus temporarily averted.\textsuperscript{104} By the end of the fiscal year, however, the real deficit of the general revenue fund was $170,867.\textsuperscript{105} To meet the growing demands upon the state the auditor urged that the rate of taxation for this purpose be increased from 1.1 mills to 1.7 mills, making the total state levy 3.5 mills. On the basis of existing revenues and estimated appropriations he prophesied a deficit for the next year of $380,000.

**ENFORCED ECONOMY.**

The following year the legislature resolutely attacked the financial situation. They reduced expenditures $427,485 below those of the previous year; the tax levy was increased by .6 mill, in accordance with the auditor's suggestion, while a windfall of $94,000 was added to the receipts through the payment of some war claims by the federal government.\textsuperscript{106} At the same time an effort was made to separate the extraordinary expenditures occasioned by the building of benevolent institutions from the normal expenses of running the state government, by the creation of a separate fund for the former purpose, called the asylum fund. This was established by assigning to it 70 per cent. of all the taxes collected for the general revenue fund.\textsuperscript{107} The latter could not stand this drain, however, and after transferring $929,306 saw its own balance reduced to only $21,108. The following year $45,957 additional was transferred, leaving $17,264 still owing "to be transferred when

\textsuperscript{104} Act of April 27, 1872.
\textsuperscript{105} Aud. rep., ut supra, p. 325.
the revenue fund is in a condition to justify the same".108 The inability to complete the transfer was due to the lowering of the tax rate by .3 mill, which reduced the state taxes below what it was estimated they would have yielded by $474,000.

Unfortunately the reduction in the tax rate coincided with a decided shrinkage in the taxable property returned for taxation, as a result of the crisis of 1873. From $1,648,000 in 1873 the receipts from the general property tax declined to $925,000 in 1874, $777,000 in 1875, and $627,000 in 1876. In his inaugural address to the legislature in January, 1874, and again in his annual message of December 1 of the same year, the new governor, William Allen, urged economy, especially in view of the hard times prevailing.109 In response to this appeal the legislature cut down its appropriations for 1874 about $90,000 below those of the previous year, effecting important savings in the items of printing and distributing the laws and journals, and militia. On the other hand, the disbursements for the pay and mileage and other expenditures of the general assembly itself were larger than those of 1873 by $50,000. The following year, 1875, they cut down these expenditures by over $90,000, an amount which represented the economies of this year over the previous one.

The creation of the asylum fund in 1873 had meanwhile tended unnecessarily to confuse and embarrass the finances. After this act there were four distinct funds or purposes for which taxes were levied; these were the sinking fund, for the payment of the state debt; the general revenue fund, for legislative, executive, and judicial purposes; the asylum fund, for the support and maintenance of the public benevolent, penal, and reformatory institutions; and the common school fund, in respect of which the state acted merely as the agent, returning the proceeds to the counties in proportion to the enumeration

of school children. For each of these purposes a separate levy was made in the general property tax, the proceeds of which went into a particular fund, from which it was to be disbursed for that purpose only. Each fund had its own sluice through which flowed a part of the state revenues, distinct and separate from the other three. It might happen, under this system, and frequently did happen, that one service would be starved for lack of funds, while another would have a surplus on hand. Under these circumstances it was the practice of the legislature to "borrow" or transfer temporarily the money from one fund to another. Each fund was thus endowed with a sort of fiscal personality. While such a practice might seem justifiable as a mode of escape from the rigidity of the fund system and the often unwise distribution of income among them, yet it could result only in confusion if not in downright deception. The transfers between funds during the years 1872-75 is concisely set forth in the following table, which shows the amounts owing at the end of each year:

<table>
<thead>
<tr>
<th>Transfers</th>
<th>Year ending Nov. 15</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1872</td>
</tr>
<tr>
<td>From sinking to general revenue fund</td>
<td>$100,000</td>
</tr>
<tr>
<td>From school to general revenue fund</td>
<td>50,000</td>
</tr>
<tr>
<td>From sinking to asylum fund</td>
<td>450,000</td>
</tr>
<tr>
<td>From school to asylum fund</td>
<td>21,000</td>
</tr>
<tr>
<td>Total</td>
<td>150,000</td>
</tr>
</tbody>
</table>

As a result of these transfers from the sinking fund to the asylum fund, and the failure of the latter to repay it, the commissioners of the sinking fund found themselves unable to redeem the public debt that fell due on January 1, 1876. The depleted condition of the sinking fund was made worse by an ill-advised reduction in the tax levy for this

110 After referring to this system the auditor concluded, "I know of no simpler or better devised plan in force for the management of the finances of any of our sister states". Aud. rep. Exec. Doc., 1873, I, 4.
purpose in 1874 by .3 mills, which reduced the revenue by some $474,000. During the year 1875 the general assembly divided the sum still due the sinking fund and assigned $70,000 to the general revenue fund and $380,000 to the asylum fund, at the same time directing that "at least $200,000 "should be retransferred from the latter to the sinking fund before January 1, 1876." As there was an estimated deficit of $280,000 for the asylum fund itself during this year, such repayment was manifestly impossible, and as a consequence there was just so much less to apply to the liquidation of the debt from the sums that had been definitely collected for this purpose.

This incident illustrates fairly the improvident financiering of the legislature, and their exasperating method of shouldering the responsibility off on to the auditor by directing him to perform the manifestly impossible. The finances of these four years were greatly confused by the transfers and standing credits of one fund to another; not until 1876 were they straightened out again. No effort was made to repay the "borrowed" sums to the sinking fund, as no debt became due until 1881. But in 1879 the asylum fund was merged in the general revenue fund; practically the existence of this fund had tended to multiply accounts and calculations unnecessarily. In his inaugural message of January 3, 1876, the governor had thought it necessary to admonish the general assembly on the subject of economy.

It may be well for you to consider [he wrote] whether the public interests will not be best subserved by a . . . inquiry for means to reduce the expenses of the state and local governments, and relieve the people from as much of the burden of taxation that is now weighing them down as possible, rather than by excessive legislation with which former general assemblies have bewildered the people.

115 Act of March 26, 1879.
The revenues were declining during these years as a result of the depression following the crisis of 1873, and the general assembly which was in session during 1876 and 1877 was economical in its appropriations. An increase in the item of salaries of administrative officers was offset by a decrease in the state printing bills; an interesting item in 1876 was $35,000 for the centennial celebration.

INCREASED APPROPRIATIONS AND INSUFFICIENT REVENUE.

The year 1878 saw a revival of industry, which was reflected in a large increase in the revenues from taxation. This increment was promptly absorbed by greatly enlarged appropriations, amounting to 60 per cent. more than those of the previous year: the general assembly (for extraordinary expenses), printing, the public works, and the militia all shared in the distribution. Not merely was the surplus spent, but advance drafts to the amount of $200,000 were drawn on the county treasurers for the December taxes, which properly belonged in the next year's revenue account. Consequently instead of a nominal balance of $119,184 in the treasury, as given by the auditor, there was an actual deficit of $80,816. There were numerous occasions in Ohio finance when this same practice was repeated, but owing to the system of cash accounting, by which only the actual receipts and disbursements were stated in the annual balance sheet, these real deficits do not appear in the auditor's reports or in my table of the general revenue fund (Table 1). The method of accounting on the basis of accrued receipts and liabilities would of course prevent the concealment of such practices and reveal more truly the actual state of the treasury.

In 1879 the asylum fund was again consolidated with the general revenue fund, which makes comparison of ex-

118 Aud. rep., Exec. Doc., 1878, I, 4. The auditor's reports, which in the earlier years were very detailed and contained much valuable information, are now restricted to the bare statistical tables, without any explanation or criticism. In the report for 1877 comment was reduced to 3 pages, in 1878 to 2, and in 1879 to 1 page.
penditures with previous years a little difficult. Expenditures for the charitable, correctional, and penal institutions of the state, and for the Soldiers' and Sailors' Home and maintenance, amounted to about $1,500,000 or three-fifths of the whole. The item of public works showed the greatest growth during this period. These had been leased in 1861 to a private corporation, which threw up the lease in 1877 as they were not proving profitable. Beginning with 1878, consequently, the care of the canals added on the average over $200,000 yearly to the budget.

The next few years saw only a normal increase in expenditures, and the cash balance in the treasury kept steadily growing. In 1884, however, the general assembly reduced the state tax for general revenue purposes by one-tenth of a mill, resulting in a loss of revenue the following year of $350,000.\(^\text{119}\) Unfortunately for the revenues the reduction in the tax rate coincided with the panic of 1884, which caused a decline in the amount of personal property returned for taxation of $32,293,135. At the same time the expenditures were increased over $100,000, so that the cash balance was cut down from $588,000 for 1884 to $98,000 in 1885. During the session of 1885 extravagant appropriations absorbed not merely this balance but created liabilities far in excess, so that it became necessary for the state to make advance drafts on the counties to the total amount of $800,000.

The sixty-seventh general assembly, which convened for a two-year term in January, 1886, was Republican. It seemed as if their short absence from power had simply whetted their appetites, and they immediately attacked the public revenues like ravenous wolves. The appropriations for 1886 were $324,119 in excess of the revenues, and the following year, in spite of remonstrances from the auditor, they were $363,071 in excess, or a total in two years of $687,191. The excessive liabilities created by the previous general assembly had necessitated a temporary loan of

$500,000. Not only was this amount wholly absorbed, but additional deficiencies were created which had to be met again by advance drafts on the counties in anticipation of taxes. The counties were drawn upon as early as May 21, 1887, on account of the June collection of taxes which were ordinarily not available until August. By the fall the situation was so serious that bills and accounts due in October had to be held back until November 12, the very earliest date at which funds could be raised from the counties by advance drafts, and even then they were met out of funds that were not legally collected for the state. The excess of actual disbursements over receipts during these two years was $607,065, leaving liabilities of over $80,000 still unpaid.

This reckless plan of living beyond their income and appropriating money not on hand nor available for state purposes was continued by the next general assembly. Governor Foraker urged that this be avoided by increasing the revenues; or if this was not done that the levy for the sinking fund be reduced from five-tenths to two-tenths of a mill and the difference be added to the general revenue fund. "This will almost, if not quite," he said, "provide for all deficiencies". That the constitution made the payments into the sinking fund mandatory did not seem to occur to him. As there was no money in the treasury, the temporary loan due on July 1, 1887, was refunded to fall due half on July 1, 1889, and half on July 1, 1890. The following year part of the debt due on July 1, 1888, was refunded, although the constitutional requirement of the sinking fund was thereby disregarded.

The same policy of deficit financing was pursued during the year 1888 also. Deficiencies amounting to over $220,000 were created, chiefly on account of the construc-

120 Act of May 13, 1886. O. L., p. 154. The bonds bore 3½ per cent. interest, and were made payable on July 1, 1887.


tion of the Soldiers' and Sailors' Home at Sandusky, and the building of additional cottages at the Sailors' Orphans' Home at Xenia. Indeed the chronic deficiencies since 1885 had been occasioned by the construction of these institutions, together with the Toledo Asylum for the Insane, the Working Home for the Blind at Iberia, and the Intermediate Penitentiary at Mansfield. However praise-worthy the purposes the financial policy of the legislature must still be condemned. And the same policy was pursued during the years 1889 and 1890; in the former year advance drafts were drawn on counties for $100,000 in anticipation of the next year's revenue, and in the latter to the amount of $185,000.

ENLARGED REVENUES AND INCREASED EXPENDITURES FOR PUBLIC INSTITUTIONS.

But relief was now at hand. The public institutions were practically completed and the extraordinary drain on the revenues was stopped. And, more important still, the revenues themselves were increased. Instead of general stagnation, it was now a period of general prosperity. The decline in the value of taxable property on the duplicate was stopped, and the aggregate of property returned for taxation increased more than $84,000,000.124 A new source of state revenue was also tapped in the liquor traffic, one-third of the taxes on which were diverted into the state treasury, the other two-thirds being left to the local units of government. Efficient management of the finances would now have introduced order and stability into the budget, but this apparently could not be secured at the hands of the legislature.

In 1891 Congress refunded the direct tax to the states,125 which had been collected at the time of the Civil War, and Ohio received $1,332,026 as her share. Of this amount $1,000,000 was placed to the credit of the sinking

125Act of March 2, 1891.
fund and $332,026 to the general revenue fund. But prosperity had quite as bad effects on the finances as had adversity. The general assembly took advantage of the presence of this large sum in the sinking fund to remit taxation for sinking fund purposes altogether in 1891, instead of applying it to a reduction of so much additional debt. The addition to the general revenue fund was not much more than sufficient to clear up old liabilities, but the general assembly was beguiled into extra large expenditures, and closed the year with a deficit of $151,000. This deficit consisted of outstanding liabilities for miscellaneous matters ($133,000) and for the Boys' Industrial School at Lancaster ($18,000), and had to be met out of the revenue of the next fiscal year.

The receipts for 1892 would have been adequate to meet all these expenses and leave a balance in the treasury, had not the state board of equalization taken this opportunity to reduce the taxable property on the grand duplicate, as a result of which the state revenue was reduced about $100,000. It seemed as though the pressure to reduce taxation was so strong that it could not be resisted, even though such reduction threw the budget out of equilibrium, deprived needed state services of the means of support, deferred the payment of the debt, or involved the state in deficits. There is nowhere discernible in the financial measures of this period any far-sighted statesmanlike estimate of the needs of the future, or consistent policy in meeting them. Each general assembly, and even each session, pursued a hand-to-mouth policy without any regard for the future, or even due provision for its own needs if these involved resort to increased taxation. In his annual message of January, 1893, the governor admonished the legislature to observe economy. "I enjoin upon the

127 By act of April 30, 1891 (O. L., p. 479), the only state taxes levied were 1.4 mills for general revenue purposes, and 1 mill for common school purposes. In 1892 the sinking fund tax of .3 mill was reimposed.
general assembly that the total appropriations for the several branches of the public service be carefully kept within the annual revenue of the state government. . . . carefully scrutinize the estimates submitted by the heads of the various institutions and departments of the state. . . . the revenues of the present year will not justify the appropriations made for the preceding year."

The disbursements for 1892 and 1893 were each year about $70,000 in excess of receipts, but these were met out of the balance on hand, though this was reduced considerably as a result. In the latter year the panic of 1893 caused the revenues to shrink perceptibly, and legislative economy became imperative.

Your honorable body [said Governor McKinley to the general assembly in January, 189419] meets at a time when the state is suffering from prolonged industrial depression, from which unhappily there appears no immediate prospect of relief. . . . Rigid economy should be practiced in every branch of the public service. Waste and extravagance should be prevented. . . . A short session and but little legislation would be appreciated at a time like this.

The governor took advantage of the opportunity to urge that the legislature meet only biennially. This had been provided for by the constitution of 1851,20 but the provision had been evaded by holding adjourned sessions in the odd years. The 51st general assembly, which met January 2, 1854, and adjourned sine die May 1 of the same year, was the only one which had thus far obeyed the spirit of the constitution. Recently, however, there had been much discussion of the subject and the Republican party had embodied in its state platform a demand for biennial sessions. As this party was now in power in both branches of the legislature it proceeded to carry out its pre-election pledges: the 71st general assembly met on January 8, 1894, and adjourned sine die on May 21. Of this action the governor expressed high approval in his next message, and

20 Art. II, sec. 25, of the constitution reads: "All regular sessions of the General Assembly shall commence on the first Monday of January, biennially".
stated that neither the state nor its institutions suffered any inconvenience, while it saved the people $75,000; he recommended a continuance of the practice. Since that time biennial sessions have been the rule.

In spite of the decrease in revenues and the industrial depression the legislature found it impossible to curtail expenditures. In fact they exceeded those of the previous year by $200,000, and incurred liabilities far in excess of receipts. To meet these "casual deficits" in the general revenue fund a loan of $500,000 was authorized at 3 per cent. interest, redeemable on July 1, 1896. Of the proceeds of this loan the law directed that $85,000 should be appropriated for an agricultural experiment station. For the second time within a decade now loans were resorted to for current expenditures. Most of the deficit was attributable to the increase of expenditures for the public institutions of the state, and in so far as this represented a capital investment might have justified a resort to the sale of bonds. But the state had been engaged for years in a policy of improving and enlarging her charitable and correctional institutions, until expenditures for such purposes were to be regarded as normal rather than extraordinary, and hence adequate provision should have been made for meeting their cost out of current revenues.

Unfortunately business-like methods had not yet been applied either to the construction or maintenance of the public institutions of the state. In the purchase of supplies the different institutions competed with one another in the open market. The concentration of such work in the hands of a state official or board, the invitation of bids for goods with definite specifications as to quality, etc., and the purchase of supplies in wholesale quantities, would have saved many thousands of dollars to the state. The creation of a purchasing board to buy supplies for all state institutions was advocated by the governor, who at the

133Act of April 25, 1894. O. L., p. 186.
same time urged economical expenditure upon all state officers.  

A tax commission had been appointed in 1893 and in their report had urged a number of new taxes. This advice was followed by the general assembly in the next session, and as a result of this legislation the revenues were increased in 1895 by receipts from a number of additional sources. Among these were the inheritance tax, and the excise taxes on express companies and sleeping car companies. Perhaps under the impression that these new taxes would be more lucrative than they actually proved to be at first—they yielded only $25,000 in 1895, and $42,000 in 1896, but jumped to $550,000 in 1897—the legislature increased their appropriations even more rapidly. Expenditures for 1896 were over $400,000 in excess of those of 1895, while those for 1897 showed a further increase of $240,000.

The expanding disbursements called for repeated remonstrances from the auditor in his reports of 1897, 1898, and 1899. "It is respectfully suggested," he wrote, "that the general assembly adhere to the plain business methods of living within our income and not make appropriations in excess of the estimated receipts. The estimated receipts this year for the general revenue fund are $4,841,851, and the estimated disbursements $5,913,091. If appropriations asked for are made it will necessitate resort to the unbusinesslike method of making advance drafts on counties in anticipation of taxes". In this case, however, it was the heads of institutions and departments that were extravagant in their demands. The estimates were heavily cut by the legislature, while on the other hand the revenues kept expanding even more rapidly than was expected. From now on expenditures were kept within income, while the balance on hand kept growing until it reached unreasonably large proportions. In 1908 the balance in the

135 Aud. rep., 1897, p. 5. The report of 1899 contains the last comment in words; after that nothing but an ocean of figures.
general revenue fund amounted to $4,488,748 or over 50 per cent. of the annual expenditures. This sum seems unnecessarily large as a working balance, and by so much withdraws from the people an unnecessarily large amount of their wealth. It should not be the mission of the state to accumulate.

In 1898 the outbreak of the war with Spain caused considerable excitement. The legislature hurriedly appropriated $1,000,000 to defray the expenses of the national guard, the naval militia, and the volunteers of the state. They also authorized the issue of bonds to this amount, to run not longer than ten years and to bear interest not higher than 4 per cent. As a matter of fact only $200,000 was borrowed by the sale of 3 per cent. five year bonds. Expenditures for military purposes jumped from $166,000 to $516,000. The war and the enthusiasm were soon over, however, and expenditures, which in 1898 had passed the $5,000,000 mark for state purposes, receded to normal proportions the following year. In 1900, however, they again passed this mark and this time permanently.

The year 1902 marked the practical abolition of the general property tax for state purposes in Ohio, the revenues from other sources having now been so developed that dependence could be placed upon them alone. Real estate was left to local taxation and personal property was taxed indirectly through corporations and other taxes. As a result of this policy it became possible to reduce the state levy on general property very materially: the levy for the general revenue fund was omitted, that for the sinking fund was fixed at .18 mills, and that for common schools at .95 mills. Although the state debt was extinguished the following year, it was necessary to retain the levy for the sinking fund, in order to pay the interest on the irreducible debt.137 While this change caused a temporary decline in

137 The "irreducible debt" is a mere book-keeping device to show the amount of proceeds from the sales of school lands, which the state has used, and upon which it has pledged itself to pay interest at the rate of 6 per cent. forever for school purposes.
the state revenues, they quickly responded to the condition of general prosperity and by 1906 were larger than ever before in the history of the state.

The increase in state expenditures, which had been going on so steadily, was occasioned almost entirely by the construction of buildings for the care of the dependent, defective, and criminal classes of the community, and their maintenance. Over $700,000 was spent on permanent improvements in 1902, and in the seven year period 1902-8 the appropriations for new institutions, new buildings, and betterments for institutions amounted to $7,366,000.\(^{138}\) Including three universities, the state of Ohio is now maintaining twenty-six institutions at an annual cost of about $5,000,000.\(^{139}\) The expenditures for these purposes make up over six-tenths of the ordinary state expenditures, and about half of the gross disbursements. Cut off from the exercise of its activities along lines of internal improvements by the constitution, and shut in on both sides by the growing financial importance of the federal government on the one hand and the local governments on the other, the state of Ohio, in common with most of the American commonwealths, has taken up earnestly and well the work of caring for the unfortunate classes of society. Next to this work in importance, though not in cost, would probably rank the less developed function of supervision and regulation, such as that exercised by the boards of pharmacy and medical registration, live-stock, dairy and food, and fish and game commissions, board of railroad and telegraph inspectors, etc. The item of industrial supervision and statistics, which does not include any of the above, amounts annually to about $150,000.

CONCLUSION.

Our study of the budget in Ohio may now be briefly summarized and certain conclusions suggested. The early period of territorial and state finance, down to the year

\(^{138}\)Aud. rep., 1908, p. 5.

1825, was marked by thrift and economy. The farmers and pioneers who composed the early legislatures were poor and hard working, unaccustomed to handle large sums of money or to think in large sums, and they ordered the household of the state frugally, as they did their own affairs. The time, moreover, had not yet come for joint effort through state action. Such concerted action as occurred was carried on through the local governments, as road and bridge building, but in general the period and the environment developed individualism rather than co-operation through political agencies. Consequently the state expenditures and revenues, except during the War of 1812, were kept down to as low a point as was consistent with the maintenance of an orderly state government.

The control of the budget, except for the legislative act of passing it, seems to have been centered largely in the hands of the administrative branch of the government. Statements of revenues were not regularly published until 1816, and those of expenditures not until 1822. Revenues were derived almost entirely from the tax on land, although this was supplemented after 1816 by a tax on banks and other minor receipts. Even such an important legislative function as fixing the rate of taxation was often left to the auditor with authority. The accounts of this period were simple, but not always well kept, or at least not rendered in good form to the legislature.

The period beginning with 1825 witnessed the initiation by Ohio of a comprehensive policy of internal improvements. The old system of land taxation was changed to that of the general property tax, though as yet in a modified form. But most of the revenue for this purpose was obtained by loans, together with miscellaneous receipts from the sale of land, gifts, etc. The state finances were administered carefully and economically, and the early canals were built on the whole cheaply. The legislature was composed of capable, honest, hard-working men, who did their best to keep down expenses.

But the system of accounts was loose and opened the
door to abuses which showed themselves during the later period of construction. Carried away by the prevailing enthusiasm, Ohio undertook about 1835 public works beyond the needs or the means of her citizens. The money, easily obtained by borrowing, was often carelessly spent. Canal funds were handed over to the canal board in the lump, and expended by them according to their discretion. The ordinary expenses of government, too, increased rapidly during this period, under the speculative influences of the period.

So far any looseness which had characterized the state finances was the result of carelessness or ignorance. But beginning with about 1845, there occurred a decade of legislative extravagance, of administrative dishonesty, and of private and corporate corruption, which happily is unique in the history of the state. It was a period of wretched financial management, of repeated deficits, of loans to be applied to current expenditures, of diversion of the sinking fund to uses other than the payment of the debt, of advance drafts on the next year's income, and of general financial juggling. Three successive treasurers were found to have defaulted in their accounts, their misdeeds having been aided and concealed through the connivance of bank officials and others.

Beginning with the year 1856, under Governor Chase, a thorough house-cleaning took place in both the legislative and executive branches of government. Various salutary acts were passed, debts were paid, the revenue laws enforced, and the state finances put in excellent order. By the time of the outbreak of the Civil War, Ohio was in splendid condition to assume the additional burdens imposed by that struggle.

As happens so generally responsibility brought with it care and good judgment. The legislature during the Civil War period showed itself able, economical yet not niggardly, and patriotic. And the people of the state responded loyally to their efforts. The administration of the finances was characterized by efficiency and probity. By
prompt resort to increased taxation adequate revenues were provided, and there was but little necessity for a resort to loans. Expenditures were also kept down, for non-military purposes, by a rigid economy, especially in the case of local units of government. The war governors—David Tod and John Brough—were men of high character and ability and unquestioned integrity. The latter characteristic was especially marked in Governor Brough, and it was said of him that he would leave his bed in the dead of night to investigate any act of official dishonesty that was reported to him.

After the war the budget of the state grew very rapidly, partly no doubt as a result of the rise in general prices, partly owing to the natural growth of the state and the assumption of new functions, but largely also because of legislative extravagance. The revenues were at first abundant and there seemed to be no need for continued economy. Such a policy, however, quickly plunged the state treasury into a series of deficits, which were met by advance drafts on the next year's receipts or by questionable if not illegal transfers from other funds. During this period the state undertook the care on a large scale of the defective, dependent, and depraved members of society, and expended large sums for the construction of buildings. Praiseworthy as this policy was, the planlessness with which it was carried out was chiefly responsible for the financial embarrassments that occurred.

Enforced economy characterized the years from 1873 to 1878, when the industrial depression that followed the panic of 1873 diminished the revenues and imposed a policy of retrenchment upon the legislature. With the revival of prosperity the general assembly embarked again upon a career of improvidence if not extravagance. They enlarged their appropriations without providing for additional revenue, with the natural result of chronic deficits and financial juggling to prevent actual insolvency of the treasury. Beginning with about 1895, however, a number of new and lucrative taxes were introduced, which greatly increased the revenues and restored equilibrium into the
state budget. The first decade of the present century saw the practical completion of the construction of public buildings, the payment of the debt, and the virtual abolition of the general property tax for state purposes. The state finances are now placed on a firm, stable basis, which should prevent the recurrence of any of the financial disorders that have characterized them in the past. Unfortunately no assurance is thereby given of stability, consistency, or farsightedness on the part of those who make the preliminary estimates or of those who finally pass the budget.

This thought suggests some of the conclusions which seem to the writer to be taught by the study of the budget in Ohio finance. The most striking feature, of recent years at least, has been the steady and strong pressure for the reduction of taxation. In the face of that pressure plans for enlarged expenditure have often been halted. The experience of Ohio seems to disprove the dictum that a finance minister—in this care a finance committee—estimates his needs first and then raises the requisite revenue. A very real limit is put to any plans for spending by the difficulty of raising the funds. As a consequence it is very difficult to lay down any far-reaching plans for the future. State finances suffer from the hand-to-mouth policy of an elective legislature and executive, chosen for short terms and anxious to be returned to office.

With the stripping of the legislature of much of its financial power, as was done by the state constitution of 1851, there has gone on a gradual deterioration in the character and purpose of the general assembly. Shorn of power, their field of expenditure limited, their chief interests are office and party politics; indeed there is little to attract good men. There is little or no conception of a scientific budget. Many good citizens believe that the state governments have so deteriorated that they can no longer be entrusted with the exercise of large financial powers. And so we come to a veritable impasse from which there seems to be no escape. We may, however, fairly conclude that the powers of a state legislature are
too important to be entrusted to inferior men. We need the best we can get, and in order to get them should make the office of legislator sufficiently important and dignified to attract good men. One method of doing this would be to restore their former financial powers to the legislature, and permit the undertaking of larger enterprises. The important interests involved would both make the office more attractive and call for greater care in the election of good men, and as a result of both processes we might expect to see the character of the legislative and executive branches of our state governments greatly improved.
### TABLE I

**State Collections and Disbursements**

<table>
<thead>
<tr>
<th>Year Ending</th>
<th>Receipts</th>
<th>Disbursements</th>
<th>Balance</th>
<th>Appropriations</th>
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<td></td>
<td></td>
<td>i.e. audit-</td>
<td></td>
<td>i.e. bills</td>
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<tr>
<td></td>
<td></td>
<td>ed bills</td>
<td></td>
<td>drawn on</td>
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<td></td>
<td></td>
<td>redeemed</td>
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<td>Treasurer,</td>
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<td></td>
<td>$88,693</td>
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<td>average</td>
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<td>issued.</td>
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<tr>
<td></td>
<td></td>
<td>for each</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>of six yrs</td>
<td></td>
<td></td>
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<td>$1,483</td>
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<td></td>
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<tr>
<td>Dec. 10, 1801...</td>
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<td></td>
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</tr>
<tr>
<td>1802...</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>March 9, 1803...</td>
<td>25,194</td>
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<td>20,088</td>
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## RECEIPTS AND EXPENDITURES

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<td><strong>1914</strong></td>
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<td><strong>Gross receipts as given by auditor</strong></td>
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<tr>
<td><strong>Gross expenditures as given by auditor</strong></td>
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<td><strong>Loans and Transfers to other funds [column 2 less 4]</strong></td>
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<td><strong>Real expenditures for State purposes [i.e. auditor's bills redeemed]</strong></td>
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<tr>
<td><strong>Balance as given by Auditor [difference between 1 and 2]</strong></td>
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<td><strong>Payments, i.e. payments made on account of appropriations</strong></td>
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<tr>
<td><strong>Unexpended balances</strong></td>
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### Table Ia.—State Collections and Disbursements

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<th>Year</th>
<th>Gross receipts, including state, common school, issues, etc.</th>
<th>Gross Disbursements for state, school fund, etc.</th>
<th>Balance</th>
<th>Receipts for support of state government</th>
<th>Disbursements, i.e. Audited bills redeemed</th>
<th>Balance</th>
<th>Appropriations, i.e. bill on treasury</th>
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<td>1870</td>
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<td>$5,588</td>
<td>$5,573</td>
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<td>$61,700</td>
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</table>

**Receipts and Expenditures**
TABLE III—FOOTNOTES ON EXPENDITURES—

Note on 1.
1822-40—Judges of Supreme Court, President of Court of Common Pleas are included in the list of executive officers.
1854—The list of executive officers now includes School Commissioner and State Librarian. Salary of the latter has been for a number of years back $300 or $400.
1876—Stationery and documents are included in the Secretary of State's department.
1878—It was necessary to take the fully itemized account for this year as no other was given.
Note on 1a. Placed the following items in 1a:
1887—Portrait of Garfield, statue of Wm. Allen, portrait of Foraker .................................................. $10,900
Note on 2.
1873—Constitutional Convention ........................................ 58,684
1874—Constitutional Convention ........................................ 127,543
Note on 3a.
1831—Payment of Sheriffs for attending court in bank for sundry years, $171.
Note on 4.—Under Education is included the purchase of books and libraries.
Note on 5.
1829—An appropriation first made in this year for education of deaf and dumb.
1835—Lunatic Asylum mentioned in the list for first time.
1837—Appropriation for Blind Asylum first made.
1857—The item "Ohio Reform Farm" first occurs.
1873—The charitable, correctional, penal institutions also Soldiers' and Sailors' Home from now until 1879 appear under the Asylum Fund created at this time.
1879—The above again come under General Revenue.
Note on 5a.
1832-39—Appropriations towards the erection of a new penitentiary made.
1833—Appropriation for D. & D. buildings.
1843-44—Appropriation for enlargement of Lunatic Asylum.
1852—Appropriation made for several new lunatic asylums [Newburgh, Dayton, etc.]
1854-60—Appropriation made for improvements and new buildings at all institutions during these years.
1905—The number of these institutions increased to 14.
Note on 6.
1824—Revising the laws is also included.
1867—Exp. of land appraisers, sale of land scrip, travel of school commissioner is included with distributing journals, etc., this year.
1869—Exp. of Presidential and special elections included in 6 this year.  
Note on 7.

1834—Item "U. S. Road" occurs for first time.  
Note on 7a.

1830—Payment of Registers and Receivers of O. lands their percentage  
on amount of money received for sale of lands.  
Note on 8.

1884—For a number of years back the item "State House and Grounds"  
has occurred with Adjutant General's department so it was placed  
under 9. It again occurs as a separate item.  
Note on 8a.

1838-60—Appropriation made for new State House.  
Note on 9.

1861, with the outbreak of the Civil War various special funds  
were created for war expenditures, and these consequently do not  
appear in the expenditures of the general revenue fund.

1879-80—Adjutant General's department includes also care of State House  
and grounds.  
Note on 10.

1890—Historical and Archaeological Society, $1000.  
Note on 11.

1907, This item shows a great increase, owing to the building and  
maintenance of a state sanitorium.  
Note on 14.

1870—Appropriation made for Soldiers' and Sailors' Home.  
Note on 15.

1876—Board of Centennial Managers, $34,350.

1884—Ohio exhibit N. O. Exposition.  
Note on 16.

1874—Inspector of Work Shops and Factories, Commissioner of Labor  
Statistics, Mine Inspector, Insurance Commissioners, Commissioner  
of Railroads and Telegraph, and 1902 Examiner of Stationary  
Engines.  
Note on 17.

1870—Geological Survey, $19,816.

1890—Howes Historical Collections of Ohio, $6000.  
Note on 21.

1822—(a) Mileage for County Collectors in traveling to seat of  
government to make annual returns................... $  507  
1822—Appropriations to sundry persons..........................  1,138  
1823—(a).................................................. 470  
1823—(b).................................................. 1,942  
1824—(c) To Edw. Pritchard's heirs, money deposited for redemption  
of land sold for tax................................. 13
1825—(d) To Bank of U. S. for amount judgment against officers of State......................... 2,055
1825—(e) Cost of said suits.............................................. 233
1834—(f) Double entries included in list.
1841—(g) Bounty on silk included in list.
1843—(h) Claims included in list.
1850—(i) Expenses of Constitutional Commission.
1862—(j) U. S. direct tax........................................ 380,100
1865—U. S. direct tax............................................... 766,897
1867—U. S. direct tax.............................................. 185,130
1873—Procuring selections of school lands....................... 693
1882—Drawn on account President Garfield's obsequies.......... 36,894
1884—Relief flood sufferers................................... 100,000
1891—War claims vs. General Government....................... 28,889
1905—Bureau of Inspection.................................. 12,544
1905—Public Audit Expense................................. 46,356

The "Miscellaneous" column has been large since 1896, but it stands in the Auditor's table simply "Miscellaneous", not itemized at all.

Note on 21.

1906, In addition to the item "Miscellaneous" as given by the auditor, is included $113,181 for the prosecution and transportation of convicts.

1907, Additional items are $100,625 for the prosecution and transportation of convicts; $310,703 for the state university; $114,874 for the state highway department. 1908, For the items just given the following sums: $130,880; $319,439; $289,881. 1909, For the items given in 1907 the following sums: $134,235; $425,066; $423,948.

Note on 22.

1873-78—Appropriations for charitable, correctional, and penal institutions, and for the Soldiers' and Sailors' Home were included in the Asylum Fund for these years, and were consequently not reported in the state expenditures by the auditor. The former were ascertained and are stated in column 5, but are not included in the totals, which are therefore unduly small for these years.
CHAPTER III
FINANCIAL ADMINISTRATION AND BUDGETARY PRACTICE.

I. TREASURY ADMINISTRATION AND ACCOUNTABILITY.

The constitution of 1802 placed but slight restrictions upon the financial powers of the legislature. Less than half a dozen provisions controlled their action or gave directions as to their conduct, and most of these had to do with the framing or passage of legislation, including the budget. Three sections only concerned the treasury department: one provided that no money should be drawn from the treasury, but in consequence of appropriation made by law;\(^1\) the second directed that an accurate statement of the receipts and expenditures of the public money should be attached to, and published with the laws annually.\(^2\) The third directed that the state treasurer and auditor should be triennially appointed by a joint ballot of both houses of the legislature.\(^3\) Appropriate legislation to enforce the former requirement does not seem to have been passed immediately, for two years later a joint committee to examine the books and accounts of the auditor and treasurer reported that the auditor was still exercising the power, granted originally by the territorial government, of issuing warrants on the treasury to an unlimited amount.\(^4\) The mutual checks between the treasurer's and auditor's offices were also found to be inadequate to secure accountability. The committee recommended checks on the issue of warrants, the auditing of accounts, and a detailed statement of taxes, disbursements, etc.\(^5\)

The first appropriation bill which was passed after Ohio became a state defined the duty of the state auditor: he was to issue warrants on the treasurer, and to lay his

\(^{1}\)Art. 1, sec. 21.
\(^{2}\)Art. 1, sec. 22.
\(^{3}\)Art. VI, sec. 2.
\(^{4}\)Ho. J., 1803-4, p. 199.
accounts and vouchers before the legislature annually. The examination of these must have been made by the legislature as a whole, for, in spite of the constitutional provision therefor, no report of the auditor or of an auditing committee was printed in the early documents until 1814, when for the first time detailed statements of the revenues were published. Except for the years 1803 and 1813, no detailed statements of expenditures were made until 1822. In these early days the legislature was small, the financial operations of the state very limited, and considerable discretion was left to administrative officers. In fact little control was exercised over their actions. Complaints were made in subsequent years that no check existed against the agent of the Scioto salt works in accounting for money received by him; and that no check existed upon the treasury department with respect to the three per cent. fund.

Gradually legislation was passed which corrected these early evils and secured better accountability on the part of administrative officers. The act of February 18, 1809, carefully defined the duties of the auditor and treasurer of state; the salary of the former was fixed at $1200 and of the latter at $500. The second section of the act illustrates interestingly the scarcity of money that existed in a frontier community, such as Ohio was at this time, and the means taken to supply the need. It required the auditor, in payment of obligations owing by the state, to issue bills of small specific amounts, payable at the treasury, with interest. They provided a convenient circulating medium, and also tided the treasury over several embarrassing periods, when the outstanding warrants exceeded the available funds in the treasury. By 1813 the
financial embarrassment had passed and the auditor was instructed to draw a single warrant for the whole amount of a bill with the consent of the person to whom it was due.\footnote{12} In the following year the auditor's certificates ceased to draw interest; it was also provided that no money should be paid out by the treasurer except on the warrant of the auditor.\footnote{13} After the financial stringency of 1819-20 the need of an accredited circulating medium was apparently again felt, for small warrants of $10, $20, or any fraction between them, or for the whole amount of a bill, were authorized.\footnote{14} This was practically repeated two years later, and the faith of the state was pledged for the redemption of these bills.\footnote{15} In 1831 this whole mass of legislation was repealed.\footnote{16}

Further light is thrown upon the condition of the currency by the state of the funds in the possession of the state treasury at different periods. Committees appointed in 1820 and 1829 to enquire into the state of the funds in the treasury reported as follows:\footnote{17}

\[
\begin{array}{ccc}
1820. & 1829. \\
\text{Amount of gold coin} & $3,931 & $... \\
\text{Amount of silver coin} & 17,279 & 237 \\
\text{Amount of bank paper} & 141,336 & 48,000 \\
\text{Credits in banks, paper representing loans, and} \\
\text{redeemed auditor's bills} & 51,850 & 12,196 \\
\hline
\text{Total} & $214,396 & $60,433 \\
\end{array}
\]

A deficit of $11,432 in the funds of the treasurer was reported at the same time by the committee of 1820.\footnote{18}

\footnotesize\begin{itemize}
\item Act of Feb. 9, 1813.
\item Act of Feb. 11, 1814.
\item Act of Feb. 2, 1822.
\item Act of Feb. 24, 1824. The auditor was authorized to issue, when requested, bills for $10 and $20; but for the whole amount, if it were under $10.
\item Act of Jan. 31, 1831.
\item \textit{Ho. J.}, 1820, p. 307. \textit{Ho. J.}, 1820, p. 115. In 1825 funds consisting of depreciated bank notes and claims against banks, amounting to $11,511, were sold for $4,345 in cash. "Auditors' bills" are treasury warrants.
\item \textit{Ho. J.}, 1820, p. 373-5.
\end{itemize}
THE CANAL ACCOUNTS.

When the state entered upon the work of internal improvements it adopted a plan of raising and disbursing the moneys needed for this purpose, which introduced confusion into all the financial operations of the state.\(^\text{19}\) Instead of making use of the existing financial officers and machinery of the treasury department it created a new and independent financial agency, the Board of Canal Fund Commissioners, whose duty it was to raise and control the disbursement of the funds needed for the construction of the canals. Another board, of Canal Commissioners, was created, which had in charge the work of actual construction. Practically all of the money used for building the canals was raised by the sale of bonds in New York or Europe. The moneys so obtained were paid in to the Manhattan Bank of New York City, which acted as agent of the state, and were there subject to the order only of the board of canal fund commissioners. These funds were drawn upon as the need arose and remitted to various Ohio banks which acted as local agents in the payment of bills rendered. Other funds, such as receipts from taxes, sales of land, etc., were deposited in the state treasury, where they were under the disposal of the treasurer.

The canal commissioners drew upon these local funds to meet the expenditures on the canals. There were four branches of expenditure, each of which called for somewhat different treatment. The most important was of course the payments to contractors for the work of construction. Upon receipt of a certificate from the engineer superintending the work, the acting canal commissioner would draw his check for the amount of work actually done. Duplicate accounts were kept by the engineers and the commissioners, so that errors could be promptly detected; and the commissioner was forbidden to draw any of this money in his

own name. The same procedure was followed with respect to expenditures for lands purchased for the use of the canals, and for damages assessed in favor of any individual; requisitions were made by the acting canal commissioners upon the fund commissioners in favor of persons entitled to specific sums. Only in the case of incidental expenses, for the payment of wages, salaries, etc., was the money deposited subject to the unrestricted check of the acting commissioner. But duplicate receipts were taken for all such payments and these were filed with the accounts of the commissioners. These guards and restrictions met with the general approval of various committees of the general assembly, appointed to examine and audit the accounts of the canal fund. Down to 1833 certainly there is no evidence to be found of any dishonesty or misuse of canal funds by either of the boards entrusted with their control.20

The system of accounts was devised for the purpose of checking the various officers who handled the canal funds and of preventing any misappropriation. As stated above all payments by the acting canal commissioners were made by checks, which were redeemed by the banks and treasurer, and returned by them to the fund commissioners. No money could be drawn except by check, and these served as vouchers for all payments made. At the end of each quarter the accounts of each acting commissioner were examined by the canal board, and, if correct, were recorded in the office of this board (later the board of public works). In 1840 each acting commissioner was required to file his

20In 1830 depositions were made before a select committee of the House of Representatives stating that the auditor, Ralph Osborn, had been “connected for many years with a large mercantile establishment”; and was then also “extensively engaged in a canal contract, on the Deep Cut”; and that he had given only a small part of his time to the duties of his office. Ho. J., 1830, pp. 475, ff. He was a most inefficient auditor, and his reports are among the poorest of this early period. Though he had been auditor since 1816, he was not re-elected after 1833. This is the only evidence I have found, in this period, of official graft.
accounts also with the auditor of state, by whom the original papers and vouchers were kept.\textsuperscript{21}

In the system as thus described, there were several weak points. In the first place the whole system of raising and disbursing the canal funds went on outside of the auditor's and treasurer's offices, who were the financial officers of the state. Two entirely independent boards were created which, while they may have acted as checks upon each other, were jointly accountable to no superior authority. As a result of this fact unbounded confusion resulted in the accounts of the state. Taxes levied for the canal fund would be paid by the county treasurer to the fund commissioners and not be credited on the books of the auditor. Money was borrowed by the commissioners, and no record of the bonds issued appeared in the auditor's office. Drafts issued by the auditor on the treasurer were often redeemed by the fund commissioners. It is evident that under such a system of cross purposes, no accurate accounts and strictness of accountability could be maintained.

Another weakness lay in the fact that the accounts of each acting commissioner were examined by the canal board, of whom he was one of the members, and he then became in turn a judge in settling the accounts of his colleagues.\textsuperscript{22} Such a reciprocity of accountability seems to have worked little if any injury, as it was in the hands of uniformly honest men; but it certainly opened the door to evil and was incompatible with any system of strict accountability. Further, there did not seem to be any adequate check upon the engineers or superintendents, who certified to the work of contractors and upon whose certification checks were drawn for construction work and later repairs. It is clear that collusion between an engineer

\textsuperscript{21}Act of March 23, 1840. The committee appointed to examine the books of the board of public works reported in 1845, that "after some inquiry, we cannot find that the law was ever complied with". \textit{Exec. Doc.}, 1845, II, 12.

\textsuperscript{22}Aud. rep. \textit{Exec. Doc.}, 1839, I, 35.
and contractor might, under such a system, result in graft to a considerable amount, unless it were checked by the watchfulness of an alert acting commissioner. The whole matter was summed up as follows by the auditor in 1843:  

The whole is one vast running account, and presents the singular anomaly of one set of agents to provide means; a second to pay them out, upon absolute checks; and a third to appropriate the division and settle the disbursements.

It must not be supposed that this system passed without criticism from contemporary observers. In 1835 a committee appointed to examine the books of the auditor and treasurer for the last three years and count the money in the treasury, reported as follows, without however, suggesting any remedies for the evils:

The result of their examinations has been a conviction in the minds of the committee that the present organization of our treasury department does not afford the necessary securities—1. For the actual payment into the treasury of moneys accruing from taxes and the various other sources of revenue provided by law. 2. Against the discharge of those indebted to the revenue from their liabilities, in cases when the money due does not actually reach the treasury. 3. Against the payment of demands for which the state is not liable. 4. Against the allowance of unreasonable or improper accounts. 5. Against the payment of demands for which there is no legal appropriation, or an appropriation not sufficient to meet the demands. 6. Against the misapplication of funds set apart for particular purposes. 7. Against the payment a second time of a demand once paid.

A similar indictment was brought the next year by a committee to examine the books and vouchers of the canal commissioners.  

Our examinations [they wrote] have been laborious and unsatisfactory in the investigation of every branch of the subject. . . . We have met with obstacles altogether unexpected, in consequence of the manner in which the books and vouchers of the fund commissioners, the canal commissioners, the auditor of state, and the treasurer of state have been classed and kept. . . . In addition to the irregularity and confusion of those accounts, we were met by the Manhattan Company of New York, with a refusal to furnish us with the information indispensably

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23 Aud. rep., Dec. 11, 1843.
24 H. J., 1835, p. 247. The resolution under which it was appointed bore the date of March 3, 1834.
necessary, on its part, to a statement of the accounts with that institution.

These criticisms and suggested reforms drew forth from the auditor a violent objection to "undigested plans" that would "revolutionize a system which has grown into established forms and modes, difficult to remodel or change without repealing numerous laws. . . Many improvements plausible in theory, are difficult in practice". The evils disclosed were, however, too serious to be overlooked or to have their reform blocked by bureaucratic opposition. The subject of reform became a political issue, one party favoring the centralization of powers and functions under the supervision of the auditor, and the other the continuance of the present system. The reformers won the first battle and in 1836 abolished the board of canal commissioners, establishing in their place a board of public works of six members under the direct supervision of the auditor. Two years later, however, the other side were returned to power and they signalized their victory by repealing most of the legislation of the two years' previous. The board of public works was removed and the old board of canal commissioners reinstated.

But the victory was only a short-lived one and the next year, by act of March 5, 1839, the board of public works was put in office again. Another act was soon passed, entitled "an act to regulate the receipt and disbursement of the canal fund", directed against the loose methods which had characterized the old system. The board of public works was established in the auditor's office and under his supervision. All moneys for canals or public improvements were to be paid into the state treasury and kept as a separate fund, to be disbursed by the treasurer of state. The auditor, finally, was required to make a full annual report of receipts and disbursements.

27 The number of members was reduced to five, but they were authorized to appoint four acting commissioners. By the act of March 6, 1845, the membership was reduced to three, a president and two acting commissioners. This act also provided for sharper control and supervision of expenditures.
The control of the canal funds and of the accounts was now concentrated and placed in the hands of the auditor as the responsible state financial officer, thus removing the dispersion of authority and responsibility that existed under the former system.

The unsatisfactory records hitherto kept of the public debt and related matters were aimed at by an earlier act,\textsuperscript{28} which ordered the canal fund commissioners to keep a list of the public works with all expenditures thereon, and to report to the auditor all loans and debts contracted; the auditor, on his part, was required to record in a separate book all loans, debt, appropriations, subscriptions to stock, etc. From this time on permanent and presumably accurate records were kept of essential data, that previously were almost unobtainable. In 1844 the mode of settling accounts between the different departments connected with the public works was regulated in considerable detail. The superintendents were to render quarterly statements to and make quarterly settlements with the resident engineers, who were to certify these to the acting commissioners of the board of public works. The latter were to settle on May 15 and November 15 with the acting commissioner of the canal fund. All checks of the acting commissioners were to be paid by the treasurer—not, as formerly, by the canal fund commissioners,—and were to be examined by the auditor. The board of public works was finally required to make out an annual report and to file it with the auditor.\textsuperscript{29} Two years later the duties of the board of public works, of the canal fund commissioners, and of the auditor and treasurer of state, in regard to the receipt and disbursement of the canal fund, and the receipt of taxes, were still more carefully defined and regulated. The original system, however, remained in practice until the thorough-going reforms of a decade later.

\textsuperscript{28}Act of Feb. 25, 1839.
\textsuperscript{29}Act of March 13, 1844. 42 O. L. 74.
THE REFORMS OF 1856 AND 1857.

The loose methods which had so long prevailed and the lack of strict accountability on the part of the various officials at last opened the door to graft and corruption. The high prices and speculation which prevailed between 1833 and 1837 had led to extravagance and worse in the construction of the canals. The necessity of securing private charters for banks and railroads, and the methods incident thereto, had accustomed many persons to regard the state as an instrument for their private gain. And finally the introduction of the spoils system in politics must probably be held in large part responsible for the decay in responsibility and integrity which took place in the character of public men, in Ohio as elsewhere.

It is impossible to say just when lack of responsibility led to misapplication of public funds, or speculation became peculation, but it may certainly be placed as early as 1838. The report of the examining committee in 1845 showed that from about that date down to the time of their report, corruption, fraud, and graft were present on the canals, in the letting of contracts to high bidders, in collusive bids, in contracts by state officials, etc.30 Debts due the state were uncollected, overpayments were made to favored contractors, the contingent fund at the disposal of the acting canal commissioners was loosely used,31 and other corrupt practices were introduced. The public funds were deposited in favored banks; originally introduced to

31In 1840 an act forbade any acting member of the board of public works to have in his hands, unaccounted for, more than a certain amount, varying under different amendments, from $5000 to $20,000; but by an "outrageous construction" of the law it was held that the commissioners must have that amount on hand, which they seem thereafter to have used for their personal advantage. Rep., 1845, p. 10.
facilitate payments at distant points, the system seems to have been abused.\(^{32}\)

So flagrant indeed had the corruption become by 1845 that an act of that year provided for the appointment of commissioners to investigate the financial administration of the canals. The publication of their report\(^{33}\) called forth several acts designed to guard more carefully the use and disbursements of the public funds; among them was an act to punish the embezzlement of public moneys, which was defined as using, loaning, or investing such money with a view to personal gain.\(^{34}\) It was punished very lightly by a fine of from $50 to $500, and the loss of office. Contracts for personal advantage were forbidden, but no penalty prescribed for making them. Evidently the lawmakers did not regard these as very heinous offenses.

Another act of the same year, in itself apparently desirable and advantageous, had disastrous consequences when later dishonest officials took advantage of the opportunities it offered to get control of the public funds. This was designed to secure the funds needed by the commissioners of the sinking fund for the payment of the interest on the public debt, which was due on January 1 of each year. As the state levies were not due from the county treasurers until February, it had been necessary either to maintain a reserve from the previous year or to borrow in anticipation of these taxes. Accordingly this act provided “that, for the purpose of aiding in the payment of interest on the state debt, the several county treasurers of this state shall, on or before the 20th December, annually, transmit or pay over to the state treasurer, a sum not exceeding the amount assessed on the duplicate of such county for state purposes”. Under this law it was the practice of the state treasurers to send out circulars in

\(^{32}\)In 1838 the auditor urged placing “the public funds, the money of the people, in the depository designed for it at the organization of the government, where it may remain protected and secure from the possibility of injury or loss”. *Legisl. Doc.,* 1838-9, I, 17.

\(^{33}\) *Exec. Doc.,* 1845, II, 1-573.

\(^{34}\) Act of March 2, 1846.
October, urging the payment of these taxes in advance of the time of regular settlement, irrespective of the fact whether the sinking fund needed the money or not. As such payments did not come to the official knowledge of the auditor until the time of regular settlement, the treasurers were thus able to get hold of considerable funds and use them without any official check. For instance, during the months of November and December, 1852, payments of money were made to the state treasurer by the county treasurers for over $750,000, of which the auditor had no official information until February.

Another evil practice had grown up, and was publicly known to exist, with but little comment, and without condemnation, and without law effectually to prevent it, which had even worse consequences in its train, because it was so far-reaching. The treasurers of state, and also those of cities, counties, and townships, were depositing money in their official keeping with various banks and bankers, upon which they received interest as a perquisite of their offices, and for which of course they never accounted to the state or other authorities. These depositories in the meantime used the funds thus deposited for their own purposes, and stipulated to afford every facility to the treasurers for concealment. Thus Treasurer Joseph Whitehill, who was in office from 1835 to March, 1847, received interest on his deposits. A. A. Bliss was treasurer of state from 1847 to January 12, 1852, and received interest on deposits of state money at the rate of 4 per cent. per annum from various banks, never accounting to the state for any portion of it. His successor, John G. Breslin, held the office from 1852 to January 14, 1856, and used the state funds freely for private speculation during this period. W. H. Gibson, who followed Breslin and remained in office until

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36 Aud. rep., 1855.
37 An account of these transactions is given in the Report of the Investigating Committee . . . of the Defalcation, etc. Published as separate volume of Exec. Doc., 1858.
June 13, 1857, followed the same methods, even hypothe-
cating cancelled domestic state bonds to raise funds.

It is in vain to deny [wrote the investigating committee of 1858] that public opinion had, for years, permitted and sanctioned this use of public funds by state treasurers and other receivers, for their own benefit and advantage. The law which prohibited this perversion of the public money to the personal uses of the treasurer and his favorites, existed only as a dead letter. Public opinion had failed to demand that it be put in operation and hence the courts and officers of the law made no attempt to enforce it.

As an evidence of this attitude the single fact may be cited that the commissioners of the sinking fund, in each of their semi-annual reports from December, 1852, to January, 1856, called attention to the practice of the state treasurer in loaning public money to the banks. But during this very period the canal fund commissioners were making large loans from the sinking fund to railroads and insurance companies.

These evil practices would probably have been brought to light and stopped if a better system of accountability had existed. No provision was made by law for a full and perfect adjustment of all accounts in the treasurer’s and auditor’s offices. The auditor had no official knowledge of the settlement of one treasurer with another, as the accounts in his office were simply with the “treasurer of state”, nor were the accounts of the treasurer’s office verified until the close of the fiscal year, November 15.

As a necessary consequence of a system that is so inherently defective [wrote the auditor in 1853] the accounts of the treasurer of state are mainly adjusted by himself alone, and on retiring from office, he settles not with the proper auditing officer, but with his successor.

These abuses were a cause of serious and frequent complaint by the people, and were made political issues in the campaign of November, 1851. In 1852 an effort was made to procure the passage of laws to secure frequent personal inspection of the treasury by proper officers.

38 Rep., p. 33.
39 Act of March 2, 1846.
40 Rep., p. 32.
41 Aud. rep., Feb. 12, 1853.
42 Aud. rep., Feb. 12, 1853.
Although the effort was persistent, it failed of success, because it would have been at once a death blow to all further attempts at plunder.\(^4^3\)

An ineffective act was passed the following year,\(^4^4\) providing for the publication of an accurate and detailed statement of the receipts and expenditures of the public revenues. Every officer of the state who was charged with the receipt or disbursement of public money, was required to make a detailed report, which the auditor was to classify and arrange under proper heads, “so as to present in detail an accurate account”. While it was eminently desirable to have this information collected and presented in easily intelligible form, this act failed—probably by design—to go to the root of the evil. Part of the blame must certainly be placed upon the legislature for the bad state of affairs, for they refused or neglected to apply the proper remedies when their attention was called to the evils, as it was repeatedly by the reports of the auditor and other officials, and of examining committees of the legislature itself.

The constitution of 1851 was somewhat more specific than the former constitution on the subject of the disbursement of the public funds and a proper accounting therefor. Specific appropriations were provided for and administrative discretion in the use of funds thereby diminished:

No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years.\(^4^5\)

Another section provided that

an accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as prescribed by law.\(^4^6\)

It also required that the treasurer should be elected for two years, and the auditor for four years.\(^4^7\)

\(^{4^3}\)Rep. of Investigating Com., p. 37.

\(^{4^4}\)Act of March 14, 1853.

\(^{4^5}\)Art. II, sec. 22.

\(^{4^6}\)Art. XIV, sec. 3. The act of March 14, 1853, simply gave legislative sanction to this provision.

\(^{4^7}\)Art. III, sec. 2.
The provisions in the constitution afforded no remedy for existing abuses, and these at last became so glaring that the legislature was forced to take action. They were now confined not only to the improper use of state funds, or the receipt of interest from depositories of such moneys; but graft and corruption were alleged in connection with the construction of several new state institutions that were being erected, and whose cost was running far beyond the original estimates. Within a week three acts were passed directed against the various evils described. One provided for the appointment of three investigating committees to investigate (1) the acts of all public agents who have or had custody or disbursement of public moneys; (2) the acts of the board of public works; (3) all the transactions and expenditures about the new state house, the penitentiary, the three lunatic asylums, the blind, and the deaf and dumb asylums. To meet the expenses of these investigations the sum of $1500 was appropriated. This was designed to get at the facts.

A second act provided for the adequate punishment of wrongdoers, and repealed the ineffective law of March 2, 1846, on this subject. Its announced purpose was to punish the embezzlement and unlawful use of public moneys. Embezzlement was defined as conversion of money to a person's own use or that of a corporation or company in which he was interested, or making way with it, and for this crime the penalty was made the same as for stealing. The loan of public moneys was forbidden, as was also depositing public funds under an agreement to receive interest or bonus; for both of these the penalty was a fine of an equal amount. Still another act prescribed in detail the duties of the auditor and treasurer of state relative to the receipt, safekeeping, and disbursement of public moneys, and accounting therefor. The auditor was made the principal accounting officer of the treasury.

48 Act of April 17, 1856.
49 Act of April 10, 1856.
50 Act of April 8, 1856. 53 O. L. 222.
department. All payments into the treasury must be upon his certificate, to which must be attached a pertinent description of the liability for which payment was made, given by the person making the payment; and no money was to be paid out of the treasury except upon the auditor's warrant. No money, furthermore, could be paid out of the treasury unless it should have been appropriated by law for that purpose.

The auditor was ordered to examine, between September 1 and November 1 of every year, and at such other times as he should deem necessary, the books, accounts, etc., of the treasurer, and to count the money, and to ascertain the balance deposited elsewhere, and the conditions upon which such deposits were made, and whether any consideration by way of interest or otherwise was received or expected by the treasurer. This section of the act was aimed at the corrupt alliances already described between the treasurer and certain banks. Another section (sec. 12) was designed to protect the state against loss from the deposit of public funds in state banks:

No money belonging or due to the state shall be deposited . . . elsewhere than in the treasury office at Columbus, without taking, in every instance, security therefore, either by the pledge of United States or Ohio state stocks . . . or by the bonds of individual residents of the state of undoubted pecuniary responsibility, all which securities . . . shall be deposited in the office of the auditor . . . as collateral security.

As a result of the reports of various investigating committees another act was passed in the following session providing that the auditor, treasurer, secretary of state, commissioners of the sinking fund, attorney general, state librarian, directors of the Ohio penitentiary, the trustees of benevolent institutions, and board of public works should keep accurate and distinct accounts. And that the treasurer's monthly statement should show the funds in the treasury, the names of depositories of public funds, and the amount in each. The governor was also required once in three months to appoint an examiner of the treasury who should make his examination without previous notice.

51 Act of April 16, 1857.
These acts and other legislation of the sessions of 1856 and 1857 attempted to erect effectual guards for the security of the treasury. They made the auditor of state the chief accounting officer of the treasury, and required all payments as well as all disbursements to be made upon his warrant; it directed the commissioners of the sinking fund to withdraw from the treasury, from time to time, the moneys belonging to that fund; it provided for the appointment of depositaries subordinate to the treasury, and required of them ample securities for all moneys deposited with them; and introduced other important checks upon the action of the treasurer.\textsuperscript{52}

\textbf{THE DEFALCATION OF 1857.}

It seemed now as though the door had been effectually closed to further evils, but the harvest from past abuses had not yet been reaped. In June, 1857, when the commissioners of the sinking fund asked for money to remit to New York for the payment of the July interest, the state treasurer, William H. Gibson, admitted the bankruptcy of the treasury. There was only $170.34 in actual cash at the time,\textsuperscript{53} and the treasurer defaulted for $580,313. Upon investigation it was discovered that the shortage in the treasury had its beginning at least a decade before.\textsuperscript{54} Mr. Bliss, the treasurer from 1847 to 1852, owed to the state at the expiration of his term of office $65,000, in addition to other deficits which were paid up by his sureties.\textsuperscript{55} When John G. Breslin became treasurer he took over the office without full official settlement, thus assuming the shortage of his predecessor. During Mr. Breslin's administration the treasury department was run without any system, ac-

\textsuperscript{54}Report of the Investigating Committee appointed to enquire into the causes of the defalcation in the state treasury and other matters named in the act of the General Assembly of the State of Ohio, passed April 12, 1858. Published as a separate volume with the \textit{Executive Documents} (Columbus, Ohio, 1858).
\textsuperscript{55}Rep., p. 13.
counts were balanced only once a year, and various illegal transactions were carried on. On the expiration of his term the books showed a balance due his successor of $855,853, of which he actually paid over $353,865, leaving a deficit in the treasury of $501,988, which his successor should have had but did not. In addition to this defalcation, $204,687 had been deposited with banks which had failed, and this also was lost. Breslin’s successor was Gibson, his own brother-in-law, who was treasurer from 1856 to 1857. When he took over the office, he concealed his predecessor’s deficit, and continued the same policy of speculation and deception. He even abstracted large sums in securities held in trust, upon which the state’s guarantee for the redemption of considerable bank circulation was based, and used them in private speculation. These transactions were made possible by the secrecy with which all the operations of the treasury department were conducted, and by the fact that the treasurers made settlement with each other and not with the auditor. As stated above, the auditor had access to the books of the treasurer only at the end of each fiscal year, and the way in which he was deceived year after year is well illustrated by the events of November, 1856. When the auditor made his annual examination of the treasurer’s office at that time, he found the correct amount of cash balance on hand, which the books showed that the treasurer should have, namely $350,951 in currency, drafts, etc. But it developed later that the treasurer had received collections from county treasurers for taxes in advance of the regular period of settlement, which were consequently not charged against him on the auditor’s books, and that these with

54Rep., pp. 29-86.
56Rep. Comptroller, Nov. 15, 1862. Exec. Doc., 1862, I, 408. Gibson was an easy-going, genial man, who was imposed upon by many with whom he had business dealings. The treasury was undoubtedly bankrupt when he took charge of it, as a result of Breslin’s defalcation, but he concealed this fact by false statements and reprehensible contrivances, after he became cognizant of it, and must bear his full share of the blame.
loans from the banks made up the actual deficit which even then amounted to over $500,000. The auditor later tried to excuse himself for his lack of discernment and to place some of the blame on the legislature, by saying that, since there was a standing Committee of Finance of the general assembly, whose duty it was to audit the books of both treasurer and auditor, his examination was "not as critical and thorough as it would otherwise have been." 59

It remains to notice the share, important and corrupting, which the banks had in these disgraceful proceedings. The power which the treasurer—not of state only but also of the local units of government—had of depositing the public moneys in banks of his own selection, made him an extremely important factor in financial circles and one whose favor it was worth while to court. The sureties on his bond were bank presidents, who lent their endorsements in order to obtain their share of the public deposits. Political and social influences of a highly interesting character were also brought to bear upon the treasurer to influence his choice of depositaries. 60 Although the banks paid the treasurer personally interest at four per cent. on these deposits, they certainly made as much more for themselves, as the legal rate of interest in Ohio at this time was 10 per cent. But having made a guilty bargain with the treasurers for the use of the public deposits, the banks later became participes criminis in conniving with them to conceal their defalcations. In the case both of Breslin and Gibson, that is from 1852 to 1857, they gave them false credits when the auditor and the auditing committee of the legislature made their annual examination of the treasury. The balances thus credited to the treasurer would be counted as cash on hand, when really there was nothing. A careful audit might have revealed this deception earlier, but that was just what was lacking. After the defalcation was discovered a proposition was made to the

general assembly in 1858 by Breslin and Gibson and their sureties, the bank presidents, for a compromise of their respective liabilities to the state. An effort was made to relieve the sureties from civil suit and the principals from criminal prosecution, by an offer to pay the state $250,000. Needless to say, this astounding offer was not accepted.

The story of the trial and subsequent treatment of these men is interesting as showing how easy it is for offenders against the state to escape punishment. Upon the defalcation of Gibson, Breslin fled to Canada and remained there while the criminal suit against him was pending. This suit was dismissed in 1864, as the legislature, by act of March 21, 1863, repealed the statute under which he was being sued, so that the prosecution became unlawful. Assets in nominal value of $400,000 were turned over by the treasury commission from Breslin to the attorney general for collection. They represented various wild speculations, largely in real estate, and were scattered through many states; the treasury commission estimated their real value at about $10,000, but considerably more than that was collected, as the item "assets of John G. Breslin" continued to figure in the receipts of the general revenue fund for some years, in small driblets of $2000 to $5000 a year.

Gibson was tried and convicted in 1857, but the verdict was set aside. The case against him was continued until the November term, 1861, when he organized an Ohio regiment and entered the war with the rank of colonel. During the war he conducted himself with great gallantry, emerging from it with the rank of general; while he was serving in the army recognizance was extended to him and the suits were not pressed. In 1866, as the suit against Breslin had been dismissed, the prosecution against Gibson

"Rep., p. 112.
"See reports of Attorney General, Exec. Doc., 1862, II, 253; 1863, I, 410; 1864, I, 605; 1865, I, 680; 1866, II, 521."
was also discontinued. Nothing seems to have been secured for the state from the latter.63

ESTABLISHMENT OF THE INDEPENDENT TREASURY.

As might be expected the chief work of the legislative session of 1858 was the passage of legislation designed to cure the evils brought to light by the defalcation of the state treasurer. Four general acts were passed with this end in view: "an act to provide for the semi-annual collection of taxes"; "an act to provide for the better regulation of the receipt, disbursement, and safe-keeping of the public revenue"; "an act to define the powers and prescribe the duties of the board of commissioners of the sinking fund"; "an act to establish the independent treasury of the State of Ohio". The last three acts were passed on the same day, April 12. Of these the first was designed to prevent the payment of unnecessarily large sums into the state treasury at one time. It provided that taxes might be paid, one-half by December 20 and one-half by June 20; that the county treasurer must settle with the county auditor by February 15 or August 10, and within ten days the country treasurer must settle with the state officer. If money were needed by the sinking fund to meet the semi-annual interest payments on the public debt on January 1 and July 1, then the comptroller could draw on the county treasurers for the amounts needed. The following year this officer anticipated the revenue in this way to the amount of about $100,000 in December and again in June.64

The second of the four acts mentioned provided for a better system of accountability and introduced some new checks and guards. A new officer was created of comptroller of the treasury, who was a sort of third wheel in the system and whose office was finally abolished in 1876,

63In September, 1865, G. V. Dorsey, the treasurer, was arrested "for breaches of trust and embezzlement". The indictments against him were quashed by a grand jury in 1866. Rep. Atty. Genl., Exec. Doc., 1866, II, 521; Gov. Mess., Exec. Doc., 1865, I, 2.

after it was demonstrated that he was not essential to efficient financial administration. He kept corresponding accounts with those of the auditor and treasurer, and thus acted as a countercheck upon both; he kept a distinct account with each fund; certified into the treasury all revenues; looked after the outstanding claims due the treasury; examined and filed a duplicate of all claims upon which the warrants of the auditor were predicated, and countersigned such warrants; kept an account of the securities deposited by the independent and free banks for the ultimate redemption of their notes, some of which had previously been under the control of the treasurer and others of the auditor, and kept a detailed account of the circulation of each bank.

The auditor was made the chief accounting officer of the treasury department, as he has ever since continued to be. Payments into the treasury were to be accompanied by a description of the liability; the comptroller must give a certificate of payments to the treasurer, and the treasurer must make out a triplicate receipt, two of which went to the comptroller and auditor. Claims for payments out of the treasury were to be examined by the auditor and comptroller, who must be satisfied that such claim was just and legal, and that money had been appropriated for its payment. If these conditions were met then the auditor should issue a warrant on the treasurer for the payment of the claim out of the appropriate fund. The warrant was to be paid by the treasurer, who would take the receipt of the person paid, and cancel the warrant. A semi-annual examination of the books and accounts of all financial officers, of collectors of canal tolls, of registers of the land offices, etc., was provided for, as was also a weekly interchange of the statements of the daily transactions with

65At first he was appointed by the governor, but later the office was made elective.
66This description of his functions is taken from the report of the Comptroller, Exec. Doc., 1858, I, 629. His duties were prescribed in scattered sections of several acts.
each fund between the offices of auditor, comptroller, and treasurer, and the actual counting once a month of all cash in the treasury and the publication of the result. Under this system the powers of the treasurer were reduced to a minimum and he was made simply a responsible clerk. There was much duplication of work and considerable red tape, but while cumbersome the system was certainly safe.

The act establishing the independent treasury system in Ohio contained two different sets of regulations: one had to do with the methods of paying money into and out of the treasury, and the other with the actual custody of the public moneys and the kind of money to be used. Every payment of money into the state treasury must be made on the draft of the comptroller, and all payments out of the treasury must be by the warrant of the auditor on the treasurer, countersigned by the comptroller. Quarterly settlements of the three financial officers with one another, and frequent examinations of the state treasury were provided for. Similar rules were laid down for the counties: no payments into or out of county treasuries were to be permitted except on the draft of the county auditor. In the provisions regulating the custody of the public moneys the animosity to and dread of the banks can be clearly seen. Indeed the banks at that time were often unscrupulous and corrupting corporations, and occupied a role later taken by the railroads and most recently by the industrial combinations and insurance companies. No money was to be deposited in banks, but the rooms of the state treasurer were to constitute the treasury of the state and to be the sole place for the deposit and safekeeping of the money of the state. The county commissioners were also directed to establish county treasuries where public moneys in the hands of local officials must be kept.

Heretofore the public funds had been kept partly in

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67 These provisions simply duplicated those of the other law just described.
the treasury vault itself and partly in selected banks. In response to a legislative inquiry the treasurer of state reported in 1830 that the greater part of the moneys had been kept in the vault of the treasury and in the Franklin Bank of Columbus, in a chest under lock and key, as a special deposit. The residue consisted of general deposits in the banks of Warren, Lancaster, and Columbus. About 1825, however, in order to meet the convenience of the judges in the northwestern part of the state, and of canal contractors, and others, a fund was deposited in the Western Reserve Bank to facilitate payments there, and collectors of tolls, tax collectors, etc., were instructed to make deposits in that bank. As the financial operations of the state expanded greater use was made of banks throughout the state as depositories and as fiscal agents of the government. They performed a useful service by accepting on deposit the multifarious means of payment which came into possession of the treasury department: checks, drafts, bonds, and certificates of deposit on banks and individuals in Ohio and other states, notes on banks in Ohio and other states, some of a doubtful or suspicious character, and small, defaced and mutilated paper. In return for these the treasurer was privileged to draw in any kind of funds. A few years later the auditor reported that the greater portion of the public moneys were deposited in the different banks of the state, which deposits he characterized as "indiscriminate". As soon as the treasurer discovered that such deposits involved a personal profit for himself then they became the all but universal rule.

An attempt was also made by the independent treasury

"Letter of Treasurer, Ho. J., 1830, p. 479. The treasurer adds, "I know of no law in force designating the place or places where the public funds should be kept".

"Such an arrangement was made with the Lancaster Ohio Bank. Ibid., p. 480.


act to effect a gradual transition in the character of the money used by the state, from the prevailing bank notes to specie alone. It was provided that after July 4, 1858, all payments from the state and county treasuries of under $20 must be in specie; after July 4, 1859, under $50; after 1860, $100; after 1861, $200; after 1862, $300; after 1863, $400; after 1864, $500; and after July 4, 1865, all payments must be in specie. A penalty of a fine of from $20 to $500 was prescribed for disobeying these provisions. Before this plan could be more than begun the outbreak of the Civil War, the issuance of United States notes, the suspension of specie payments by the banks, and the general use of paper money rendered it impossible of execution.

Embezzlement was also defined in this comprehensive act, and a penalty of imprisonment of from one to twenty-one years in the penitentiary at hard labor, according to the amount embezzled, together with a fine of double the amount, was prescribed. Here was a noteworthy effort to make the punishment fit the crime.

Two criticisms of the independent treasury law were promptly made by Governor Chase, who was ever a shrewd and effective critic of the financial institutions of the state. While provision was made for the payment of specie by the state and county treasuries, no provision was made for the receipt of specie only. Consequently the county treasurers accepted current funds of whatever description, and then bought exchange with these for remittance to the state treasury. As this encouraged the use of foreign bank notes, it would doubtless have been changed soon by legislation, had not the establishment of the national banking system and the tax upon all state bank notes, rendered further legislation along this line unnecessary. The other criticism was more serious. The county treasurers had been made depositaries or custodians of the moneys in their hands, derived from taxation, from canal tolls, and other sources; but as much of this belonged

to the state the anomaly was presented of county officers acting as custodians for the state government, by whom they were not appointed, to whom they were not responsible, and as to whose bonds the state had no voice.

The system of payments in use on the canals was also made the subject of criticism.\(^{74}\) The superintendent of repairs rendered a quarterly account to the resident engineer, with the names and amounts due laborers, contractors, and other creditors. The resident engineer then certified to the acting commissioner that he had allowed these various sums, and the acting commissioner drew his check on the auditor. But in order to make up his accounts the superintendent got vouchers from contractors and laborers on a promise to pay the amounts due after he got his accounts settled and paid. They often suffered loss, and the state on the other hand was forced to pay high prices because of the credit system and the uncertainty and delay. The lease of the public works in 1861, and the withdrawal of the state from the operation of the canals, put an end to the system and the objections.

The act of April 12, 1858, establishing the independent treasury system had authorized the governor to have special examinations of the treasury made without previous notice. This was done with considerable regularity at odd intervals for some years, and must have exercised a wholesome check upon all administrative officers in the treasury department. Approval of the system was generally expressed in the reports of these special examiners, of which the following is typical:\(^{75}\)

The books in all departments are carefully kept, and the system seems so perfect that errors in any of them are soon detected in the others. The system was complicated and called for much duplication, but certainly safeguarded the financial interests of the state effectively. The following description portrays


the practical working of the laws after an experience of seven years.\footnote{76}

To keep securely, in special vaults and safes in the treasury itself, the public money collected by taxation, and to separate it entirely from commercial use, has been the object sought by the enactment of the so-called "Sub-Treasury Laws". If an extensive system of accounts, multiplied entries, numerous checks and guards, and frequent examinations of the treasury could effect the purpose, it has been accomplished in the details of the several "acts". Each transaction is transcribed and registered at least ten times, and is posted into seven separate sets of books. There is a comparison weekly of the accounts of the auditor and comptroller with those of the treasurer. Every month an examination of the cash assets is had by the auditor. At the close of every three months the auditor and comptroller, after comparing and adjusting their own records of drafts and warrants, are required to make a settlement with the treasurer, and to ascertain the precise condition of the treasury, and to count the cash, etc. And whenever he deems necessary, the governor may appoint a special examination by an accountant, without previous notice to the treasurer. In addition to all this, the general assembly, or either branch, may order an examination of the treasury by a committee, when it is thought expedient. Furthermore, it is made a high crime and misdemeanor, punishable by fine and imprisonment, to convert, use, loan, or deposit with banks or individuals, any portion of the public money.

After this long description, the treasurer added, "while much complaint has been made of the law, of its being impracticable, and difficult to be strictly observed and adhered to, a careful study of its provisions leads me to the opinion that very little modification is necessary in them." A decade later, however, that third wheel in the system, the office of comptroller of the treasury, was abolished.\footnote{77} It had served its purpose and had acted as a salutary check upon the other officers during a period of distrust and reorganization, but had now outlived its usefulness.

The treasury department and the board of public works had been reformed with such thoroughness that no further irregularities developed in those places. But the fever sores of corruption had not been completely eradi-

\footnotetext[76]{Rep. of Treas., Exec. Doc., 1865, II, 41.}
\footnotetext[77]{73 O. L., p. 79. See also Aud. rep., Exec. Doc., 1876, I, 7.}
icated and broke out once more in connection with the institutions of the state. There was looseness and irregularity in connection with purchases of supplies and expenditure of public funds, against which an act of March 9, 1882, was directed; this provided for monthly statements to the auditor from the superintendents and trustees of all the benevolent and reformatory institutions of the state. Another act of the same session—to prevent errors and irregularities in the several state departments—provided that all state officers, heads of departments, commissioners, and other officials should make monthly statements to the auditor of state of the checks and requisitions made by them, on blanks to be furnished by the auditor. The latter was directed to compare such statements and file them. In this way a more careful control and audit of accounts of the state institutions was made possible.

THE PRESENT ORGANIZATION AND ADMINISTRATION OF THE TREASURY DEPARTMENT.

After the abolition of the office of comptroller in 1876 the auditor became by law the chief accounting officer of the state. His financial duties are defined as follows: He shall keep in his office full and accurate accounts of all moneys, bonds, stocks, securities and other property and effects paid into or deposited in the state treasury, and manage and direct all negotiations and correspondence concerning the same. He is compelled to keep accurate account of all appropriations made by law, and of moneys drawn to meet the same; in this respect his duties are those of the federal Register of the treasury. No money may be drawn from the treasury except upon his warrant. Every state officer, board, or department which receives money belonging to the state is required to make weekly payments to the state treasurer, and to file a verified statement of such receipts with the state auditor. The auditor and treasurer must compare statements and balance accounts weekly, publish a joint monthly statement, and make quarterly reports to the gov-

79 O. L. 32.
80 Act of April 7, 1882. 79 O. L. 77.
In December of each year the treasurer must publish in two Columbus papers a tabulated statement of receipts and expenditures for the preceding year. Money coming into the treasurer's hands is not permitted to lie idle, but must be deposited, since 1894, with certain banks and trust companies called state depositories and designated after competitive bidding by a board of deposit.

The auditor must keep a strict account of all moneys and securities. The auditor's books should at all times show the exact financial status of the treasury. The control of the state's finances has been virtually concentrated in the auditor's office, and the treasurer's position has been reduced to that of custodian of the public funds. The latter official has practically ceased to make an annual report, his brief statement simply repeating the totals of the exhaustive report required by law of the auditor. Upon the treasurer, however, some other duties of a non-financial character have been laid; thus in 1872 he was given the task of making an annual statistical report, hitherto made by the state statistician; this is done in a most perfunctory manner. He is also the head of the state board of elections, and one of his chief duties is the compilation of statistics and election returns.

The auditor stood at the head of the taxing system of the state until the establishment of the permanent tax commission in 1910. Abstracts of the assessment rolls were always returned to him. Settlements must be made with him in February and August of each year. He has also the power to examine the county treasuries upon request made by the county commissioners or county auditor. The comptroller of the treasury had formerly had the power of appointing accountants to examine the county treasuries at his pleasure, but rarely used it. A long step forward in the direction of centralized control in financial matters was taken with the passage of the act for uniform accounting in 1902. This act created a bureau of inspec-

95 O. L., p. 511.
tion and supervision of public offices, at the head of which stands, *ex officio*, the auditor of state. He is directed to formulate, prescribe and install a system of accounting and reporting that shall be uniform for every public office and every public account of the same class.

Every taxing body, public institution, and public service industry must report annually to the auditor. The law practically centralizes the control of local finances in the hands of the state auditor and gives him firm control.81

The powers of the state auditor are, however, by no means limited to statutory grants. As financial head of the state administration he meets with the House and Senate committees on Finance and on Taxation, and practically frames the budget. The most permanent82 and powerful official in the capitol, his advice is both sought and heeded by a shifting and uninformed body of legislators, and he is able to direct as well as to restrain. Practically all important financial legislation is formulated in his office.83 He has evolved into a powerful administrator of the state's finances, as well a supervisor of local finances. He is without doubt the most important financial officer in the state.

II. BUDGETARY LEGISLATION AND PRACTICE.

THE CONSTITUTION OF 1802.

The constitution of 1802 sketched in outline only the form of government and left to the legislature the task of filling in the gaps; and perhaps in no respect were the gaps greater than in the case of financial provisions. In the six following paragraphs are stated all the commands


82The present auditor has held the office since 1909. His immediate predecessors held office respectively thirteen and eight years.

83This statement needs modification in view of the great influence exerted by the Ohio Chamber of Commerce, under the energetic leadership of Mr. A. R. Foote.
or restrictions contained in this instrument in any way related to the subject of finance:

Article I, sec. 16. Bills may originate in either House, but may be altered, amended, or rejected by the other.

Sec. 17. Every bill shall be read on three different days in each House, unless, in case of urgency, three-fourths of the House where such bill is so depending shall deem it expedient to dispense with this rule; and every bill having passed both Houses, shall be signed by the Speakers of their respective Houses.

Sec. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

Sec. 22. An accurate statement of the receipts and expenditures of the public money shall be attached to, and published with the laws, annually.

Article VIII, sec. 23. The levying of taxes, by the poll, is grievous and oppressive; therefore, the legislature shall never levy a poll tax for county or state purposes.

Practically the only safeguard prescribed against an improper application of the public funds was the provisions contained in sections 21 and 22 of Article I. The power to impose taxes or to raise revenue was not expressly given to the legislature by the constitution, but was exercised as a power necessarily implied. Neither of these legislative functions, of appropriation or of taxation, was very jealously guarded by the legislature during the early history of the state, but were delegated to executive officers or were exercised by them without express grant of authority. The early laws and especially the tax law of 1825 made the auditor of state a very important and powerful functionary. When there was not enough money left out of the revenues of the canals and public works after improvements had been paid for, the auditor had the power to levy upon the citizens to secure money for the payment of the interest upon the public debt.

In conjunction with the state treasurer and one acting commissioner of the canal board, he could make grants of large sums which were annually expended for the repairs of the public works. On a limited scale Ohio had a complete system of income and expenditure without the agency

"Chase's Statutes, I, 33."
of the legislature. The provision that “no money shall be
drawn from the treasury but in consequence of appropri-
tations made by law” was for years a practical nullity.85
The withdrawal from the treasury of any amount of money
that might be claimed as needed for the repair of the public
works, or the payment of interest on the public debt, was
held to be authorized by the provisions of a law that re-
mained unrepealed on the statute books. The system was
later characterized by the judiciary committee as follows:
Our enormous expenditures are authorized in conclave by a handful of
men without actual or effective practical responsibility. The deliberations
of the Venetian Council of Ten were known by their effects; the delibera-
tions of our council of ten are known by nothing else.86
Dissatisfaction with the system of taxation, as also
the way in which money was appropriated, led finally to a
demand for a change. It was evident that a solid founda-
tion of constitutional law was needed upon which to build
an effective system of taxation and control of expenditures.
This solid foundation was not to be secured out of the
fragments of the first constitution, which dealt so lightly
with finance and taxation. New material and more defi-
nite provisions were needed, which could be obtained only
by framing a new constitution.

THE CONSTITUTION OF 1851.

The constitution of 1851 contained careful and specific
provisions on the subjects both of appropriations and of
taxation. The purpose of the former was to bring the
expenditures of public money more thoroughly under the
restraints of law, and less subject to the control of in-
dividual officers. For the passage of bills, budgetary as
well as others, the same legislative procedure was pre-
scribed as had been provided for in the constitution of
1802.87 The further provision was added, however, that

85 Aud. rep., Feb. 12, 1853.
86 Report of Judiciary Committee on Senate Bill 24, Feb. 12, 1849.
87 See p. 175.
no bill should contain more than one subject, which should be clearly expressed in the title.\textsuperscript{88} The appropriation and disbursement of money was more carefully guarded in the following section: "No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a longer period than two years".\textsuperscript{89} All discretion was thereby taken away from administrative officers as to the application of public funds; each general assembly was made the judge of its own needs, and could not bind its successors.

On the other hand, the determination of the rate of taxation, and the raising of the necessary revenue, was placed definitely under the control of the legislature in the sections dealing with taxation and finance. After prohibiting the levying of poll taxes, and providing for the uniform taxation of all property,\textsuperscript{90} real and personal, corporate and individual, the following sections appeared:\textsuperscript{91}

The general assembly shall provide for raising revenue, sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay the interest on the state debt.

No tax shall be levied, except in pursuance of law; and every law imposing a tax shall state, distinctly, the object of the same, to which only, it shall be applied.

The state shall never contract any debt for purposes of internal improvement.

In every one of these clauses can be seen the fruit of past experiences. Deficit financing was to be avoided if possible, as was the practice of borrowing to pay the interest on the public debt. Any further debt for the construction or improvement of the canals was forbidden, thus making impossible, without a constitutional amendment, any comprehensive scheme of enlargement such as that adopted in New York for the Erie canal. The clause of section 5, providing for the application of every tax to a

\textsuperscript{88}Art. II, sec. 16.
\textsuperscript{89}Art. II, sec. 22.
\textsuperscript{90}See Chap. IV, The General Property Tax.
\textsuperscript{91}Art. XIII, sec. 4-6.
specific object, was unfortunate in so far as it led to the segregation of different sources of income, or the proceeds from certain taxes in separate "funds". The device of having a separate fund for almost every item of expenditure led to a confusing multiplication of such funds, which had no practical significance, were mere bookkeeping abstractions, and served only to complicate the accounts of the treasury department. There was a steady tendency to merge them all in the general revenue fund, and today there exist, outside of this, only the school fund and sinking fund.

PRESENT BUDGETARY PRACTICE.

The budgetary practice of Ohio does not differ materially from that of other states.92 Certain restrictions are placed in the constitution upon the power of the general assembly to levy taxes. Thus, they are forbidden to levy a poll tax, and they are forbidden to classify different objects of taxation, but must tax all property by a uniform rule.93 In the matter of appropriations, too, they are restrained by the usual provisions as to the reading of bills on three separate days, etc.; no money may be drawn from the treasury except in pursuance of a specific appropriation, made by law; and no appropriation may be made for a longer period than two years. No money may be appropriated for any claim the subject matter of which is not provided for by existing laws, unless it is approved of by two-thirds of the members elected to each branch of the legislature.94

The general assembly meets in biennial session in January of each even numbered year. No limit, such as exists in fully half of the states in the Union, is placed upon the length of their session, and extraordinary sessions are frequently called in the intervening years. The fiscal year,

93Art. XII, sec. 1, 2.
94Art. II, sec. 16, 22, 29.
on the other hand, begins on November 16, but any inconvenience that might arise from having the legislature convene almost two months later than the beginning of the fiscal years is averted by making the appropriations so that the appropriation period takes in three-fourths of one fiscal year and one-fourth of the next. The general assembly has five or six weeks therefore in which to deliberate before it becomes necessary to provide new appropriations. As a matter of fact, however, two regular deficiency bills are generally introduced at the beginning of each session, one providing for "authorized deficiencies", and the other for "unauthorized deficiencies". Aside from these practically all appropriations are provided for by a general appropriation bill. The committee which has this in charge usually meets in the office of the auditor of state, whose advice carries great weight. Appropriations are usually limited by the revenues that may be expected under the existing tax rates. Money bills may originate in either branch, but usually originate in the House.

The various stages of debate and vote in the passage of financial legislation is not subject to any very different procedure from that accorded ordinary bills. There are standing committees on Finance in both Senate (11 members) and House (13 members); one on Taxation in the Senate (11 members), and one on Taxation and Revenues in the House (13 members). There is no committee of audit in either branch. The rules of the Senate provide that the yeas and nays shall be called upon the adoption of all resolutions providing for the expenditure of money, and a majority vote of all the Senators elected shall be necessary to the adoption of such a resolution.⁹⁵ Both Senate and House rules provide that a separate vote may be taken on any item in an appropriation bill, upon the demand of five Senators or ten Representatives; such item to be stricken from the bill unless receiving a majority of all the

members elected, and the yeas and nays to be recorded on such vote. The House stands alone in requiring the reference of every bill carrying an appropriation to the finance committee before its third reading.

A peculiar feature of the Ohio constitution had been the fact that the governor did not possess the veto power, but this was given him by an amendment adopted in November, 1903. He now has the power to veto any bill or any separate section or item of appropriation, but the general assembly may pass it over his veto by a two-thirds vote. His signature is necessary to every bill which he approves, before it can become a law; but if he does not sign or veto a bill within ten days, it shall be law in like manner as if signed. He is allowed ten days in which to make up his mind in Ohio, though most of the states do not allow so long a time.

Money which has been appropriated must be expended within two years, or it reverts to the treasury. To supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for, the state may contract debts to the amount of $750,000. In case of a deficiency which occurs when the legislature is not in session, an emergency board consisting of the governor, auditor, attorney-general, and the chairmen of the House and Senate finance committees may authorize deficiencies, which are subsequently met by the bill for “authorized deficiencies”.

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96 Senate rules, 78; House rules, 87.
97 Constitution of Ohio, Art. II, sec. 16.
98 Art. II, sec. 22.
PART II. THE HISTORY OF TAXATION IN OHIO

CHAPTER IV.

THE GENERAL PROPERTY TAX.

I. THE LAND TAX, 1803-1825.

From 1803 to 1825 the state of Ohio derived the main portion of its revenues from the tax on land. Not until 1825 was the general property tax introduced. The first law in relation to taxation which was passed by the legislature after Ohio became a State, was enacted April 16, 1803. This was entitled "an act to revive and continue in force, several acts levying taxes, and for other purposes." Under the earlier acts thus referred to land was divided into three classes, "according to their quality....taking into view the surface of the earth as well as the quality of the soil." As a guide for the listing of land under these three heads, the act continued: "when the greater part of a tract shall be superior in quality to the second rate, it shall be denominated first rate; when a greater part of a tract shall be inferior to the first rate and superior to the third rate it shall be denominated second rate; and when a greater part of a tract shall be inferior to second rate it shall be denominated third rate". The rate of taxation on the first rate land was about 50 per cent more than that on second rate, and this in turn was about 50 per cent higher than that on third rate land. This method of dividing the lands into three classes for purposes of taxation continued

1 Act of May 1, 1798. For a fuller description of these acts, see chapter on Territorial Finance, p. 11.
unchanged until 1825. The following table gives the rates of taxation from 1799 to 1825:

**Rates of Taxation for 100 Acres.**

<table>
<thead>
<tr>
<th>Years</th>
<th>1st Rate</th>
<th>2nd Rate</th>
<th>3rd Rate</th>
<th>Penalty for not returning property for taxation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1799</td>
<td>.30</td>
<td>.20</td>
<td>.10</td>
<td>No penalty.</td>
</tr>
<tr>
<td>1800</td>
<td>.85</td>
<td>.60</td>
<td>.25</td>
<td>10 per cent.</td>
</tr>
<tr>
<td>1801</td>
<td>.55</td>
<td>.35</td>
<td>.17</td>
<td>50 per cent.</td>
</tr>
<tr>
<td>1802</td>
<td>.60</td>
<td>.40</td>
<td>.20</td>
<td>50 per cent.</td>
</tr>
<tr>
<td>1803</td>
<td>.60</td>
<td>.40</td>
<td>.20</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>1804</td>
<td>.70</td>
<td>.50</td>
<td>.26</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>1805</td>
<td>.90</td>
<td>.65</td>
<td>.40</td>
<td></td>
</tr>
<tr>
<td>1806</td>
<td>.90</td>
<td>.65</td>
<td>.40</td>
<td></td>
</tr>
<tr>
<td>1807</td>
<td>.90</td>
<td>.65</td>
<td>.40</td>
<td></td>
</tr>
<tr>
<td>1808</td>
<td>1.00</td>
<td>.75</td>
<td>.50</td>
<td></td>
</tr>
<tr>
<td>1809</td>
<td>1.00</td>
<td>.75</td>
<td>.50</td>
<td></td>
</tr>
<tr>
<td>1810</td>
<td>1.25</td>
<td>1.00</td>
<td>.65</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1811</td>
<td>1.25</td>
<td>1.00</td>
<td>.65</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1812</td>
<td>1.25</td>
<td>1.00</td>
<td>.65</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1813</td>
<td>1.25</td>
<td>1.00</td>
<td>.65</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1814</td>
<td>2.00</td>
<td>1.50</td>
<td>1.00</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1815</td>
<td>3.60</td>
<td>2.68</td>
<td>1.78</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1816</td>
<td>3.00</td>
<td>2.25</td>
<td>1.50</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1817</td>
<td>3.00</td>
<td>2.25</td>
<td>1.50</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1818</td>
<td>2.00</td>
<td>1.50</td>
<td>1.00</td>
<td>100 per cent.</td>
</tr>
<tr>
<td>1819</td>
<td>1.50</td>
<td>1.00</td>
<td>.50</td>
<td>50 per cent.</td>
</tr>
<tr>
<td>1820</td>
<td>1.50</td>
<td>1.00</td>
<td>.50</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>1821</td>
<td>1.00</td>
<td>.75</td>
<td>.50</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>1822</td>
<td>1.50</td>
<td>1.12½</td>
<td>.75</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>1823</td>
<td>1.50</td>
<td>1.12½</td>
<td>.75</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>1824</td>
<td>1.25</td>
<td>1.87½</td>
<td>.56</td>
<td>25 per cent.</td>
</tr>
<tr>
<td>1825</td>
<td>1.50</td>
<td>1.12½</td>
<td>.75</td>
<td>25 per cent.</td>
</tr>
</tbody>
</table>

By another early law⁴ the owners were required to give

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²Table taken from auditor’s report in *Ho. J.,* 1825, p. 22, for years 1800-1818. The rest of the auditor’s table is incorrect, and the rates are taken from the laws.

³The *Ho. J.* for 1814, p. 147, gives the rates for 1813 as follows: First rate, $1.87½; second rate, $1.50; third rate, .97½.

a list of their lands, on oath, to the county commissioners; those refusing were fined $30 and their taxes were doubled. Any person giving evidence of a violation of this law was to receive one-half of the fine. The taxes were collected by the sheriff, or other collector, who received 6 per cent of all he collected by way of compensation. Lists of lands belonging to non-residents were kept by the county auditor and clerk of the peace.

It is clear that under this system of individual listing of land for taxation there was a strong temptation to omit lands altogether from the list or to place the land in a lower class, for which the tax-rate was smaller. The basis of classification adopted by the listers and county commissioners was also unfair in many cases. Bottom lands, along the streams and rich prairie, were first rate and paid the highest tax. These lands might be worth very little from many circumstances, such as their liability to be overflowed by freshets, and might be distant from any town, so that even third rate lands might be far more valuable than the first rate lands. For mere cultivation, the second rate lands, lying generally on what was denominated second bottoms, were better adapted to produce grain than those of the first class. The result of this system was a steady transference of land from the higher to the lower classes, practically all of the new entries being listed as second or third rate. This tendency is clearly shown in the following table:

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*The compensation of the sheriff was raised to 7% by act of Jan. 23, 1802.

*Atwater, History of Ohio.

*This table is compiled from the auditor's annual reports. The table now reprinted each year in the auditor's report is not complete, and not altogether accurate.
### AMOUNT OF LAND IN DIFFERENT CLASSES, AND AMOUNT OF TAXES THEREON, 1802-1825.

<table>
<thead>
<tr>
<th>Years</th>
<th>First Quality of Land</th>
<th>Second Quality of Land</th>
<th>Third Quality of Land</th>
<th>Total Number of Acres</th>
<th>Total Taxes</th>
<th>Share of State</th>
</tr>
</thead>
<tbody>
<tr>
<td>1803</td>
<td>101,709</td>
<td>2,326,226</td>
<td>3,641,694</td>
<td>6,069,629</td>
<td>22,321</td>
<td>¾</td>
</tr>
<tr>
<td>1804</td>
<td>number of acres in different</td>
<td>rates not disting uished.</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
</tr>
<tr>
<td>1805</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
</tr>
<tr>
<td>1806</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
</tr>
<tr>
<td>1807</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
<td>“”</td>
</tr>
<tr>
<td>1808</td>
<td>147,093</td>
<td>5,080,133</td>
<td>5,241,804</td>
<td>10,479,029</td>
<td>67,501</td>
<td>¾</td>
</tr>
<tr>
<td>1809</td>
<td>141,865</td>
<td>3,971,825</td>
<td>5,810,403</td>
<td>9,994,003</td>
<td>63,991</td>
<td>¾</td>
</tr>
<tr>
<td>1810</td>
<td>120,741</td>
<td>4,177,950</td>
<td>5,625,408</td>
<td>9,933,099</td>
<td>85,904</td>
<td>¾</td>
</tr>
<tr>
<td>1811</td>
<td>234,333</td>
<td>6,456,113</td>
<td>5,444,329</td>
<td>12,934,777</td>
<td>150,897</td>
<td>¾</td>
</tr>
<tr>
<td>1812</td>
<td>185,775</td>
<td>5,585,367</td>
<td>5,995,860</td>
<td>11,171,002</td>
<td>155,637</td>
<td>¾</td>
</tr>
<tr>
<td>1813</td>
<td>179,666</td>
<td>4,858,750</td>
<td>5,895,007</td>
<td>10,934,423</td>
<td>108,761</td>
<td>¾</td>
</tr>
<tr>
<td>1814</td>
<td>182,370</td>
<td>4,019,968*</td>
<td>5,995,540</td>
<td>11,005,508</td>
<td>165,197*</td>
<td>¾</td>
</tr>
<tr>
<td>1815</td>
<td>174,819</td>
<td>4,856,997</td>
<td>6,058,398</td>
<td>11,060,214</td>
<td>259,486*</td>
<td>¾</td>
</tr>
<tr>
<td>1816</td>
<td>173,741</td>
<td>4,366,846</td>
<td>6,098,517</td>
<td>10,769,914</td>
<td>220,898*</td>
<td>¾</td>
</tr>
<tr>
<td>1817</td>
<td>165,492</td>
<td>5,027,300</td>
<td>6,138,738</td>
<td>11,331,620</td>
<td>231,812*</td>
<td>¾</td>
</tr>
<tr>
<td>1818</td>
<td>205,344</td>
<td>5,174,726</td>
<td>6,334,404*</td>
<td>11,714,468</td>
<td>169,185*</td>
<td>¾</td>
</tr>
<tr>
<td>1819</td>
<td>126,138</td>
<td>5,251,270</td>
<td>7,261,632</td>
<td>12,639,040</td>
<td>179,476*</td>
<td>¾</td>
</tr>
<tr>
<td>1820</td>
<td>255,082</td>
<td>7,304,633</td>
<td>5,759,323</td>
<td>13,319,043</td>
<td>205,347*</td>
<td>¾</td>
</tr>
<tr>
<td>1821</td>
<td>241,914</td>
<td>7,334,074</td>
<td>6,402,336</td>
<td>14,380,224</td>
<td>171,649*</td>
<td>¾</td>
</tr>
<tr>
<td>1822</td>
<td>226,684</td>
<td>6,870,021</td>
<td>6,585,449</td>
<td>13,682,454</td>
<td>188,648*</td>
<td>¾</td>
</tr>
<tr>
<td>1823</td>
<td>234,000</td>
<td>6,859,439</td>
<td>7,016,312</td>
<td>14,110,381</td>
<td>194,240*</td>
<td>¾</td>
</tr>
<tr>
<td>1824</td>
<td>222,852</td>
<td>6,822,230</td>
<td>7,675,506</td>
<td>14,720,468</td>
<td>170,761*</td>
<td>¾</td>
</tr>
<tr>
<td>1825</td>
<td>178,998</td>
<td>5,672,277</td>
<td>7,173,798</td>
<td>13,025,073</td>
<td>200,405*</td>
<td>?</td>
</tr>
</tbody>
</table>

That these provisions were not satisfactory is evident from the following quotation from the governor's message in December, 1803:¹⁰

¹⁰ The *Ho. J.*, 1815, p. 24, gives second rate land as 4,713,841 and the tax as $159,116.

²There was a mistake in the original item, the result of an error in addition.

The laws levying a tax on land should be revised: lands of resident proprietors should be listed anew, and a list of all lands acquired by individuals but not entered for taxation, should be secured. Also a more expeditious and certain way of obliging delinquent collectors to account for and pay into the treasury, their balances, should be devised.

During this session of the legislature the first positive act on state taxation was passed, providing that "all lands, the property of individuals, within this state, shall be chargeable for the state expenses". Listers were appointed in each township who were to require owners to list their lands by April 15; if they refused, double taxes were to be imposed. In accordance with the compact made between the federal government and Ohio, when she entered the Union, lands purchased from the United States after June 30, 1802, were to be exempt for five years. Owners of land in the Virginia military district were taxed separately, and had their own collectors and tax machinery.

This act did not meet the real difficulties, and as the old laws were left unrepealed, considerable confusion resulted. The act levying a State tax, passed at the last session, taken into view with those heretofore enacted on that subject...present difficulties to those concerned in the collection of the revenue, in ascertaining the duties expected of them.13

But even more difficult than the administrative questions was the problem of taxing the lands of non-residents. All lands of non-resident proprietors (other than those in the Virginia military district) were listed for taxation in the counties where they were situated, and the tax collected by the sheriffs in those counties. But with the settlement of the state and the consequent division of old and erection of new counties, this imposed a heavy burden upon non-residents, many of whom had land in different counties, and in many cases necessitated the employment of separate agents in every county where their lands were situated. As a remedy for this evil the governor suggested the establishment of collection districts throughout the state similar to the Virginia military district, with a collector.

12Feb. 18, 1804.
in each, to whom taxes should be paid, or else the payment of their taxes by the non-resident proprietors to the state treasurer, irrespective of the location of their lands.

In response to this suggestion the legislature provided\(^{14}\) for the division of the state into six large collection districts for the taxation of the lands of non-residents, and for the appointment of a collector in each. The holdings of lands by non-residents were very large, about double those of residents, and they paid about two-thirds of the taxes into the state treasury. The methods of ascertaining and assessing the lands were still very crude, however, and the amount returned for taxation steadily decreased;\(^{15}\) whatever increase there was took place in the third rate land. This was temporarily arrested by the passage of a more careful law in 1810, but the decline of the lands of non-resident proprietors continued again after this, partly no doubt as the result of their sale to resident proprietors. These facts are clearly shown in the following table:

**NUMBER ACRES OF LAND TAXED IN OHIO.**\(^{16}\)

<table>
<thead>
<tr>
<th>Years</th>
<th>1st Rate</th>
<th>2nd Rate</th>
<th>3rd Rate</th>
<th>Total</th>
<th>Total Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non-resident</td>
<td>Resident</td>
<td>Non-resident</td>
<td>Resident</td>
<td>Non-resident</td>
</tr>
<tr>
<td>1808</td>
<td>34,322</td>
<td>112,770</td>
<td>3,360,754</td>
<td>1,719,379</td>
<td>3,932,714</td>
</tr>
<tr>
<td>1809</td>
<td>30,392</td>
<td>111,413</td>
<td>2,134,978</td>
<td>1,827,847</td>
<td>4,180,831</td>
</tr>
<tr>
<td>1810</td>
<td>28,773</td>
<td>100,968</td>
<td>2,248,350</td>
<td>1,929,600</td>
<td>4,086,663</td>
</tr>
<tr>
<td>1811</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1812</td>
<td>20,179</td>
<td>165,596</td>
<td>2,994,363</td>
<td>2,591,004</td>
<td>3,608,477</td>
</tr>
<tr>
<td>1813</td>
<td>18,356</td>
<td>161,310</td>
<td>2,070,096</td>
<td>2,788,654</td>
<td>3,576,707</td>
</tr>
<tr>
<td>1814</td>
<td>17,718</td>
<td>162,652</td>
<td>1,758,489</td>
<td>2,955,352</td>
<td>3,583,245</td>
</tr>
<tr>
<td>1815</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1816</td>
<td>18,948</td>
<td>154,792</td>
<td>1,543,576</td>
<td>2,823,269</td>
<td>3,462,512</td>
</tr>
<tr>
<td>1817</td>
<td>11,403</td>
<td>154,089</td>
<td>1,536,966</td>
<td>3,400,394</td>
<td>3,261,143</td>
</tr>
<tr>
<td>1818</td>
<td>9,560</td>
<td>195,784</td>
<td>1,377,826</td>
<td>3,796,900</td>
<td>3,168,788</td>
</tr>
<tr>
<td>1819</td>
<td>9,751</td>
<td>116,387</td>
<td>1,310,655</td>
<td>3,940,615</td>
<td>3,022,081</td>
</tr>
</tbody>
</table>

\(^{14}\)Act of Jan. 27, 1806.

\(^{15}\)Between 1808 and 1809 there was a decrease of 554,996 acres, in spite of a large number of new entries. Aud. Rep., Ho. J., 1810, p. 15.

\(^{16}\)The returns were not given separately for residents and non-residents before 1808, nor after 1819, nor for the year 1815.
Residents were required, as formerly, to enter their lands with the listers of the townships in which they resided, but the inadequacy of this provision soon became evident. As there was no penalty for neglecting this duty a great deal of land was not returned for taxation. It was often discovered, when some new resident or purchaser gave in his land, that tracts had not been charged with the tax for years back, but no way was open to the auditor to ascertain these facts or to recover the back taxes. While the evasion of taxes by placing the land in a lower class was not as marked in the case of resident as of non-resident proprietors, still the third rate land always showed the largest increases. In the years 1809 to 1810 there was practically no increase in the amount of land owned by residents. As a remedy for these evils the auditor suggested the making of one general and effectual list...both as it respects the quantity and quality, and render such list permanent; subject, however, to such transfers as any proprietor may legally cause to be made, in case of sales, or otherwise.

To meet these criticisms the long and important act of 1810, "levying a tax on land", was passed. A lister was appointed in each county, who was to require of each resident listing his lands for taxation an oath that the list he presented was correct. If the resident refused to make out a list, then the lister was to enter the lands as first rate and charge them with a double tax. All lands were to remain each year upon the list at the same rate until sufficient proof was produced that it should belong to a superior or inferior class, when it would be changed and put in its proper place.

The county commissioners were required to make two alphabetical lists of resident lands; to appoint one collector for each county, who should collect the taxes after

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\^Act of Feb. 19, 1810. Chase's Stat., ch. 244.
\^The oath, as a remedy for defective legislation, is to be found in Ohio tax laws from this date down to the present time.
August 1. If the tax should not be paid by November 1, he was empowered to sell the personal property of the delinquent at public auction. For non-residents, the state was divided into six districts, and one collector was appointed in each, who was to advertise the manner of collection, the time of payment, etc. The state auditor was to make out the list of non-resident lands. If the tax were not paid by December 1, a penalty of 100 per cent was to be added. Non-residents were required to relist all lands within one year, under oath; if this were refused, then the auditor was to enter them as second rate. The old laws were repealed and codified in 1816, when this act of 1810 was virtually re-enacted at greater length, but no important changes were introduced. It was provided that when land was found not taxed it was to be charged as second rate, and back taxes with penalty were to be imposed.

In 1810 what may be considered as the first general valuation of real estate in Ohio was made. A list of all the lands of resident proprietors was taken, setting forth the owner's name, the original proprietor's name, the quantity of acres then listed, and the rate of each tract, as also the quantity of acres contained in the original tract, the number of entry (having allusion to lands in the Virginia military district), or grant (lands within the French grant), or range, township, section or lot (having reference to the lands purchased from the United States, the lands in the Connecticut reserve, in Symmes' purchase, the Ohio company's purchase, that tract called the donation lands, the United States military district, and the Refugee tract). The list was very poorly made, wrong numbers inserted in describing the tract, and so many errors introduced that it led to great confusion, and to omission of some lands from the lists and of double taxation of others in subsequent years.

The additional burdens necessitated by the war of

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1812 caused a considerable increase in the amount of taxation. In 1813, 1814, and 1816 the federal government laid a direct tax on the states, and gave them the option of assuming the tax so laid as a state obligation or having it assessed and collected by federal officers. Ohio in each instance assumed the tax and paid it promptly. The quota apportioned to Ohio by the direct tax of 1813 was $104,150; this was subject to a deduction of 15 per cent if paid by February 10, 1814, or 10 per cent if paid by May 10. By the eighth section of the act levying this tax the states of Ohio and Louisiana were authorized to tax the lands purchased of the United States, in spite of the previous compact with these states that such lands were not to be taxed until five years after their purchase. In order to take advantage of the discount offered for prompt payment of the tax, a temporary loan of $55,000 was made, which was paid the following year out of increased taxation.

The House Committee on Finance estimated that an increase of 50 per cent on the present rates of tax for land heretofore subject to taxation, with the existing rates of tax applied to land newly subjected to taxation, would probably yield $110,545 for the year 1814; as the current expenses of the state government were estimated at only $37,500, this would leave a surplus after paying off the loan of $55,000. The same committee disapproved any change in the system of taxation in the direction of taxing personal property or banking corporations. The rate of taxation was raised about 50 per cent, being increased from $1.25 per 100 acres in 1813 to $2.00 in 1814 for first rate land.

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22 Act of Congress, Aug. 2, 1813. Ohio paid her quota before the first mentioned date, thereby reducing it to $88,528.
24 Under act of Congress of Aug. 2, 1813, as cited above. The legislature, however, did not take advantage of the permission thus given, as it was felt it would involve a breach of contract with the purchasers of these lands.
25 Ibid., p. 179.
26 See table on p. 182. The rates on other grades of land were changed proportionately.
In 1814 the state again met the second direct tax by means of a temporary loan of $104,000 and a further increase in the rates of taxation, from $2.00 to $3.60 for first rate land. In 1816 a third loan of $32,000 was raised, but this time it was found possible to reduce the tax-rate slightly to $3.00 on first rate land, as the taxes were now so lucrative. The amounts raised by taxation during the five-year period from 1814 to 1818 were as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Resident</th>
<th>Non-resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>1814</td>
<td>$80,390</td>
<td>$78,726</td>
</tr>
<tr>
<td>1815</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1816</td>
<td>122,875</td>
<td>107,023</td>
</tr>
<tr>
<td>1817</td>
<td>130,999</td>
<td>109,812</td>
</tr>
<tr>
<td>1818</td>
<td>95,281</td>
<td>73,903</td>
</tr>
</tbody>
</table>

Attention had now been directed to the tax system and as its defects became more apparent a movement for a change began. On January 11, 1815, the Senate passed a resolution asking the state auditor to report as to "the difficulties and embarrassments that exist in the present system of taxation" and to suggest "a more perfect system, in whole or in part." The auditor could find no defect in the law, though he admitted that errors did occur in the listing of the land of resident proprietors for taxation, which he attributed to the negligence of the listers or of the proprietors themselves; in the case of non-residents he thought the system would be improved by permitting non-residents to pay their taxes directly into the state treasury.28

A more serious study was made of the situation a few years later by the standing committee of Finance in the House, for which the chairman, Mr. Kelly, presented a report which criticized existing methods and yet had no very far-reaching remedies to offer.29 They were convinced that many defects existed in the present system, and thought the most equitable and simple method of taxation was to levy a tax on lands in proportion to their value. But on account of the expense and the constantly chang-

ing values of land all over the rapidly growing state, any system which involved the frequent valuation and equalization of land did not seem desirable. It was also impolitic as well as unjust to tax improvements. The committee did not think a perfect remedy could be devised for the existing inequalities in the assessment of lands, but suggested the creation of a fourth class and the entering of certain tracts as fourth rate. The present system was found to be too complicated and intricate, especially in the matter of making transfers, where errors often removed many tracts of land from the lists both of resident and of non-resident proprietors, while other tracts appeared in both lists and were doubly taxed. The remedies suggested did not go to the root of the matter; they were that all taxable lands, and transfers, should appear on the tax list of the county in which they were situated; that the taxes be payable either in the home county or at the state treasury, at the option of the owner; and that the office of non-resident collector be abolished.

Later in the session was passed an act,30 "levying a tax on land", embodying these and other suggestions, the first important law relating to the system of taxation that had been passed since 1810.31 This was a long act of 63 sections, repealing and codifying previous acts, but not introducing any change in principle. The duties of county auditors and collectors, and of the auditor of state, were prescribed more carefully, and in greater detail; and the county auditor was to be elected annually. To secure more certainly the listing of all lands, it provided that if a proprietor should refuse or neglect to furnish a list, the county auditor should charge his land as first rate until he should furnish a list and prove that the land was in the wrong class. An amendment of February 25, 1824, provided that non-resident proprietors might pay their taxes to the state auditor, instead of to the county officials.

31An unimportant act of Feb. 8, 1819, had reduced the salaries of collectors of taxes on lands of non-residents by 25 per cent.
Below is given a copy of the form of returns used by the commissioners in the listing of land for taxation under the act of 1820; it is difficult to believe it could have been satisfactory, it is so brief and, it would seem, inadequate. The change in the tax system met with hearty commendation, however, the state auditor citing the greater centralization of power and responsibility in the county auditors as the chief advantage.

It has brought into taxation very many tracts of land that had never before been on the duplicates, and many others that were either lost by transfers from non-residents to residents, from one county to another, or from intention or negligence in the commissioners.

No further changes were made until the tax law of 1825 introduced an entirely different system.

ASSessment and COLLECTION OF Taxes.

Owing in part to the inefficiency of governmental legislation and administrative machinery, and in part to the wide dispersion of a scattered population over a large territory, the early returns of taxable property were loosely and vaguely made, and the assessments tardily and imperfectly collected. "In a word, our fiscal establishment is as destitute of strength and circumspective activity, as it is of necessary checks." The defalcations, or delinquencies, in the assessed taxes were large throughout the whole of the early period, under the system of the land tax. In 1806, they amounted to $2,000 in a total of $50,000, or 4 per cent; in 1809, they were $7,500 in a total of $37,000, or 20 per cent. All land was grouped in three classes, for purposes of taxation, and to each an arbitrary value was assigned, on which different rates were imposed. There was naturally an irresistible temptation to take land

**The return called for the taxpayer's name, the quantity of land, on what water course and county, by what title, what rate, amount of tax.**

**Aud. rep., Ho. J., 1821, p. 62.**

**Rep. of joint com. to examine books and accounts of auditor and treasurer. Sen. J. 1804, p. 201.**

**Aud. rep. Sen. J., 1805-6, p. 16.**

**Aud. rep., Ho. J., 1810, p. 267.**
out of the higher and put it into the lower classes, especially as the owner practically listed his own land.\footnote{Gov. Mess., Ho. J., 1810, p. 27. Aud. rep., \textit{ibid.}, p. 15.} Much land also escaped taxation altogether, as there was no penalty for omitting it.

But not merely was there laxity, with respect to the assessment of taxes; there was equal looseness in regard to their collection. Taxes were collected by district collectors and by them paid into the county treasuries, which then remitted to the state treasury the share due it. There was, however, no way of compelling the payment from the counties to the state of its share, and as the counties seem for several years to have anticipated or overdrawn their funds, they could not respond to the calls made upon them. The state must therefore wait until such counties have a surplus of money in their treasuries, and are willing to return the sums thus improperly made use of; which ought, of right, to have been punctually paid over for the use of the state, as required by law.\footnote{Aud. rep., \textit{Ho. J.}, 1810, p. 260. \textit{Cf.} also Aud. rep., \textit{Ho. J.}, 1811, p. 18.}

Several counties were at this time indebted to the state treasury for considerable sums.

No provision was made for the collection of information as to the sums expended for county and township purposes, but the governor in 1820 estimated that they exceeded three-fourths of all the taxes paid.\footnote{Gov. Mess., \textit{Ho. J.}, 1820, p. 11.} In the same year the standing Committee on Finance of the House reported that the system of taxation was too complicated and that the assessments were unequal, and suggested as remedies that all lands should be assessed, transfers made, and taxes collected in the counties in which the lands lay, and that the office of non-resident collector be abolished.\footnote{\textit{Ho. J.}, 1820, pp. 105-108.} \footnote{\textit{Ho. J.}, 1821, p. 14.} New lists were made the following year, and corrected much of the confusion and mistakes of the lists of 1810.\footnote{\textit{Ho. J.}, 1821, p. 14.}
EXEMPTIONS.

The first exemption made by the tax laws of the state of Ohio was contained in the act of February 18, 1804,\(^4^2\) which provided that lands purchased from the United States after June 30, 1802, should not be taxed for 5 years from the date of sale. In the act of February 19, 1810, there was contained the statement that “all lands within this state and not exempted by any contract between the United States and this state shall be subject to taxation”. In the tax law of February 26, 1816, the provision “and not exempted by any law of this state”, was added; but as no exemptions were made by the laws of the state until 1821, this clause was meaningless. In that year the first specific exemptions from taxation were made by act of February 2, 1821.\(^4^3\) This act declared that all tracts of lands with the houses and improvements not exceeding fifteen acres, the title of which is vested in any person or persons for the use and in trust for any religious society within this state, and occupied solely by such society, as a meeting house or burying ground, shall hereafter remain free from taxation, for state, road, township or county purposes; as shall all land which is the property of any academy, college, or other seminary of learning, which now is or hereafter may be established within the state.

The modern practice of exemption by specific enumeration may be said to have been introduced by the act of February 25, 1824, which added considerably to this list: it exempted lands of any religious society, not exceeding fifteen acres; Congress lands for five years after date of sale; all lands the property of any college or academy of learning; the property of the state; all land included within the plat of any town that now is or may hereafter be regularly laid out and recorded according to law. By this last provision, town lots would seem to have been reserved for local taxation, a notable step in the segregation of the sources of revenue to have been taken thus

early. This separation was, however, abandoned the next year when the general property tax was introduced as a means of raising state revenue.

The list of exempted property was still further extended by the act of February 2, 1825. This enumerated the land and improvements of any religious society (not over 15 acres) and of any school or college, when used exclusively for educational or religious purposes; the lands and improvements owned by any county for the use of the poor (not exceeding 200 acres); all public grounds and buildings; lands sold by Congress for five years after sale; also one cow where the owner has no other taxable property; all grist and saw-mills; all woolen and cotton factories; all manufactories of paper, salt, iron, or glass, all distilleries, tanneries, and all nail factories.

These exemptions show clearly the progress which manufactures had made in Ohio, and what industries it was desired to foster.

SALE OF LAND FOR NON-PAYMENT OF TAXES, AND REDEMPTION.

The early laws are full of severe provisions and penalties directed against delinquent tax payers. The collectors of the taxes were paid collection fees of 4 per cent of the taxes on the property of non-resident proprietors, and 6 per cent of the taxes on the property of residents. That it was extremely difficult to collect the taxes, especially in the case of non-residents, is abundantly shown by the amount of defalcations in the assessed taxes reported from year to year. In a barter economy, such as still prevailed to a considerable extent in Ohio at this time, even the moderate taxes seemed a heavy burden. In 1806 it was estimated that the defalcations would amount to about 5 per cent. The amount of money paid into the state treasury in 1809 was $28,270, and the defalcations $7,518,

"By the act of February 23, 1824, all inlots and outlots in towns with improvements and all other houses over one hundred dollars in value were made subject to county levies, and the rates were fixed at one-half of one per cent of the value.

Sen. J., 1805-6, p. 16."
In 1814 the amount of taxes levied was $162,196, while the amount collected was $132,403. In 1816 the amount levied was $229,897, while only $187,459 was collected. In 1819 the figures were $179,476 and $129,519. And the same difficulty prevailed throughout the entire period 1802-1825. The worst offenders in this respect were the non-resident proprietors, most of whom probably held their land for purely speculative purposes.

Accordingly we find that Ohio began very early to provide for the collection of delinquent taxes by authorizing the sale of property for back taxes. The first law on this subject was the territorial law of May 1, 1798, which provided that arrears of taxes should bear 10 per cent interest, and authorized the collector to sell at public auction so much of the land as would pay the taxes. This was repeated the following year, and extended to the lands of non-residents:

If any person does not pay his taxes by the first of October, the sheriff may distrain his goods and chattels, and if the taxes are not paid within twenty days, the things shall be sold at public auction and the amount above the taxes shall be returned to the owner.

If goods and chattels to an amount sufficient to pay the taxes could not be found, then part of the land should be sold. Evidently this law proved too harsh, for in 1800 the further sale of non-residents' lands was postponed until March 20, 1801. In 1802 the law was re-enacted in a still stronger form: if the tax was not paid by the first of October, the sheriff was to sell enough personal property to pay the tax; if no personal property could be found, a penalty of 50 per cent was to be added, and if this were not paid by the first of November, enough land should be sold to pay the tax and the penalty.

In 1804 the first state law on the subject was passed,
but in less severe form than the territorial laws, which had meanwhile prevailed. If the tax, with penalty, was not paid within one year from the listing of the property, the collector was to advertise a public sale in the county and in five other places, and to sell enough land at public auction to pay the tax and penalty. A slight variation was introduced in 1806—如果非居民的税没有在从列表之日起一年内支付，则收集人要在县内和其他五个地方登广告，并出售足够的土地以支付税和罚金。

By the act of 1810 lands returned delinquent, on which no tax was paid for three years, were to be sold at public auction to the highest bidder.

For the next decade there was no further legislation on the subject. Indeed, after the War of 1812 and the consequent "hard times" the system broke down completely. It was found very difficult to collect the taxes and still more so to find purchasers for delinquent lands. Acts were passed in 1815, 1818, and 1819 to postpone the sale of lands for non-payment of taxes for one year, and in 1820 for two years. The real reason for the breakdown of the system, however, lay in the laws providing for the redemption of lands sold for taxes and in the insecure title given to the purchasers of such land.

Although taxes were levied on lands, for the support of the state government, yet they were so poorly paid and the sales for taxes were so loosely, carelessly made by the collectors, that a tax title on land was good for nothing. The more of them one had, the poorer he would be. A brief survey of the laws providing for the redemption of lands sold for taxes will make this point clear.

By the territorial law of 1802 lands sold for taxes were to revert to the owner on payment, within one year,

Jan. 27, 1806.
The share of each is given in the table on p. 184.
Act of Feb. 19, 1810.
Feb. 14, 1815; Jan. 29, 1818; Feb. 8, 1819.
Feb. 8, 1820.
Atwater, History of Ohio.
Act of Jan. 23, 1802.
of the tax, costs, and 60 per cent penalty; the purchaser was to have his money refunded. The laws of 1804, 1806, and 1807\(^59\) provided for the redemption of lands sold for taxes and belonging to minors, feme coverts \([sic]\), insane persons, or persons in captivity, within one year by payment of the tax, interest, and penalties. While the act of 1808\(^60\) was slightly more severe on the delinquent taxpayer, yet it made the position of the purchaser of a tax title still more insecure and removed the incentive for the purchase of such lands. It provided that the owner might redeem his land, if sold for taxes, within one year by paying the tax, costs, and 100 per cent damages. The purchaser of the tax title must claim his money back within six months; after six months and up to three years he must produce the certificate of sale.\(^51\) The purchaser, moreover, was saddled with the tax of the following year. The only wonder is that under such a system there were any purchasers of delinquent lands. The purchase of tax titles was a pure speculation, involving a certain loss if unsuccessful, and a title of doubtful validity if successful. No purchaser could afford to risk making any improvements on land so held, and the interests of all concerned suffered under such a system. No further change was made in the law governing this subject until 1822.\(^62\)

The act of January 30, 1822, "for the sale of lands for taxes", completely reversed the easy-going, slip-shod methods of the earlier laws, and by giving the purchaser of delinquent lands a valid title stimulated the purchase of such lands and brought about the prompt payment of taxes. First of all the books were cleared of the accumulation of back taxes: if arrearages of land taxes be paid by December 10, it was provided that all penalties should

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\(^{59}\)Feb. 18, 1804; Jan. 27, 1806; Jan. 31, 1807.

\(^{60}\)Feb. 22, 1808.

\(^{51}\)Apparently he lost his money unless he demanded it within three years and produced the certificate of sale.

\(^{62}\)The laws of Jan. 4, 1816, and Feb. 26, 1816, sec. 34, relate to the mode of redeeming lands of minors, feme coverts \([sic]\), insane persons.
be remitted.\textsuperscript{63} If this was not done, the law then prescribed a careful procedure for listing, advertising, and selling such lands. After advertising, a judgment of the land to the state is to be secured from the court of common pleas. The purchaser of such lands at the tax sale shall receive a deed from the auditor which shall be received in all courts in this state and elsewhere, as prima facie evidence of good title to the lands mentioned therein, nor shall the title conveyed by such deed, be invalidated or affected by any error in charging or collecting the tax or in the tax sale.

This act cleared up the old difficulty of disputing the validity of tax sales on technical errors, and gave a secure title to the purchaser. The process of correcting the lists of delinquent lands was, however, a slow one. Often the owner did not know that lands were on the delinquent list until they were declared forfeited and advertised for sale, and in many cases lands on which taxes had been paid were thus treated, owing to errors in recording. In many cases, however, the taxes had been evaded or unpaid. Forfeited lands were exposed to sale in the neighborhood where they were situated, when "persons from almost every part of the county, came forward, either to correct or pay the taxes on their lands which stood in arrears".\textsuperscript{64}

In order to hasten the clearing of the docket of these interminable delinquencies, the act of January 18, 1826, enacted that all lands upon which taxes had not been fully paid up to January 1, 1826, should be deemed delinquent, and that all penalties and delinquencies must be paid by August 1. This brought forth a protest from the non-resident, as well as the resident, owners, and the legislature was compelled to recede from this position; twice they extended the time for the payment of the taxes and penalties. On December 15, 1826, there still remained of lands forfeited to the state for the non-payment of taxes,

\textsuperscript{63}The act of Dec. 15, 1823, suspended this for four and one-half months because of many errors in the lists of delinquent lands; that is, until the errors could be corrected.

\textsuperscript{64}Aud. rep., Dec. 15, 1826. \textit{Ho. J.}, 1827, p. 84.
not yet redeemed, 604,590 acres; this represented unpaid taxes to the amount of $127,912. The interests involved were sufficiently powerful to compel still further concessions, and on January 29, 1829, there was passed a bill remitting all penalties at that time due, but requiring the payment of the taxes. This ended the struggle over the delinquencies of the land taxes under the old system.

CRITICISMS OF THE EXISTING TAX SYSTEM.

In referring to this system of taxation, as it existed between 1803 and 1825, Solomon P. Chase subsequently expressed himself as follows:55

That this system was inconvenient and inequitable, is very manifest. The assessment of taxes for state and county purposes, on different descriptions of property, was productive of no little embarrassment and difficulty; while the assessments according to rates and not according to value, resulted in great and grievous inequality, which became more and more conspicuous and vexatious with the progressive, but very unequal increase, in the value of land.

But an even more important reason leading to the reform of the existing system of taxation was the necessity of larger revenues. In 1825 the work of building canals was entered upon by the state, and for this purpose and the payment of interest on loans, it was necessary to increase the revenues of the state. The governor, in his message for this year,66 suggested that the whole product of the land tax be made payable to the state treasury for state purposes,67 and that additional taxes be imposed as follows: on judicial processes in civil cases, on capital employed in trade, on pleasure and travel carriages, on brass and other clocks and on gold and silver watches; the product of such taxes in whole or in part to be made payable to the county treasury of the respective counties where-in the tax is levied. That part of the message which related to the revenue of the state was referred to a joint committee of the legislature, which brought in a lengthy re-

57One-fifth was paid to the counties in which the tax was collected.
port⁶⁸ and a bill embodying the principle of the general property tax. The report reads like that of a modern tax commission and is of such importance as to justify quoting at some length.

The present system was adopted by the first territorial legislation at their session of 1799, and went into operation in 1800, when the population was about 40,000 and the settlements recently made....At this early period of the settlement of the country, the improvements on land and personal property were inconsiderable, and a tax on lands alone could be relied on for support of the government. Under the system then as now, the lands were to be entered for taxation, as 1st, 2nd, and 3rd rate, and the relative fertility of the soil alone fixed the rate in which it was to be entered, without regard to situation or any local advantages....The system therefore, though defective in detail, was at the time of its adoption, and in the early stage of the government, perhaps best suited to the circumstances of the country. The unparalleled increase of the population, and progress of improvement in the state, together with a change of lands from non-resident to resident proprietors, have produced almost an entire change; and in the landed property a different state of things. Towns have grown up; the benefit accruing from vicinity to these—to navigable streams—to public highways—water privileges—and other local advantages, have produced an inequality in the value of lands on which the present system does not nor cannot operate....The defects of the present system of revenue will be examined in the following order:

1st. The injustice done the state from improper entries.

2nd. The inequality of the revenue paid by the different counties of the state.

3rd. The inequality of taxes on individuals.

4th. The difficulties occasioned by subjecting different objects to taxation for county and state purposes.

Under the first head the committee pointed out the steady transference of land from the first and second rates to third rate; in the year 1820 only 225,082 acres had been entered as first rate, while the committee estimated that at least 2,000,000 acres should have been put in that class. By reason of the improper entries, which were an inevitable result of permitting owners to list their own lands, they estimated that the state was defrauded of over $31,000 in taxes in 1820.

As between counties there was similar inequality; for instance, the taxes levied in 1824 for state purposes in

⁶⁸Ho. J., 1825, pp. 153-156.
Hamilton county amounted to $2,080, while Athens county, with less than one-thirteenth the value of real property, paid taxes to the amount of $2,142.69

The inequality of taxes on individuals of the same county was equally marked. As all land was rated according to its fertility only, it might happen that one tract of land of 1000 acres would be worth $2000 as agricultural, while another tract of the same size and fertility, but situated near a town or river, would be worth $20,000, yet both be taxed exactly the same amount, say $17.50.

The difficulties occasioned by subjecting different objects to taxation for county and not state purposes, are the creation of many unnecessary agents as collectors, assessors, and listers, producing inequality in the value of property in different townships and causing much unnecessary expense. Besides it produces discontent and unpleasant feelings between the people of the towns and country, and a great inequality in the assessment of taxes.

II. THE GENERAL PROPERTY TAX, 1825-1851.

In accordance with the suggestions contained in this report and in the governor's message, a bill was introduced into the legislature "establishing an equitable mode of levying the taxes of this state", which was promptly enacted into law.71 This act marks the beginning of the general property tax in the state of Ohio. It abolished the old system of land classification and at the same time introduced a number of new features: the taxation of all property for state purposes, instead of land alone; the valuation of real property at its true value in money; the specific enumeration of all the forms of property to be taxed; the establishment of boards of equalization, and the other machinery of the general property tax. Owing to its importance the chief features of the law deserve to be presented with some fullness.

69Hamilton county contained the prosperous town of Cincinnati, while Athens county was agricultural. Several other instances were cited.

70Rep. of Com., p. 156. Now that the policy of segregating the sources of state and local revenue has been undertaken, it is interesting to read this early argument against such a principle.

All lands, all in-lots and out-lots in towns with the buildings thereon, and buildings in towns on lands granted by Congress for school or for religious purposes, not used for educational or religious purposes; all dwelling houses of the value of $200 other than those on town lots; the capital of all merchants and exchange brokers employed within the state; all horses, mules, and asses, and neat cattle of three years old and upwards, except such as were exempt; and all pleasure carriages over the value of $100, were declared to be subject to taxation. The chief dependence, it will be observed, is still real property; the amount of personal property actually valued was still small, and the list of exempted property was very large, including not only land and buildings used for religious or educational purposes, but mills and factories almost without exception. Merchants and brokers were arranged in certain classes by the associate judges, according to their capital, and were taxed according to the class, without reference to the amount of capital actually employed by different members of the same class. Lands, town lots and buildings, dwelling houses, and carriages were to be valued on actual view at their true value in money; but horses, mules and asses were assessed with appraisement at $40 each and neat cattle at $8. It will be seen that the act of 1825 initiated, rather than established, the rule of valuation and of taxation according to value.

The modes of levying, assessing, and collecting the taxes were based largely upon previous practice, with such changes as experience dictated. An assessor was to be appointed in each county by the court of common pleas, and was to be furnished with lists of land and copies of maps by the county auditor; the owner was to list all his property minutely, but the assessor was to make the true valuation, upon actual view. If the owner were absent or

72 See supra, p. 195.

73 The assessor had to take an oath of office and was put under bond of $1000. As compensation he received 6 per cent on property assessed under $1000; 3 per cent on properties between $1000 and $3000; and 2 per cent on all over $3000.
unable to give a list, the assessor should make it out; persons refusing to give, or giving a fraudulent list, to be charged with three times the amount of the tax. The collector's duties were defined by the act of February 8, 1825: he must call at the place of residence of every person charged with a tax by November 1; if the tax were not paid by November 20, he might distrain sufficient goods and chattels to satisfy the tax, advertise, and sell them. The auditor acted as collector and was allowed mileage of eight cents a mile. County boards of equalization were established, consisting of the commissioners, auditor, and assessors of each county, with power to add to or deduct from any valuation made by the assessors. A state board of equalization was constituted of members of the legislature, chosen by itself, one from each congressional district, together with the auditor of state, which was given power to equalize the valuations as between counties.

Full as the original law was the multitude of small amendments which appeared the next few years are eloquent witnesses of the difficulties attending the introduction of the effort to tax all property. By act of January 31, 1827, non-residents were permitted to pay their taxes to the state auditor, instead of in the county where they were situated. The proper taxation of grazing cattle offered a problem to the legislators. They were registered in no county and were evidently in no county long enough to be listed; the act of February 7, 1829, provided that they were to be recorded in the county in which the owner lived. But some of the owners lived in counties far from their cattle and some lived out of the state; and all were rather hard to find when the taxes were due, so on February 22, 1830, a further amendment made cattle, grazing in any county and belonging to a non-resident, taxable in the county where they were grazing.

After the passage of the act of 1825 a valuation of all the taxable property in the state was undertaken, which constituted the first Grand List, upon which were to be

"It contained forty sections."
assessed the necessary levies for state, county, and township purposes. The value of lands was $39,729,411, of town lots and personal property $18,745,096, making a total valuation of $58,474,507. The act of 1825 fixed no period for a second general valuation. The appraisement made under it was to remain unaltered until further legislation. The county assessors, however, were required to ascertain in the spring of each year, what land had become liable to taxation during the preceding year, and what new improvements had been made by structures on lands. The value of this land and these improvements, annually ascertained by the assessors, together with that of all taxable personal property, computed according to arbitrary rates fixed by law, added annually to the equalized value of the real property, was to constitute the Grand List, and form the basis of taxation for the current year. Owing to the rapid and uneven growth in the value of property, due in large measure to the building of the canals and of the national road through certain sections of the state, the valuation of real estate established in 1826 soon revealed inequalities. Consequently a revaluation was made in 1834 and at irregular intervals thereafter until the constitution of 1851 provided for decennial valuations, beginning in 1861.  

The effect of the new law upon the revenues of the state was pronounced. Under this system new sources of revenue were tapped and the resources of the state greatly enlarged. The entrance of the state during the same year upon the policy of internal improvements committed the state to greatly increased expenditures, and necessitated large additional revenues. Owing to the fact that the whole attention of the legislature and the people during this period was absorbed by the subject of constructing the new state canals, the general property tax law received less attention than it otherwise would have. The imposition of

"Valuations of the real property in the state have been made in the years 1825, 1834, 1840, 1846, 1853, 1859, 1870, 1880, 1890, 1900, 1910. Hereafter they are to be quadrennial, dating from 1910."
heavier taxes for canal purposes moreover somewhat confused the actual effect of the general property tax as such. The following table shows the growth of the taxable property and of the revenue to the state and local governments:

**FINANCIAL HISTORY OF OHIO**

<table>
<thead>
<tr>
<th>Years</th>
<th>Value of Realty</th>
<th>Value of Personalty</th>
<th>Total Value of Taxable Property</th>
<th>State Tax</th>
<th>Total.18</th>
<th>State Rate Mills.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1826</td>
<td>$15,946,840</td>
<td>$11,035,820</td>
<td>$57,982,640</td>
<td>$105,816</td>
<td>$392,783</td>
<td>1.50</td>
</tr>
<tr>
<td>1831</td>
<td>50,627,110</td>
<td>15,793,666</td>
<td>66,420,776</td>
<td>240,991</td>
<td>615,651</td>
<td>1.50</td>
</tr>
<tr>
<td>1836</td>
<td>72,223,906</td>
<td>27,029,444</td>
<td>99,253,350</td>
<td>211,932</td>
<td>1,007,216</td>
<td>1.25</td>
</tr>
<tr>
<td>1841</td>
<td>100,851,837</td>
<td>27,501,820</td>
<td>128,353,657</td>
<td>642,153</td>
<td>1,890,405</td>
<td>1.75</td>
</tr>
<tr>
<td>1846</td>
<td>109,940,636</td>
<td>40,352,496</td>
<td>150,293,132</td>
<td>1,214,897</td>
<td>2,589,073</td>
<td>3.00</td>
</tr>
<tr>
<td>1851</td>
<td>346,341,233</td>
<td>115,807,387</td>
<td>462,148,620</td>
<td>1,687,392</td>
<td>4,057,013</td>
<td>3.60</td>
</tr>
<tr>
<td>1856</td>
<td>580,634,487</td>
<td>240,026,550</td>
<td>820,661,037</td>
<td>2,626,132</td>
<td>8,009,514</td>
<td>3.20</td>
</tr>
<tr>
<td>1861</td>
<td>634,883,552</td>
<td>248,666,532</td>
<td>892,550,084</td>
<td>4,056,379</td>
<td>11,550,814</td>
<td>4.55</td>
</tr>
<tr>
<td>1866</td>
<td>663,647,542</td>
<td>446,561,379</td>
<td>1,100,208,921</td>
<td>3,867,167</td>
<td>18,868,437</td>
<td>3.50</td>
</tr>
<tr>
<td>1871</td>
<td>1,025,619,034</td>
<td>476,510,937</td>
<td>1,502,120,971</td>
<td>4,350,728</td>
<td>22,055,388</td>
<td>2.90</td>
</tr>
<tr>
<td>1876</td>
<td>1,076,788,367</td>
<td>520,681,599</td>
<td>1,597,469,966</td>
<td>4,626,629</td>
<td>28,521,256</td>
<td>2.90</td>
</tr>
<tr>
<td>1881</td>
<td>1,101,457,383</td>
<td>485,750,196</td>
<td>1,587,207,579</td>
<td>4,998,057</td>
<td>27,606,380</td>
<td>2.90</td>
</tr>
<tr>
<td>1886</td>
<td>1,173,106,705</td>
<td>515,509,463</td>
<td>1,688,616,168</td>
<td>4,894,594</td>
<td>33,378,558</td>
<td>2.90</td>
</tr>
<tr>
<td>1891</td>
<td>1,151,038,931</td>
<td>586,164,445</td>
<td>1,707,203,376</td>
<td>4,181,143</td>
<td>35,861,610</td>
<td>2.75</td>
</tr>
<tr>
<td>1896</td>
<td>1,226,988,666</td>
<td>514,039,771</td>
<td>1,741,028,437</td>
<td>4,942,533</td>
<td>40,638,201</td>
<td>2.84</td>
</tr>
<tr>
<td>1901</td>
<td>1,377,253,183</td>
<td>591,026,817</td>
<td>1,968,280,000</td>
<td>5,868,249</td>
<td>47,680,509</td>
<td>2.89</td>
</tr>
<tr>
<td>1906</td>
<td>1,520,998,646</td>
<td>718,788,257</td>
<td>2,239,786,903</td>
<td>3,012,115</td>
<td>60,974,046</td>
<td>1.35</td>
</tr>
<tr>
<td>1909</td>
<td>1,619,462,263</td>
<td>770,516,086</td>
<td>2,389,982,349</td>
<td>3,214,683</td>
<td>71,006,371</td>
<td>1.35</td>
</tr>
</tbody>
</table>

Taxes still fell most heavily on the farmers. The items of "town lots and buildings" of "merchants' and brokers' capital", and of "pleasure carriages" formed but a small part of the total amount of taxable property in the state. In 1831 they constituted a little less than 20 per cent of the whole. The valuations of property and the taxes for that year were as follows:77

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77The total includes the per capita on dogs which amounted in 1909, to $255,774.
THE GENERAL PROPERTY TAX

PROPERTY VALUATIONS.

Value of land, including houses ........................................ $40,152,151
Value of town lots, including buildings .................. 8,327,151
Value of horses .......................................................... 7,103,840
Value of cattle .......................................................... 2,853,824
Merchants’ capital ...................................................... 3,987,235
Carriages ...................................................................... 29,212

Total ........................................................................ $62,453,423

TAXES.

State and canal tax ......................................................... $224,484
County and school tax .................................................. 224,267
Road tax ...................................................................... 61,807
Township tax .................................................................. 44,755
Tax on lawyers and physicians .................................. 1,528

Total ........................................................................ $577,576

The first important amendment to the new system was the result of an effort to enlarge the list of taxable property, and especially to subject intangible personality and capital employed in manufacturing to taxation. This was done by the act of March 14, 1831, which enlarged very considerably the descriptions of taxable property, reduced the list of exemptions, and extended the application of the principle of appraisement, though it still retained in some cases the principle of arbitrary valuation by the legislature. In addition to the list of taxable property given in the act of 1825 the following objects were enumerated: “all grist, oil and saw mills; all manufactories of iron, glass, paper, clocks and nails; all distilleries, breweries and tanneries; all iron, brass and copper foundries; all money loaned at interest; all stocks or capital invested in steamboats; all pleasure carriages with two or four wheels.” As most of these items were taken from the exempt class of the earlier law, this was now reduced to very small proportions; it contained only lands and build-

"Mr. N. W. Evans is in error when he writes in his book, A History of Taxation in Ohio, (p. 19) : "I cannot find that money was made directly taxable in Ohio, until by the Kelley law of March 2, 1846".
ings of religious, educational, and charitable institutions, public grounds and buildings, and Congress lands for five years after purchase. Merchants dealing in domestic merchandise, with less than $200 stock, were also exempted. The attempt to classify merchants and exchange brokers was given up; they were now to be taxed “according to the value of the stock in trade used”.

Credits were made taxable by this act for the first time in Ohio, and provision made for the careful listing of other forms of personal property. The assessor was to call upon all persons having anything mentioned in the description of taxable property for a complete list. Land and buildings, mills and factories, pleasure carriages, etc., must be valued at their true value upon actual view; stock in steamboats to be valued by the owner upon oath; “all money loaned at interest on notes, bonds, single bills or mortgages, over and above amount on which the said person pays interest shall be valued and assessed as so much capital”, which must be declared by the owner upon oath. All property must be listed by March 1, and duplicates must be prepared by the assessor by June 1, during which month the county board of equalization met to correct the lists. No changes were made in the constitution or duties of these boards, or of other officers. Gradually the system of the general property tax, according to which all property is assessed and taxed under a uniform law, which had been introduced in 1825, was being enlarged and made all-embracing.

REVALUATIONS.

The changes introduced into the tax system by the law of 1831, which expanded the list of personal property rendered taxable, but made more manifest the inequalities in the valuation of real estate. The first appraisement had

The amount of land belonging to religious institutions exempted was limited to 10 acres, which was cut down to 2 acres by the act of Jan. 18, 1836.

The act of March 21, 1840, provided for taxing the capital of exchange brokers and stock jobbers.
not been altogether satisfactory and the rapid and uneven growth of the state since had introduced new inequalities. "Complaints are made", write the governor\(^3\) only five years after the passage of the law of 1825, that errors and mistakes exist, which need correction; that the equalization have [sic] imperfections that usually attend first experiments, and have left upon portions of the state unequal burdens. If this is the case, the principles upon which the law originated, would seem to require, as soon as practicable a revaluation, in order that its provisions might have an equal operation.

The subject of a revaluation was also urged upon the attention of the legislatures in successive reports of the auditor. In 1834 the auditor wrote:\(^4\) The important revaluations that have taken place in the property of the state, particularly on our navigable waters, and upon the lines of our canals, which were not commenced when the value of the property of the state was first estimated, seems to require that a more equitable mode of assessment be adopted. The subject of revaluation has been twice recommended by my predecessor; and I can but respectfully second his views on this important subject of financial policy.

In response to these repeated appeals the legislature in 1834\(^5\) tardily provided for a reappraisal of the value of real estate. The county commissioners were empowered to appoint one or more appraisers in each county, who "shall appraise at its fair cash value all real estate", made taxable by the act of March 14, 1831. The county commissioners, auditor, and appraisers were to constitute a special board of equalization for each county, while the commissioners, auditor, and assessors constituted a county board of equalization. The state board was comprised of the auditor of state and one person from each congressional district, who should be appointed by joint resolution of the general assembly.

As a result of the revaluation new property to the value of $18,000,000 was added to the aggregate of taxable

\(^3\)Gov. Mess., Ho. J., 1830, p. 27. This executive does not seem to have been a master of either English or taxation.


\(^5\)The date of this act was not given in the laws, but it was probably Feb. 24, 1834.
property of the state in one year. The total amount of taxable property was increased over 37 per cent, and the proportion of taxes borne by the farmers was somewhat lessened. The equalized value of the lands and town lots was $73,932,892, and the total amount of the Grand List for 1835 was $95,927,396, of which the personality therefore constituted about 25 per cent. In nine years the value of taxable property had increased $37,452,889, and the proportion of the personal property had also grown. In spite of the oaths of assessors and tax-payers, however, the value of real estate as returned at this time was only about one-fourth of its true value. The rate of taxation—14 mills on the dollar in 1837—should therefore be divided by four to get a correct idea of the burden of state and local taxes upon the people.

The complaints in relation to land subject to taxation, but which was not entered upon the duplicates, still continued. The evil was a serious one, according to the auditor: "in many cases land became lost in the annual copying of the duplicates, and in neglect on the part of the auditor and assessors in restoring them". But worse than

85Gov. Mess., Exec. Doc., 1837, I, 12. The governor rather longingly compared Ohio with other states where "the state tax is merely nominal, their government being supported from income on stocks of different descriptions; and in the state of Alabama no state tax exists, the state governments being supported by an income from bank capital." For a still more exaggerated estimate as to the existence of lucrative state funds, see the report of the House Committee of Finance, January 18, 1814: "While most of the states composing this Union, are possessed of a public or state fund, to which on any exigency resort may be had, this state is utterly destitute of any. Without the imposition of taxes, many of our sister states, it is believed are enabled, not only to expend vast sums, in the construction of roads, canals and public institutions; in forming military magazines, and in procuring implements of war—but also, from the annual product of their public funds, to the support of all the expenses of their civil government. Having such a fund to resort to, international commotions and foreign invasions, to which from the nature of things all states must be exposed, and against which they should guard, will never find them destitute of resource." Ho. J., 1814, p. 178.
official carelessness was the undervaluation of some lands, and the changes in relative values of others brought about by the rapid development of certain sections of the state, and also by the collapse in the land speculation which reached its culmination in 1837. Consequently a third valuation of the real estate in Ohio was made in 1840, and was equalized in 1841. This was provided for by the act of March 13, 1840.

This act was more carefully drawn than either of the two preceding ones, and is especially interesting for the light it throws upon the economic development of Ohio, as shown by the growth in the list of taxable properties. The court of common pleas in each county was required to appoint appraisers, who should appraise at its “fair cash value”,87 between April 1 and September 25, the following list of property: (1) real estate, taking into consideration its fertility, location, etc., but having no reference to the value of the improvements; (2) town-lots, in the same fashion; (3) dwelling houses, warehouses, shops, etc., over the value of $200;88 (4) grist mills, oil mills, saw mills, paper mills, fulling mills, and carding machines, over the value of $200;88 (5) all distilleries, breweries, and tanneries, and all manufactories of cloths, carpets, cotton yards, iron, glass, clocks and nails, all iron, brass, and copper foundries, over the value of $200.88 The appraiser was to make a list, place the value opposite each item, and inform the owner. For the correction of errors, the county commissioners, county auditor, and appraisers constituted a special board of equalization; the ordinary county board of equalization was made up as under the acts of 1825 and 1831. The legislature was still experimenting with the state board of equalization, which had evidently been unsatisfactory; it was now constituted of the state auditor and one person from each senatorial district, appointed

87This was evidently not done, for four years later the auditor spoke of the necessity of adopting the principle of a “cash valuation”. Aud. rep., Dec. 3, 1844. In fact it never has been done, assessors’ oaths to the contrary notwithstanding.
88I.e., the excess over $200 only.
by joint resolution of both houses. The equalized valuation of the real estate was $99,154,745, an increase over that of six years before of $25,221,853; the grand list for 1841, embracing all assessed property, both real and personal, was $128,353,657.

SALE AND REDEMPTION OF DELINQUENT LANDS.

We traced the legislation on this subject down to the year 1830. The sound policy laid down by the act of January 30, 1822, still formed the basis of the law on the matter of the redemption of lands forfeited for non-payment of taxes. This was, however, reversed by the act of March 3, 1831, which provided that all lands which had been or might be sold for taxes might be redeemed within two years. The applicant should apply to the court of common pleas of the county, give six weeks notice in a newspaper, and deposit the redemption money with the clerk, including costs and a penalty of 50 per cent. The court should then award the applicant the premises. The purchaser was to be paid for the land and also for all improvements made by him. Another act of the same year provided "for the sale of lands forfeited to the state for non-payment of taxes" prior to January 1, 1831. The state auditor was to make a list of such lands, the county auditor to advertise and sell them at public auction to the highest bidder. After 1831, lists were to be sent out and sales made biennially. The purchaser at tax sales was to be considered as the assignee of the state. In view of the previous act of March 3, this last clause was of value only in case the former owner did not attempt to redeem his land. The title was now valid, but the position of the purchaser was again an insecure one, for he might be ousted any time within two years.

As time went on greater familiarity with the new system seems to have bred a certain amount of contempt, and also ability to evade its requirements. The old evils of non-payment of taxes and forfeiture of lands began to

*Act of March 14, 1831.
assume proportions as great as before 1825. By 1842 the delinquencies in taxes exceeded $30,000 a year and were steadily increasing. During the preceding session an act had been passed providing for the publication of the list of forfeited lands, and extending the time for redemption to January 1, 1843; but only a small amount was redeemed. "It is a moderate estimate", wrote the auditor, "that one-fourth of all the lands advertised this fall, will be returned as "not sold for want of bidders", and consequently become forfeited to the state. There is no fear of a tax sale on the part of the owner and no confidence on the part of the purchaser. The rule of construction on the part of the courts, invariably sets aside these sales; for, in the present confused state of our legal enactments, it is impossible they should all be observed by the several officers charged with the assessment and collection of taxes". The following year the amount of taxes levied but uncollected amounted to one-ninth of the whole levy, and the auditor summed up the whole matter in a single sentence: "the present laws are totally inefficient".

The act of March 12, 1845, amended the law of 1831 by providing that the former owner of land sold by the state for non-payment of taxes might redeem the same within six months from the date of sale by depositing with the county auditor the amount of the sale plus 50 per cent, and paying all expenses. In this, as in most of the legislation on the subject, every opportunity was given to the former owner to regain his land. Under such a system there could have been little inducement to buy land at tax sales. This act was still further strengthened in 1850 by an amendment providing that a person might redeem land sold for taxes by depositing the amount required by law with the county auditor, and that the auditor should give a receipt,

90 Aud. rep., Dec. 6, 1842.
91 Ibid.
92 "Aud. rep., Dec. 5, 1843. In his report for Dec. 3, 1844, the auditor refers again to the need of "a thorough change in the laws for the sale of lands delinquent or forfeited for taxes, so as to render them efficient in their character."
and that the deposit should "operate as an extinguishment of all rights conferred by such sale". In the same year the auditor reported that the losses and delinquencies, and cost of collection of the taxes for the four years previous, amounted to less than 3 per cent. "No example can be found", he added, "of a more efficient and economical system."

**THE KELLEY LAW, 1846.**

The existing tax system, in spite of efforts to improve it, failed to yield sufficient revenue, but produced instead many inequalities and great dissatisfaction. Instead of using the taxing power solely for the raising of revenue, the legislature used it to favor or discourage special interests or objects. Improved lands were valued and taxed without any reference to the improvements, as if they were still in a state of nature, in order to favor the agricultural interest. The exemption of tools and machinery was designed as an encouragement to the mechanics and manufacturers of the state. Taxing banks on their profits only was held out as a bonus for foreign capital; while the exemption of property appropriated to educational and charitable purposes, was intended as an approval of those objects. Under this policy the duplicate decreased until it embraced only about one-fourth of the actual wealth of the state; at the same time the revenue was insufficient to meet the expenditures of the state, and for ten years after 1836 there were annual deficits. Interest on the debt and current expenses were met by borrowing, probably $1,500,000 being added to the principal of the state debt during this period. The attempt to favor every deserving object in society multiplied the pleas for further exemptions, and there was danger that the true idea of taxation would be entirely lost. In order to raise the necessary revenue various special taxes were imposed, as on banks, insurance and bridge companies, auctioneers, lawyers and physicians, etc., which however produced but little.

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93 Act of March 23, 1850.
As a result of these facts dissatisfaction with the revenue system grew serious. Complaints as to the working of the laws of 1825 and 1831 found typical expression in the indictment of the system contained in the auditor's report for 1842. In this he spoke of the great inequality between the various kinds of property, and the undue burden placed upon the land; of the injustice of the present appraisement between the farming and the town interests; of the undue burden upon the owners of small tracts, owing to the burdensome taxes on domestic animals. But it was between real and personal property that there existed the most marked disproportion in the character of the public burdens. For instance, the county of Hamilton, with all the vast resources and wealth of the greatest city of the west, returned last year, under the head of "merchants' capital, and money at interest", $1,364,196—whilst the county of Ross, returned the sum of $403,799—being very nearly one-third the amount returned by the county of Hamilton. No one acquainted with the wealth and business of the two counties, will hazard the assertion, that this is anything near an adequate apportionment. The probabilities are, that in the one a strict and rigid rule has been observed, whilst in the other a very considerable amount has been suffered to escape.

One or two feeble attempts at improvement were made. The act of January 24, 1840, provided for subjecting canal lands of the state, which had so far escaped, to taxation. Another act, four years later, declared leased school lands taxable for school purposes. In 1845 an effort was made to tax intangible personalty more rigidly. The act "to provide more effectually for a correct and equal assessment of Money and Capital in trade, for the purpose of

The town property and personal property together paid only one-third of all the taxes.

The personal property paid a little less than one-seventh of the whole taxation of the state.

Aud. rep., Dec. 6, 1842. The city of Cincinnati in Hamilton county was the center of western trade and of the packing industry; the county had a population of over 80,000. Ross county was agricultural and its largest town was Chillicothe; the population of the entire county was only 27,500.

38 O. L. 10.

March 12, 1844.
Taxation" provided that the assessors might require written statements under oath from the tax-payers; defined more carefully money and discounted evidences of debt, and merchants, bankers and brokers; and amended the act of March 14, 1831, by exempting pleasure carriages under $40 in value, and by taxing stage-coaches. It was manifest, however, that more thoroughgoing changes would have to be introduced if the difficulties and evils of the existing system were to be remedied.

This was attempted in 1846, when the so-called Kelley act was passed, which thoroughly revised the existing laws concerning taxation. Previous errors were thereby partially remedied, but many flagrant ones were continued from ill-advised partiality until they were swept away by the constitution of 1851.

The purpose of the new law was indicated in its title: "an act for levying Taxes on all property in this State according to its true value". The first section further stated that "all property, whether real or personal, within this state, and all moneys and credits of persons residing therein, unless exempted, shall be subject to taxation." Important additions were made to the descriptions of taxable property; personal property was defined as "every tangible thing, being the subject of ownership, whether animate or inanimate, other than money and real property", and was declared taxable together with money, credits, and real property. For instance, "other domestic animals" were added to horses and cattle, which alone had been taxed before this; and watches, pianos, and unenumerated articles were added to carriages.

Exemptions were restricted and defined with greater precision, though the list was still extremely long and generous. It comprised schools and religious buildings with twenty acres of land; graveyards; buildings of scientific, literary or benevolent societies with the land they occu-

100 March 13, 1845.
101 March 2, 1846. 40 O. L. 85; 2 Curwen, 1260. It was introduced by the Hon. Alfred Kelley.
pied, moneys or credits belonging to the above and used for their specific purposes; public property of Ohio or of the United States; lands sold by the United States for five years after sale; county buildings with ten acres of land, county or township buildings for the poor; public buildings and works, state stocks; furniture, etc., of private individuals not exceeding $100 in value; furniture, etc., of taverns or boarding houses not exceeding $200; wearing apparel of every person, food, animals not specifically subject to taxation, farming implements, mechanics' tools up to $150; each family, unless taxed for over $100, might have exempt one cow, eight sheep, and four hogs.

Property was to be returned and taxed in the county or town where situated; owners were permitted to list their own property, filling out an elaborate schedule of nine heads, but from the list of moneys and credits might deduct debts owing. If the assessors demanded it, they must take an oath to verify it. Rules of appraisement were prescribed with a view to ensure a closer approximation of valuation to value; the principle of actual appraisement was for the first time applied to all objects of taxation to which, in the nature of things, it was applicable; clear directions were given for the annual listing and valuation of lands becoming taxable for the first time, of improvements, and of all personal property; a new valuation of all real property was directed, and provision was made for future valuations every sixth year. In place of the county assessors appointed by the court of common pleas, district assessors were now provided for to be appointed by the county commissioners, while in each township local assessors were to be elected. The county board of equalization was to consist of the county auditor, surveyor, commissioners, and district assessors; while the state board of equalization should consist of one person appointed by the general assembly from each senatorial district, who must have been a resident of the state ten years and of the district five years. Banks, merchants, manufacturers, and general corporations were taxed on their capital, but were permitted to deduct actual debts. A great increase took place in
"merchants' and manufacturers' stock, money, and credits"; under the earlier laws manufacturers' stock had been entirely exempted.

The effect of the new law upon the amount of property returned for taxation and the revenues of the state was at once apparent. The whole property of the state returned upon the tax list of 1844 was valued at $136,142,666, upon which a tax of 7 mills upon the dollar for state purposes was levied, amounting to $948,997. The duplicates of 1846, when the new law was only partially in operation as to personal property amounted to $150,293,132, upon which a state tax of eight mills on the dollar was levied, amounting to $1,208,562, making a difference in two years of $259,565.\(^2\) Most of the increase came from personal property, and the tax burden was thus made more equitable. Over $100,000 of taxes were collected and paid into the treasury in 1846 upon property and capital which had never been subject to taxation before, and at the same time a reduction of about eight millions was made in the valuation of domestic animals, a class of property which had previously paid more than double its just proportion of the taxes and had imposed an unduly heavy burden upon the farmers.\(^3\) The value of several classes of personal property, entered on the grand list for taxation, for the years 1844-1848, was as follows:

<table>
<thead>
<tr>
<th>Years</th>
<th>Domestic Animals</th>
<th>Carriages, Watches and Pianos</th>
<th>Enumerated and unenumerated articles</th>
<th>Merchants', and Miners', stock, and money and credits</th>
<th>Total amount of Personal Property on Duplicates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1844</td>
<td>20,667,271</td>
<td>783,238</td>
<td></td>
<td>7,550,005</td>
<td>29,000,514</td>
</tr>
<tr>
<td>1845</td>
<td>21,274,824</td>
<td>1,955,742</td>
<td></td>
<td>13,556,507</td>
<td>32,887,073</td>
</tr>
<tr>
<td>1846</td>
<td>13,626,572</td>
<td>1,485,277</td>
<td>2,545,093</td>
<td>22,695,544</td>
<td>40,352,496</td>
</tr>
<tr>
<td>1847</td>
<td>29,105,088</td>
<td>3,065,464</td>
<td>3,864,612(^2)</td>
<td>43,841,539</td>
<td>79,876,703</td>
</tr>
<tr>
<td>1848</td>
<td>39,995,147</td>
<td>3,341,429</td>
<td>4,091,985(^3)</td>
<td>47,462,313</td>
<td>85,880,874</td>
</tr>
</tbody>
</table>

\(^2\)Aud. rep., Dec. 11, 1847. At seven mills on the dollar, the tax would have yielded $1,052,052, or a difference of $103,055 in two years.

\(^3\)Aud. rep., Dec. 15, 1846.

\(^3\) Unenumerated articles only.
In 1847 the fourth general revaluation of the real property of the state was made, as required by the law of 1846, and amounted after equalization to $324,495,804. This form of property now for the first time approximated, though still remotely, its actual value. The total grand list for this year exhibited an aggregate of $410,763,160, of which personalty contributed 20 per cent.

As was inevitable in the case of such a comprehensive and sweeping law as the "Kelley act", amendments and corrections were necessary. In 1847 a feature was added to which the present inquisitorial system in the state may be traced. The auditor was authorized to correct false returns after notice to the tax payer, and to file in his office a statement of the facts or evidence upon which he made such correction. A penalty of 50 per cent was imposed if taxable property were not returned. In 1848 book credits to the amount of $200 were exempted and liquidated credits to the amount of $100; this was done because of the difficulties experienced in trying to reach these objects. In 1849, all lands hereafter sold by the United States in Ohio were made subject to taxation. Since 1802 such lands had been exempt for 5 years from the date of sale.

106 The valuation and taxes before and after the revaluation under the new tax law are given for the years 1844-48 in the following table:

<table>
<thead>
<tr>
<th>Years</th>
<th>Valuation</th>
<th>Rate of Tax</th>
<th>Amount Collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>1844</td>
<td>$136,142,666</td>
<td>7 mills</td>
<td>$ 942,608</td>
</tr>
<tr>
<td>1845</td>
<td>144,160,469</td>
<td>7 mills</td>
<td>989,883</td>
</tr>
<tr>
<td>1846</td>
<td>150,293,132</td>
<td>8 mills</td>
<td>1,208,562</td>
</tr>
<tr>
<td>1847</td>
<td>410,763,160</td>
<td>2.75 mills</td>
<td>1,132,998</td>
</tr>
<tr>
<td>1848</td>
<td>421,067,991</td>
<td>3 mills</td>
<td>1,240,000</td>
</tr>
</tbody>
</table>

Kettell, writing at this time in *Hunt's Merchant's Magazine* (21:409), stated that "the taxes have been paid with the most extraordinary punctuality". In 1848 the aggregate amount of state and local taxes in New York was $5,295,598, or only $2,000,000 more than those in Ohio for the same year.

109 Act of March 8, 1849.
under the act of Congress to which Ohio assented when she entered the Union. By another act of January 26, 1847, Congress removed this restriction, and assented to their taxation from the date of their sale; Ohio accordingly took advantage of this opportunity to add these lands to the list of taxable property, as soon as they passed into private hands.

In 1851 the total sources and amounts of taxes in the state were as follows:110

<table>
<thead>
<tr>
<th>Property</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lands</td>
<td>$269,010,542</td>
</tr>
<tr>
<td>Towns</td>
<td>77,320,691</td>
</tr>
<tr>
<td>Personal</td>
<td>104,495,278</td>
</tr>
<tr>
<td>J't Stock</td>
<td>1,821,193</td>
</tr>
<tr>
<td>Total</td>
<td>452,657,708</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Taxes</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>State tax on prop.</td>
<td>$1,621,228</td>
</tr>
<tr>
<td>State tax on jt. st. cos.</td>
<td>18,030</td>
</tr>
<tr>
<td>State tax on professions</td>
<td>9,034</td>
</tr>
<tr>
<td>Co., sch., and township</td>
<td>2,117,106</td>
</tr>
<tr>
<td>Road</td>
<td>244,011</td>
</tr>
<tr>
<td>Special</td>
<td>662,422</td>
</tr>
<tr>
<td>Total</td>
<td>4,671,831</td>
</tr>
</tbody>
</table>

In 1851 a long act of seventy-two sections was passed,112 "for the assessment of all property in this state, and for levying taxes thereon according to its true value", repealing and replacing the law of March 2, 1846. The changes introduced were few and unimportant, the chief one being an extension of the list of exemptions to include: one man's saddle and bridle, one woman's saddle and bridle, one loom not exceeding $10 in value, firearms kept for the use of the owner, bees to the value of $10, cash on hand to the amount of $25, and books used by a student. This is interesting as evidencing the primitive development of

110 Aud. rep., 1851, p. 5.
111 Does not include bank stock or taxes thereon.
112 Act of March 25, 1851.
Ohio even yet, for it is essentially the list of a pioneer farmer. Slight changes were also made in the county and state boards of equalization. As the act was not to go into force until December 1, 1851, and before that date was rendered obsolete by the new constitution, it never became operative.


The constitutional provisions

The dissatisfaction with the partiality exhibited by the legislature towards certain forms of property and certain favored corporations was not altogether allayed by the act of 1846. The rule of equality in taxation was recognized as a general principle, but there were still many exceptions, and the feeling was strong that it must be enforced universally. It was held that the only safe way to guard the interests of the people was to withdraw all matters in which selfish interests were opposed to those of the people from legislative caprice, and to regulate them in the organic law of the state itself. Under these influences the constitutional convention met in 1850.

No change had been made in the constitution since 1802, when Ohio had entered the Union, and the fundamental instrument that had been drawn up at that time was felt to be quite inadequate to meet the very different conditions which existed a half century later. In the interval, Ohio had developed from a pioneer agricultural state to a highly diversified one, in which the growth of cities, of manufactures, corporations, and many new forms of wealth offered new problems to the legislature in the establishment of an equitable system of taxation. Banks and intangible personality especially had escaped their due share of the tax burdens, the former because of the desire to promote them and the latter because of the difficulty of finding them, and now the effort was made to subject them both to taxation in the same proportion as other forms of
property. This was provided for in sections 2 and 3 of Article XII. Section 1 was copied verbatim from the earlier constitution of 1802. The important section of the new constitution is, however, section 2, in which the phrase "by a uniform rule" has determined the whole subsequent development of taxation in Ohio. It also proved to be a most serious obstacle to reform, when it became clear that the principles of the general property tax were inadequate, if not contradictory, to the development of an equitable system of taxation. The sections of Article XII of the constitution, pertaining to taxation, are as follows:

Section I. The levying of taxes by the poll is grievous and oppressive, therefore the general assembly shall never levy a poll tax for county or state purposes.

Section II. Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property according to its true value in money; but burying grounds, public schoolhouses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published as may be directed by law.

Section III. The general assembly shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues, of every description, without deduction, of all banks now existing or hereafter created, and all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals.122

122The other sections of Article XII, which do not so closely relate to this subject, are as follows:

Section IV. The general assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, and also a sufficient sum to pay the interest on the state debt.

Section V. No tax shall be levied except in pursuance of law and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

Section VI. The state shall never contract any debt for purposes of internal improvement.
The principle laid down in these sections was the abrogation of all arbitrary taxation, and, in view of the previous history of taxation in the state, must be regarded as marking a distinct advance. "Man, as such, his business, occupation, and profession, are no longer subject to legislative caprice. Property is the measure and basis of taxation." But while this marked an advance over the past, the inclusion of these rules in the constitution crystallized them and prevented any further advance, as will appear later. A few exemptions were authorized, but these were for objects of general interest, as to which there could be little or no objection.

THE ACT OF 1852.

The adoption of the new constitution in 1851 necessitated a complete revision of the tax laws, in order to bring their provisions into conformity with the requirements of the constitution. This was done by the comprehensive act of April 13, 1852, containing seventy-eight sections, "for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money." This act embodied the principles of the new constitution, and is the beginning of the attempt to tax all property under the same law by uniform methods. The general property tax now remained for some years practically the sole source of revenue; but the inadequacy and inequitableness of this system gradually led to the splitting up of this complex of taxes into parts, and the imposition of separate taxes. The following are the main provisions of this important act:

Section 1 provided
that all property, whether real or personal, in this state, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing therein; the property of corporations now existing or hereafter created, and the property of all banks or banking companies,

"Some verbal amendments were made by the act of March 14, 1853, but otherwise the law remained practically unchanged until 1859."
now existing, or hereinafter created, and of all bankers, except such as is hereinafter expressly exempted, shall be subject to taxation; and such property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, or the value thereof, shall be entered on the list of taxable property, for that purpose, in the manner prescribed by this act. Section 2 contained definitions of the various terms used: personal property was defined to include (1) every tangible thing other than money, (2) capital, undivided profits, etc., of all companies, (3) moneys and credits. The list of exemptions (sec. 3) included school houses and colleges, burying grounds, state or United States property, county property, poor houses, charitable institutions, fire apparatus, markets and public squares, personal property in value not over $200. No person was required to list uncollectible credits, or investments in companies which were required to list their property for taxation.

The next five sections provided by whom, where, and in what manner property should be listed, and did not differ materially from the rules laid down in the act of 1846. The rules of appraisement were, however, much stricter, and provided that real estate should be valued at its true value in money, "but the price for which such real property would sell at auction, or at a forced sale, shall not be taken as the criterion of such true value"; personal property was to be valued at the usual selling price, investments at their true value, and money and credits at their full value.

Section 10 occasioned a great deal of trouble before the matter was finally adjusted; it stated that bona fide debts might be deducted from money and credits. Exception was taken to this on the ground that it infringed against the second section of Article XII of the constitution providing for uniform treatment of all taxable prop-

117State bonds were added by Act of April 1, 1856.
118Reduced to $50 by act of March 12, 1853.
119See p. 217.
tery. In February, 1854, the Supreme Court of Ohio upheld this view and declared this section of the act to be unconstitutional, on the ground that as no deductions for debt were permitted in the case of real estate or other tangible property, it was unreasonable to permit it in this instance. These objections were met, however, by the act of April 1, 1856, which subjected to taxation only the excess of credits over debts, and doubled the tax if an attempt were made to evade it by fraudulent conveyances.

The methods of listing and valuing the property of merchants and manufacturers, and of bankers, exchange brokers, and stock jobbers were prescribed in sections 12-18. In the case of merchants and manufacturers the average monthly value of all their property during the past year was to be taken, and in the case of bankers, brokers, and jobbers the value of all moneys, stocks, etc. Bankers (sec. 19-22) must return (1) the average amount of notes and bills discounted during the past year, and (2) the average amount of all other loans. Canal, railroad, turnpike, insurance, bridge, telegraph, and other companies “shall list for taxation, at its actual value, its real and personal property, moneys and credits, within this state.” Property was to be returned to auditor of the county where it was situated, and moveable property was apportioned pro rata according to the value of the fixed property.

The powers and duties of township assessors were prescribed carefully (sec. 23-32): one assessor was to be elected in each township who was to assess personal property every April and May, and to return his lists to the county auditor in the latter month. District assessors (sec. 33-39) were to be elected once in six years for the purpose of assessing “from actual view” the value of all real property and buildings, of which he must make his return to the county auditor in September; each county was to be divided by the county commissioners into four districts every six years for this purpose.

The county auditor was the pivot of the whole system
(sec. 40-52); all returns must be sent to him and from these a duplicate or tax list of the county made out, an abstract of which he must send to the state auditor in October. In case of a refusal on the part of a tax-payer to list his property, the auditor was directed to add a 50 per cent. penalty; he also added omitted lands and corrected false statements. No penalty seems to have been imposed for the latter, but on the other hand the auditor was compelled to pay the costs of the investigation, if his suspicions were incorrect;\(^{120}\) it is difficult to see what incentive he could have had to institute an inquiry. The duty of the county auditor as to making tax lists and duplicates, and assessing taxes, was set forth at great length (sec. 63-78). It was the duty of the state auditor to transmit every sixth year the statement of the state board of equalization to the county auditor, and to notify him each July of the rate of taxation for the state, for schools, etc. (sec. 58-59).

Three boards of equalization were provided for. The annual county board, consisting of the county commissioners and county auditor, met every May for the equalization of real\(^{121}\) and personal property (sec. 60-62). The county board, consisting of county commissioners, auditor, surveyor, and district assessors, met every sixth year in September, to equalize the values of the real property of the state, which was to be revalued every six years (sec. 53-55). The state board of equalization, consisting of the state auditor and one member elected from each senatorial district of the state, met every sixth year in November to equalize the returns sent up from the different counties. They were forbidden, however, to reduce the aggregate

\(^{120}\)This was changed in act of April 5, 1859, § 34, so as to place the costs upon the tax-payer, unless he was shown to be innocent of wrong intention.

\(^{121}\)An amendment of May 1, 1852, provided that real estate was to be taxed as valued until a new revaluation was made. Only new improvements could be equalized, therefore.
valuation of the counties more than ten million dollars (sec. 56-57).

A general valuation of real property was ordered for 1853 and every sixth year thereafter. The aggregate of the equalized valuation was $558,725,542. The personal property listed the following spring was valued at $297,061,572, so that the grand list for 1854, including the values of lands and new improvements listed in the spring, was $866,929,982. “The increase in seven years had been again startling,” wrote Governor Chase. “It was $456,166,822. The appraised now more closely approached the real value, and no such apparently rapid augmentation of the list could be in future expected.”

The following table shows the effects of the law of 1852 and of the valuation of real property in 1852 upon the amount of property returned for taxation:

<table>
<thead>
<tr>
<th>Year</th>
<th>Real Property</th>
<th>Personal Property</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In towns</td>
<td>Not in towns</td>
<td></td>
</tr>
<tr>
<td>1852</td>
<td>$81,558,374</td>
<td>$273,378,773</td>
<td>$507,581,911</td>
</tr>
<tr>
<td>1853</td>
<td>$85,321,192</td>
<td>278,169,709</td>
<td>593,396,848</td>
</tr>
</tbody>
</table>

In 1852, real estate paid 70 per cent. of all the taxes, but in 1853 this proportion had been reduced to 62 per cent., owing to the large amount of personal property subjected to taxation. As the largest increase is shown in the schedules of personal property it will be of interest to take up some of the more important items in detail and note the changes. This is shown in the table on page 228.

The large increase in domestic animals—78 per cent.—was probably partly due to an undervaluation of this species of property in 1852. Pleasure carriages now for the first time included wheel vehicles of every variety, which accounts for the very large increase in the second item. The value of property pertaining to merchandise and manufacturing did not at all correspond to the actual amount invested in these businesses, but was slowly increasing. The greatest relative increase was shown in the

Personal Property Returned for Taxation, 1852-3 (in millions)

<table>
<thead>
<tr>
<th>Year</th>
<th>Cattle</th>
<th>Plumes, watches, and pleasure carriages</th>
<th>Property pertaining to</th>
<th>Manufactured Merchandise</th>
<th>Brokerage or private banking</th>
<th>Money and credits, including book accounts</th>
<th>Bonds and Stocks of</th>
<th>United States (1)</th>
<th>State of Ohio (2)</th>
<th>All other persons, prop. not included in the other items</th>
<th>Joint stock companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1852</td>
<td>33.7</td>
<td>3.5</td>
<td>18.1</td>
<td>5.5</td>
<td>1.2</td>
<td>incl. in (3)</td>
<td>.9</td>
<td>14.3</td>
<td>.5</td>
<td>.9</td>
<td>14.3</td>
</tr>
<tr>
<td>1853</td>
<td>57.8</td>
<td>10.0</td>
<td>21.5</td>
<td>6.0</td>
<td>7.8</td>
<td>54.0</td>
<td>.2</td>
<td>.2</td>
<td>.6</td>
<td>.6</td>
<td>24.8</td>
</tr>
</tbody>
</table>

property returned by brokers and private bankers, who were being fairly taxed for almost the first time.

As the system of taxation was improved and a larger proportion of the taxable property in the state was returned, complaints began to be made of the increasing burden of high taxes. In 1855 the taxes levied in Ohio were as follows:

Total state taxes ................................................... $2,754,808
Total county taxes ................................................. 2,762,305
Total township, city, and special taxes ...................... 2,943,618

It will be seen that the state taxes made up barely one-third of the total, so that complaints were more justly directed against those levied by the counties. In addition to the direct taxes there were numerous fees paid to county, township, and other local officers, of which no account was kept that was accessible to the public. There had been a notable increase of the taxes since 1846, when the general property tax had been fully introduced, and here again

---

the greatest gain was shown by the local governments. Between 1846 and 1859 the state taxes increased 165 per cent, and the local taxes 329 per cent. The same fact was illustrated by the respective increases of the tax rates: Rate of state tax in 1847 was 2.8 mills; in 1859, 3.5 mills. Rate of local tax in 1847 was 3.9 mills; in 1859 7.7 mills.

Perhaps because of the burdens imposed, an act of the latter year\footnote{Act of April 2, 1859. \textit{O. L.}, 1859, p. 101.} provided for the semi-annual collection of taxes, the tax-payer being given the privilege of paying one-half his taxes on December 20 and the other half on June 20. In the same year the sixth general valuation of real property took place, and the returns showed an increase in the valuation since 1853, of about 15 per cent. The value of the realty was raised from $584,114,004 in 1859 to $639,894,311 in 1860. The personalty showed a decline, however, from $251,795,937 to $248,408,290, so that the aggregate gain on the grand list was only about $42,000,000. The state taxes for 1860 amounted to $3,503,713.

\textbf{The act of 1859.}

The act of April 5, 1859,\footnote{\textit{O. L.}, 1859, pp. 175-218; 2 Swan and Critchfield, 1438.} was simply a codification of previous laws on the subject of taxation, and brought together in one comprehensive act the matter contained in many scattered acts, especially those concerning bankers, brokers, etc. Little new matter was added to previous legislation, though in some cases more careful definitions were framed, or errors discovered in the act of 1852 were corrected. Credits were defined as the "excess of legal claims over bona fide debts", thus permitting the deduction of debts from personalty. The amount of personal property exempted for each individual was limited to $50.

Corporations and joint stock companies were to be taxed like individuals, except banking corporations for which special provision was made (sec. 60-68). Banks were to return annually in May: (1) the average amount of notes and bills discounted, (2) the average amount of
all moneys, etc., loaned, invested, or otherwise used with a view to profit, less the amount of specie reserve on hand. Taxes should be paid to the state treasurer and by him distributed to the counties and townships in which the banks were situated. A new feature was that regarding the "non-resident personal tax" (sec. 85-91), which seems to indicate both successful efforts to evade the taxes on personality, and attempts on the part of legislators and officials to check the evasion. The county treasurers were to notify one another when a tax-payer moved out of one county into another in the state, and back taxes were to be collected, if any were due, by the second county treasurer; such taxes were to be distributed to the counties to which they belonged.

On one point the legislators did not seem able to make up their minds, and that was as to the frequency of re-valuations of real property in the state. Frequent appraisements were expensive, but if too long a time elapsed between valuations then injustice was done. The law of 1852 had provided for sexennial valuations and this was repeated in the act of 1859, which fixed the next one for 1864. By the act of April 7, 1863, the date was postponed to 1868 and the valuations were made decennial; another postponement to 1869 was made by the act of May 8, 1868. These various changes necessitated other changes in the provisions governing the meetings of the boards of equalization. The duties and composition of these boards were unchanged.\(^{126}\) The powers and duties of the county auditor, which had expanded enormously with the development of the system were carefully codified in a long act, containing fifty-seven sections, passed April 4, 1859.\(^{127}\) He was to be elected for two years; indeed all the officials

\(^{126}\) An amendment of April 18, 1874 (\textit{O. L.}, p. 92; 2 Sayler 1645) provided that the county boards of equalization should not reduce the value of the real property in any county below the aggregate value as fixed by the state board, nor below its aggregate value on the duplicate of the preceding year, excepting that in oil counties where oil was exhausted the aggregate value might be reduced.

\(^{127}\) \textit{O. L.}, 1859, pp. 128, ff.
named in these acts were now elective instead of appointive.

The laws respecting delinquent taxes, methods of enforcement and penalties, were gradually being developed, as experience showed the weak points. In 1857 it was provided that if one-half the tax charged against lands should not be paid by December 26, it should be charged on the duplicate with 30 per cent. penalty and interest; if this were not paid, together with remaining half of the tax, by June 20, then the lands were to be placed on the delinquent list. At the March meeting of the county commissioners the delinquent list for five years previous was to be read, and they were to try to collect the unpaid taxes with interest. Lands forfeited for non-payment of taxes were to be advertised and sold by the county treasurer on the third Tuesday in January. Lands sold for taxes at delinquent sales might be redeemed in two years, but in that case the former owner must pay for all improvements.

The new constitution had now been in force for almost a decade and its principles had been presumably carried out in two comprehensive tax laws. Had the standards of equity, uniformity, and no discrimination set up by the constitution been carried out by legislation or by administrative practice? The question was an inevitable one. It was raised and answered by Governor Salmon P. Chase in his message of December, 1860.

128 Act of May 1, 1854, 52 O. L., 112. This act made it the duty of each county treasurer to find out the new address of every delinquent taxpayer who moved away, and to send a statement of the taxes assessed and not paid to the county treasurer of the county to which the taxpayer moved. This treasurer should then collect all such taxes. If the taxpayer moved after the delivery of the tax duplicate, a penalty of 25 per cent was to be added. Delinquent taxes so collected were to be distributed to the proper counties.

130 Act of April 5, 1859, sec. 92-109. Amended by act of April 11, 1865 (Swan and Sayler, 781), and of 1877 (74 O. L. 69) which provided that the former owner must reimburse the purchaser for all taxes, penalties, interest, etc., paid by him to the state.

131 Exec. Doc., 1861, 1, 348.
It is argued by some that a successful effort is yet to be made to adapt our tax laws to the constitution; that by the present law different kinds of property are not treated by a uniform rule, but are valued by different methods and at dissimilar periods; that the obvious meaning of words in the constitution has been perverted by legislative definitions contrary to their true meaning, by reason of which some classes of property are twice taxed, and other classes not taxed at all; that the exemptions provided for in the constitution have been overstepped; that no man is now taxed either according to the value of what he owns or what he is worth.

But in his inaugural address a few weeks later the governor designated the system of taxation in force "as perfect and equitable as can well be devised," . . . "if faithfully executed." The taxation of real property at its true value in money he thought generally well attained, but that a large amount of invisible property, particularly money and credits, escaped taxation. He recommended that "more severe penalties, certain of enforcement, be provided for failures to give in to the assessors this species of property." This easy method of meeting the evil was simplified still further by the auditor in his report for 1864. After calling attention to the fact that a large amount of property escaped taxation, he concluded: "The remedy for this evil is very easy of attainment: require every man to swear simply, that he has listed all his property."

THE CIVIL WAR PERIOD.

With the outbreak of the Civil War new problems presented themselves. There was less discussion of method and more of means. Under the stress of necessity and the

A comparison of the census tables of taxable property in Ohio, which undertook to give the real value, shows that the assessed values come very close to these (Rep. Com'r. of Stat. Exec. Doc., 1862, I, 460):

<table>
<thead>
<tr>
<th>Year</th>
<th>Assessed Value</th>
<th>Real Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>1850</td>
<td>$433,872,632</td>
<td>$504,726,120</td>
</tr>
<tr>
<td>1860</td>
<td>959,867,101</td>
<td>1,193,898,422</td>
</tr>
</tbody>
</table>

Increase 525,994,469 689,172,302

impulse of patriotism large sums were raised by means of taxation without a murmur of complaint. A system that displayed many weak points when every effort was being made to evade taxes, easily yielded large revenues when the tax-payers responded fairly to the calls upon them. Additional funds were raised to defray the expenditures caused by the war, not by the slow imposition of new taxes, as in the case of the federal government, but simply by raising the rate of the general property tax. Criticism of the tax system died out of the official reports and messages absolutely; on the other hand much satisfaction and pride were expressed in both the system and the results.

The valuations of property and the taxes levied in Ohio during the four years of the war are shown in the following table (in millions):

<table>
<thead>
<tr>
<th>Year</th>
<th>Value of Realty</th>
<th>Value of Personalty</th>
<th>Total Value of Taxable Property</th>
<th>State Tax</th>
<th>Total of all Property Taxes (State and Local)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1860</td>
<td>$640</td>
<td>$248</td>
<td>$888</td>
<td>$3.5</td>
<td>$10.8</td>
</tr>
<tr>
<td>1861</td>
<td>635</td>
<td>249</td>
<td>893</td>
<td>4.0</td>
<td>11.6</td>
</tr>
<tr>
<td>1862</td>
<td>636</td>
<td>244</td>
<td>889</td>
<td>4.1</td>
<td>10.1</td>
</tr>
<tr>
<td>1863</td>
<td>650</td>
<td>287</td>
<td>936</td>
<td>4.7</td>
<td>11.7</td>
</tr>
<tr>
<td>1864</td>
<td>655</td>
<td>351</td>
<td>1,007</td>
<td>5.3</td>
<td>16.6</td>
</tr>
<tr>
<td>1865</td>
<td>661</td>
<td>400</td>
<td>1,070</td>
<td>5.7</td>
<td>20.9</td>
</tr>
</tbody>
</table>

It will be noticed that while the state taxes were increasing, the aggregate taxes, during the first three years of the war at least, did not show a corresponding growth. The reason for this was the introduction of considerable economies in ordinary civil expenditures. Thus, while the state taxes for war purposes increased from 312 thousand dollars in 1861 to 844 thousand in 1862, there was a saving of half a million each in state taxes for other purposes and in county taxes and over a million dollars in city, town, and special taxes, reducing the aggregate burden on the people by one and one-half million dollars. Not until 1864 and 1865 was there any marked increase in the total of all taxes, and this was due almost entirely to the expan-
sion of local taxation and expenditures. Part of this was attributable to the war itself, as in the case of levies for the payment of bounties to soldiers, and indirectly because of the higher prices brought about by the over-issue of depreciated paper money; but the larger part was due to the growth of cities and towns and the increase of expenditures for various purposes of town comforts and conveniences.\textsuperscript{135} The war itself then can scarcely be said to have entailed any considerable extra burden of taxation upon the people of Ohio, except in so far as it involved a diversion of expenditures from productive into unproductive channels, and prevented the immediate satisfaction of legitimate local or state wants.

The readiness with which Ohio responded to the call of the federal government for financial support was well illustrated by the action of the state in regard to the direct tax laid upon the states by act of Congress of August 5, 1861. The total tax was $20,000,000, and Ohio's quota, apportioned according to the number of her representatives in Congress, amounted to $1,567,089. It was provided that any state might assume the tax as a state obligation, otherwise it would be assessed and collected by federal officials; if paid before July 1, 1862, it was subject to a deduction of 15 per cent., and of 10 per cent. if paid before October 1. Ohio assumed the tax and imposed an additional state tax of 1\frac{1}{4} mills, to be added to the June levy.\textsuperscript{136} From this source $380,000 in money was paid to the Treasury Department at Washington, and over $1,000,000 in accounts and vouchers for moneys expended by the state for the military service of the United States, exceeding the state's quota and securing for it the discount of 15 per cent.

One of the most interesting features of this period was the promptness with which all taxes were paid, and the absence of complaints or attempts at evasion. The delinquencies declined to less than one per cent.; in 1863 they

\textsuperscript{136}Act of April 16, 1862. \textit{O. L.}, p. 52.
were 7/8 of one per cent., in 1862 they were 1 per cent.\(^{137}\) The delinquencies and costs of collection together amounted in 1860 to 3\(^1/2\) per cent.; in 1863 they declined to a little over 1 per cent.; they were 2 per cent in 1865 and 1866, after which the good effects of patriotism seems to have worn off, so far as evasion of taxes was concerned. For 1867 delinquencies and cost of collection were extraordinarily light and amounted to only 2.8 per cent.; for the following years they were somewhat greater, amounting in 1868 to 4.5 per cent., 1871 to 4.73 per cent., and for 1872 to 4.63 per cent.,\(^{138}\) which was probably about normal.

An interesting table was compiled by the commissioner of statistics in 1864,\(^{139}\) to show the distribution of the taxable property among the different interests. Agriculture was shown to be the dominant industry and to bear over two-thirds of the taxes. It is herewith reproduced:

<table>
<thead>
<tr>
<th>Class</th>
<th>Taxable Property</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>$620,927,117</td>
<td>68</td>
</tr>
<tr>
<td>Town houses, lots, gas, street railways, etc.</td>
<td>168,751,157</td>
<td>19</td>
</tr>
<tr>
<td>Manufacturers' and mechanics' capital</td>
<td>12,460,455</td>
<td>2</td>
</tr>
<tr>
<td>Merchants' and brokers' capital (excl. money)</td>
<td>103,611,345</td>
<td>11</td>
</tr>
<tr>
<td>Miscellaneous (incl. money)</td>
<td>110,132,365</td>
<td>Pro-rated</td>
</tr>
</tbody>
</table>

The appointment of a tax commission to revise the tax laws was urged by the auditor in several successive reports,\(^{141}\) and was finally authorized by act of March 18, 1867. They were to report what changes were necessary to systematize and make consistent the existing statutes on taxation. The committee of finance was appointed to this task and in the following session brought in eight bills for enactment. These were "somewhat considered" by the


\(^{140}\) Includes such items as furniture, carriages, watches, etc.

\(^{141}\) E. g. Aud. rep. in Exec. Doc., 1866, I, 134.
legislature, but only one of them was passed. This was the act of May 8, 1868, which codified the legislation regarding the division of counties into tax districts, the election of district assessors, returns to the county auditor, county and state board of equalization, the annual county board, and special boards in cities. No changes in principle were introduced.

During the same session an act was passed requiring the assessors to ascertain and report all bonds, federal and state, and legal tender notes exempt from taxation, held by Ohio tax-payers. The returns showed $21,907,795 of such exempt property held in the state, or about 5 per cent. of the value of chattel property listed for taxation. This evidently seemed to the legislature worth taxing, for in the following year bonds, treasury notes, and fractional currency of the United States, held or owned by individuals, companies or corporations in the state, were made subject to taxation. A statement of their amount was to be made to the assessor under oath, and they were to be taxed locally. This law was later declared unconstitutional.

The valuation of property on the grand duplicate was increased $32,545,858 in 1867 over that of the previous year. This the governor attributed to "the increased care and accuracy in the administration of the law, and the growing familiarity of local boards of equalization with their duties."

A re-appraisement of the real property in the state was made and equalized in 1870, as a result of which the valuation was increased from $697,018,203 in 1869 to $1,025,619,034 in 1871. At the same time there was a slight increase in the valuation of personalty from $459,762,252 to $476,510,937. The next valuation was fixed

Gov. Mess., 1868, p. 4. No report of this commission was printed, as it was only a statutory commission.


"Act of May 7, 1869. 3 Sayler 2216.

for 1880.\textsuperscript{146} The state tax for 1871 was $4,350,728; local taxes meanwhile had grown to over $18,600,000 or five-sixths of the total amount raised in the state. So great was the increase in this direction that the governor thought it "wise to restrict, by legislative enactment, the power of minor political organizations to create debts and impose taxes."\textsuperscript{147}

For twenty years after the passage of the act of 1859 there was practically no new tax legislation, except changes in the rates. Indeed so completely did the legislature keep their hands off this subject that in the index of the sessions laws passed from 1869 to 1876 there were no references to taxes or taxation, except to municipal and local laws.\textsuperscript{148} A general revision of the statutes of Ohio was made in 1878, and all the general statutes on the subject of taxation were consolidated and revised. They formed Title XIII, chapters 1-8 of the revised statutes of 1880.

THE ACT OF 1878.\textsuperscript{149}

There was little that was new in the act of 1878, and no changes in the essential principles of taxation that had been in practice since 1846. Chapter 1 dealt with definitions and property to be taxed in almost the same language as previous laws.\textsuperscript{150} Chapter 2 covered the listing of personal property and was the longest. Foreign insurance companies were added to the list of corporations required to make returns of their taxable property (sec. 7-13). A more elaborate and careful procedure had been developed

\textsuperscript{146}Act of March 2, 1871. \textit{O. L.} p. 33; 2 Sayler 1644.

\textsuperscript{147}Gov. Mess., Jan. 5, 1847. \textit{Exec. Doc.}, 1873, II, 218. This was done by act of May 11, 1878, ch. 5. "It has been this enormous weight of local taxation that has pressed so heavily on the people." Aud. rep. \textit{Exec. Doc.}, 1870, I, 317.

\textsuperscript{148}O. L., 1876, App., p. 42 et seq. In the index of laws of 1872 the words did not occur at all.


\textsuperscript{150}Soldiers' monuments were added to the list of exempt property. The amount of personal property exempted was raised from $50 to $100.
for banks: incorporated banks were to be taxed on their shares in the city where the bank was located, their real estate being taxed where situated (sec. 29-36); unincorporated banks and bankers were required to make out a list of the average amount of their (1) notes discounted, (2) accounts receivable, (3) cash, (4) stocks, bonds, etc., (5) real estate, (6) deposits, (7) accounts payable, exclusive of deposits, (8) capital paid in. The auditor was to subtract items 6-8 from items 1-5, and they were to be taxed on the balance (sec. 25-28). Railroads were to be appraised and assessed by the county auditors (sec. 37-43). Foreign express and telegraph companies were required to list through their agents the annual amount of their gross receipts; but express companies were permitted to deduct from this the amount paid railroads for transportation (sec. 44-47). Chapter 3 contained the legislation concerning the assessing of real estate.

Seven boards of equalization were now provided for: (ch. 4) the annual county board, consisting of the county commissioners and auditor, to equalize individual assessments; the annual city board, with similar duties, consisting of the county auditor and six citizens of the city appointed by the council; the annual state board for banks, consisting of the state auditor, treasurer, and attorney general, to equalize the value of the shares of incorporated banks; the annual state board for railroads, consisting of the same officials, with similar duties for the railroads of the state; the decennial county board, consisting of the auditor, surveyor, and county commissioners, to equalize the real property in the county; the decennial city board, consisting of the county auditor and six citizens appointed by the council, with similar duties for the city; and the decennial state board, consisting of as many members as the state senate and elected from the senatorial districts, with similar duties for the state. These last three were to meet in 1880 and every tenth year thereafter. In the multiplicity of these boards is eloquent testimony to the growing complexity of the tax system, and
of the need of different treatment of different forms of property, in spite of the constitutional requirement of uniformity.

The levying of taxes was treated in chapter 5. The rates for state taxes were to be fixed by the legislature, those for county taxes by the county commissioners, and those for townships by the township trustees. County and township rates were both limited according to the amount of taxable property, decreasing as the amount increased. But in the case of townships the trustees were empowered to levy an additional road tax, payable in labor. Large county improvements must be submitted to the voters of the county before being made. One section (sec. 12-13) was reminiscent of the early days of internal improvements and of the reckless subsidies and loans of credit that were made at that time. This authorized any county, city, or township that had subscribed to the stock of any railroad company and had issued its bonds, within five years before the maturity of those bonds, if the stock of the railroad company should be less than 75, to levy a tax of not over one mill to balance the discount on the stock; the proceeds of such tax to constitute a sinking fund for the payment of the bonds.

In the subject of collection of taxes (ch. 6) there was one pregnant section (sec. 18), which was destined to open the way for the development of a unique method of collecting back taxes, the so-called tax inquisitor system. This provided that a duplicate of the unpaid personal property tax was to be given by the county auditor to the county treasurer, after the semi-annual settlement in August; the treasurer should then collect the delinquent taxes and be allowed five per cent. on all he collected. From this to the employment of unofficial assistants to aid him and to ferret out new and undeclared personalty was but a step, which was taken by the act of April 14, 1880.151 If false returns were made or evasions attempted, the county

151 O. L. 205.
auditor was authorized to add 50 per cent. penalty and to
go back four years in the collection of the evaded taxes;
"but as to former years, no penalty shall be added, and
only simple taxes shall be claimed." Chapters 7 and 8
dealt with the subjects of delinquent and forfeited lands,
their sale and redemption, but made no changes in former
procedure.

THE OHIO TAX INQUISITOR LAW.\(^{152}\)

The act of 1880, just referred to, had legalized the
employment by county commissioners of private individuals
to detect property improperly omitted from the tax dupli-
cates. The county commissioners of Hamilton county had
been employing men for this purpose before 1880, paying
them a commission on the amount of taxes collected
through information furnished by them, but the commis-
sions thus paid had been borne wholly by the county though
the state shared in the increased taxes. By this law the
state was made to bear part of the expense.\(^ {153}\) In 1885
authority was given to the counties of Hamilton, Cuyahoga,
Lucas, and Franklin, containing the four largest cities
in the state (Cincinnati, Cleveland, Toledo, and Colum-
bus), to employ tax inquisitors and to compel the state to
share in the expense.\(^ {154}\) Finally, in 1888, the power to
employ tax inquisitors was extended to all the counties
in the state.\(^ {155}\) The compensation of such persons was
limited to 20 per cent. of the amount of taxes actually paid
in as a result of their researches. Tax inquisitors were
bonded at $1000, and provision was made for the punish-
ment of assessors or auditors who wilfully omitted prop-
erty from the tax duplicate: they were held guilty of a

\(^{152}\) A good account of the workings of this system has been given by
T. N. Carver, in Economic Studies of the American Economic Association
(1898), vol. III, No. 3; also by E. A. Angell, in Yale Review, vol. 5, p. 350.

\(^{153}\) Constitutionality of act was upheld by Supreme Court in State
ex. rel. v. Coppellar. 39 O. S. 214.

\(^{154}\) Act of April 23, 1885. 82 O. L. 152. Constitutionality upheld in
State v. Crites, 48 O. S. 142.

misdemeanor and fined not exceeding $200 or imprisoned in county jail not exceeding sixty days.

Under these various laws there grew up in Ohio a unique system of ferreting out omitted property by the employment of private detectives. A further law provided that the county auditor might go back five years in correcting false returns and add a 50 per cent. penalty for each year in which the taxes were evaded.\textsuperscript{156} Other legislation had given the auditor almost drastic power to investigate, to summon witnesses, administer oaths, take testimony, etc., which taken in connection with the inquisitor features would seem to have made the concealment of personal property almost impossible. In actual practice, however, the system did not work out as well as was anticipated. As his position was a political one the auditor often showed himself unwilling to co-operate with the tax inquisitors in placing the full amount of the omitted property on the duplicate.\textsuperscript{157}

The results hardly seemed to justify the system, for the increase in the assessed valuation of personal property was slight after 1880, and in those forms of property in which the services of the inquisitors would be most valuable, namely credits and intangible personalty, there was either no increase or a slight decline. The amount of omitted property placed on the tax duplicate by the tax inquisitors ranged from $12,000,000 in 1896 to $99,000,000 in 1902.\textsuperscript{158} The system was never adopted by all the eighty-eight counties in the state, the largest number making use of it at one time being fifty-five in 1893; since that date it has been less generally used. In 1904 the system was abolished.

The following account will serve to show fairly clearly the workings of the system.\textsuperscript{159}

\textsuperscript{156} Act of April 14, 1886. 83 O. L. 82. Held to be constitutional in Sturges v. Carter, 114 U. S. Sup. Ct. 512.
\textsuperscript{157} See a notable case cited by Carver, op. cit., p. 184.
\textsuperscript{158} Statistics prior to 1893 are not available.
\textsuperscript{159} Cleveland Plain Dealer, Dec. 17, 1903.
Tax Inquisitor Morganthaler and his local representatives have stirred up a veritable tempest among investors by securing information of local investments from the stock books of a number of the big corporations. From these stock books Morganthaler has learned of large blocks of stock held in the names of well known people and not returned for taxation. Some of the blocks of stock he found are very large and had been held by the owners for several years.

Morganthaler is following up his clews with great speed and is presenting to the holders of the stock bills for delinquent taxes and penalties for forgetting to make proper returns. One wholesale merchant has settled with the inquisitor for $3,000 for a large block of United States Steel, preferred, which he had held since the company was organized. Other local financiers have had calls from the tax man and have negotiations for settlement under way.

The feature of most interest to the local holders who are receiving calls from the tax man is the manner in which he gets the information from the stock books of the corporation. Morganthaler is very specific in the bills he presents to the forgetful men. He details the date of purchase, number of shares, length of time owned, if it has been sold, and all other information to show that he has done his work with fidelity. When he presents the bill with the detailed information to the owners there is nothing to be done but talk settlement and that is what the men are doing.

A few months ago Morganthaler secured the records from the stock book of the Detroit United Railway and caught several Clevelanders who owned that stock and had forgotten to return it for taxation. That stock was widely held in the city and Morganthaler located every one of the forgetful owners and the back taxes were compromised quietly.

There is a rumor in circulation that Morganthaler has much other information of similar nature and that many other holders of this widely scattered stock will be called upon in Cleveland and other Ohio cities and settlement demanded. It is difficult to discuss the facts when the tax man comes armed with dates and the number of shares and settlements are usually made privately. It is understood Morganthaler is bending the greater part of his efforts along this line and has uncovered a great amount of stock in various corporations held by residents of Ohio that escaped the memory of the individuals when they made their tax returns.

THE TAX COMMISSION OF 1893.

After 1878 there were practically no new tax laws passed for about fifteen years; the codification of the statutes in 1878 had added little. In the meantime, how-

160 Act of May 11, 1878.
ever, corporations were developing, especially in the fields of transportation and transmission companies, and inequalities in the general property tax were becoming more marked and causing greater dissatisfaction. Governor Foraker in 1886 complained that in the counties of Lucas and Cuyahoga (in which were situated the cities of Toledo and Cleveland) it had become habitual for the assessors, county auditors, and boards of equalization to value personalty for taxation at 60 per cent. of its true value, while in other parts of the state the appraisement was much higher. Two years later he again referred to the gross inequalities that existed in the valuation of property for taxation: "personal property to the extent of hundreds of millions of dollars in value escapes taxation entirely. There should be no delay in providing for the taxation of foreign corporations on their gross receipts, or in some equivalent way, the better listing of mortgages and other securities, and the more equitable taxing of private banks."

As a result of the dissatisfaction with the existing system, and especially with the constitutional requirement of uniformity in the taxation of all forms of property, and the insufficiency of income for state needs, the legislature in 1893 took two decisive steps to improve conditions. By joint resolution they drew up a rather ambiguous amendment to Article XII, section 2, of the constitution, to be submitted to the people at the next election. This provided for "taxing rights, privileges, franchises, and other such matters as the general assembly may direct." This proposed amendment was rejected at the polls by the people, perhaps not undeservedly. The other important step toward reform lay in the appointment of a bipartisan committee of four to investigate the subject of taxation. A statutory commission had been appointed for this purpose

163 Joint resolution, April 22, 1893. O. L., 1893, p. 384.
164 Joint resolution, April 24, 1893. O. L., 1893, p. 385.
in 1883, and an appropriation of $1630 had been made for their expenses,\(^{163}\) but they had confined themselves to recommending some slight changes in the administration of the general property tax. The tax commission of 1893, however, went energetically to work, and made their report on December 23 of the same year.

The first topic discussed in this report was the power of the general assembly over the subject of taxation, under the existing constitution, and the conclusion reached was that while that instrument prohibited the taxation of persons, it left the taxation of business wholly to the discretion of the legislature; as to property, it must be taxed by uniform rule according to its true value in money. The existing methods of taxing property and business in Ohio were then examined and the conclusion reached that "in the main the Ohio system of taxation will compare favorably with those of other states." The third and most important problem, whose consideration made up the bulk of the report, was then stated as follows:

How shall property now being excessively taxed be relieved, and property now escaping taxation be charged, so as to equalize the burdens of taxation, and increase the revenues of the state?

In answer to the first part of this question the commission established the fact that "all but a mere bagatelle" of the intangible property was escaping taxation; that real estate was bearing a disproportionate share of taxation, paying from 14 to 25 per cent. of its gross rentals, while railroads paid only 5 to 12 per cent. of their net earnings. Banks were contributing their fair share. But intangible property as a whole paid less than 10 per cent. of the taxes of the state, while the tax inquisitor law produced not over 2 per cent. of the taxes collected; they recommended the abolition of the latter system.

As to remedies the commission recommended a change in the administration of the general property tax, by concentrating the duties of the various state boards of equalization in one single state board of assessment and equaliza-

\(^{163}\) Act of April 16, 1883.
tion, and of the various local boards in one county board of assessment and equalization, and by providing for quinquennial instead of decennial revaluations of real estate. They also recommended

the equalization of taxation and increase of revenue, by laying taxes on business, with an especial view to reaching intangible property, and corporations and enterprises, whose ability to contribute to the expenses of the government cannot be justly measured by a tax upon their property; and to this end, the following taxes are suggested: (a) an annual franchise tax on the corporations and enterprises indicated, including railroads; (b) a privilege tax on transfers of property by deed, mortgage or will, and upon appeals, writs of error, etc.; (c) an extension of the collateral inheritance tax to classes exempted by the present law, and an increase of the tax; (d) an extension of the corporate organization tax to foreign corporations doing business in this state.\footnote{Rep., p. 70.}

In conclusion they urged rigid economy in public expenditure.

As a result of these recommendations and for the purpose of obtaining larger revenues, the legislature imposed a tax on the traffic in cigarettes, and increased the share of the state in the liquor tax. They also extended the inheritance tax to direct inheritances, and imposed a franchise tax on domestic and foreign corporations, and excise taxes on express, foreign insurance, and sleeping car companies. A little later, for purposes of regulation rather than revenue they established boards of pharmacy and medical registration and examination, a fish commission, an examiner of stationary engines, etc., for the support of which fees were exacted. The situation in 1895 was summed up by Governor McKinley in his annual message, from which we may quote at considerable length: \footnote{Gov. Mess. \textit{Exec. Doc.}, 1895, I, 5-6.}

The state's revenues are inadequate to the needs of the state, and some legislation should be had which will insure a permanent increase of these revenues. This question is brought up at each recurring session of the General Assembly, and has long been a matter of much vexation. . . . While full relief has not yet been found, yet some advance has been made in the direction of larger revenues, without adding any further burdens to real or other property already bearing its full share of taxation. New subjects of taxation, which have heretofore escaped their just
share of the public burdens, are slowly, but with certainty, being placed upon the tax duplicate.

The Massie law of February 12, 1889, levies a franchise tax of 1/10 per cent. upon the capital stock of Ohio companies, for the privilege of becoming incorporated or consolidated under the laws of Ohio, the fee to be paid to the Secretary of State. It yields about $100,000 yearly.

The Hard law of May 16, 1894, requires every foreign corporation having a plant in Ohio to pay a tax of 1/10 per cent. upon the proportion of its capital stock represented by property in this state. The object was to place foreign corporations on the same footing as domestic corporations. It yields about $20,000 yearly. The Carpenter law of April 25, 1893, requires all foreign corporations to file a statement with the Secretary of State, designating a person upon whom service can be made, and to pay a fee. It yields about $5,000 yearly.

Franchise tax on foreign insurance companies. By an amendment of April, 1893, foreign insurance compaines were required to pay a tax to counties only upon their net premium receipts, while the difference between the amount thus paid into the counties, and 2 1/2 per cent. on their gross premium receipts, was made payable to the superintendent of insurance for the privilege of doing business in Ohio. It was further enforced by the amendment of March 27, 1894. It yields about $40,000 yearly.

Excise tax on express companies for the privilege of doing business in Ohio of 2 per cent. on gross receipts from Ohio business. These are to be ascertained by a state board, consisting of the auditor, treasurer, and attorney general.

The Griffin law of May 24, 1894, levying an excise tax of 1 per cent. on the value of that proportion of the capital stock of sleeping car companies represented by cars owned and used in Ohio, ascertained by a state board, consisting of the auditor, treasurer, and attorney general. This was the first tax on sleeping car companies as such in Ohio.

The inheritance tax law of April 20, 1894, levying a direct inheritance tax, has been held invalid by the Supreme Court, because of the inequality of its graded features and large exemption. At the same time the power of the state to raise revenue by taxing successions has been maintained.

ABOLITION OF THE GENERAL PROPERTY TAX FOR STATE PURPOSES.168

For some years no further changes were made in the tax laws, as the new sources of revenue thus opened up

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168 Much of what follows has been published in the American Economic Review, Sept., 1911, under the title "Recent Tax Reforms in Ohio." Thanks are due Prof. D. R. Dewey, the editor, for permission to reprint.
grew steadily more lucrative. In 1901, as the result of the
decennial revaluation of real estate, there was added to the
total valuation of real and personal property upon the
grand duplicate the sum of $135,000,000. The total amount
of money paid into the state treasury for the year ending
November 15, 1901, was about $8,100,000; of this amount
$5,400,000, or two-thirds, was raised by levies upon real
and personal property, and the remaining third came from
other sources of revenue. The relief to the agricultural
interests of the state was so marked that the extension of
this principle was earnestly advocated by Governor Nash.
He urged that the complete segregation of state and local
taxation be sought, and that the revenues for state pur-
poses be secured from corporation, inheritance, and excise
taxes, leaving to the local governments the general prop-
erty tax.

The advantages of such a system [he said\(^{169}\)] are many. The tangible
property will be relieved of a portion of the burden which it now bears.
There will then be no occasion for the state board of equalization. No
injustice will arise because the property in one county is valued more
highly for the purpose of taxation than the property in another. The
injustice arising from such erroneous valuation comes only when state
taxes are to be paid. Then taxes upon property will be levied by the
county, municipality, and township officers. Taxation will become local,
and if the officers responsible for it are derelict in the discharge of their
duties, they live among the people whom they wrong and who can easily
get rid of them and elect other officers who will wisely perform these
duties.

By the act of April 29, 1902, the general assembly
partially followed this advice, and omitted to make any
levy for the general revenue fund upon the real and per-
sonal property returned for taxation. The levy for com-
mon school purposes was reduced from 1 mill to .95 mill;
and for sinking fund purposes from .30 to .18 mills.\(^{170}\) In
his next message Governor Nash voiced the belief that the
legislature ought "eventually to wipe out this tax alto-

\(^{169}\)Gov. Mess., 1902, p. 11.

\(^{170}\)The old levies, together with one of 1.4 mills for general revenue
purposes, had been imposed by the law of April 18, 1892, which was now
repealed.
gether." Governor Pattison in 1906 advocated the same policy:
The law as far as possible, should provide that the necessary revenue for
the expenses of the state shall be raised in some manner without calling
upon the respective counties for any portion thereof.\(^{11}\)

The loss of revenues from the general property tax
was made good by the passage of the "Cole law", which
raised the excise tax on public service corporations from
\(\frac{1}{2}\) to 1 per cent. of their gross earnings, and the "Willis
law", which imposed a tax of \(\frac{1}{10}\) of 1 per cent. on domestic
and foreign corporations, other than those operating a
public service. The transition was moreover made easy
by the existence of a large balance in the general revenue
fund, amounting on November 15, 1902, to almost $3,000,-
000, of which $459,000 was due to the payment by the
federal government of money expended by the state during
the Civil War.

The problem of reforming the existing system of taxa-
tion was by no means settled, however, and continued to
be a topic of discussion in legislative and administrative
circles, as well as among the people at large. In Novem-
ber, 1905, an amendment was passed to Article XII, sec-
tion 2, of the constitution, exempting from taxation Ohio
state, county, township, municipal, and school bonds. As
the principle of stoppage at the source had never been ap-
plied to the taxation of any of these bonds, only a part of
them had been subjected to taxation, but the rate of in-
terest on all had to be high enough to cover the risk of
their being taxed. By exempting them definitely, the rate
of interest which it was necessary for the local govern-
ment to pay upon money borrowed by them was reduced
by nearly the average rate of taxation formerly levied upon
the bonds.

\[\text{THE TAX COMMISSION OF 1906.}\]

Dissatisfaction with the tax system next found expres-
sion in the action of various business and professional asso-

ciations, and in other less formal expressions of opinion, which demanded reform. Accordingly the governor, in September, 1906, appointed a commission of five men "to investigate the tax laws of this state and to make recommendations for their improvement." They submitted their report on January 10, 1908. After outlining the existing tax system of Ohio under the heads of the general property tax and special excises and privilege taxes, the report enumerated the evils of the system. These were classified under five heads: inequalities between the owners of real and personal property, among the owners of real estate, among the owners of personal property, between owners of real and personal property and owners of corporate property, and finally inequalities among corporations.

The most important feature of the report was its recommendations, which were five in number. First and foremost came a proposed amendment of the constitution, giving the legislature a freer hand to deal with such subjects as franchises, stocks, bonds, cash, mortgages, and other intangible property, and abolishing the rule of uniformity, which had proved such a stumbling block in the way of tax reform. The proposed amendment simply gave to the general assembly, in general terms, power to establish and maintain an equitable system for raising state and local revenue. It may classify the subjects of taxation so far as their differences justify the same in order to secure a just return from each. The legislature was to be authorized to classify property for purposes of taxation, but was not required to do so.

The other recommendations of the commission were as follows:¹⁷² (2) the establishment of a state tax board of three members, to be appointed by the governor, to administer all laws for the collection of state revenues and to make such recommendations upon the general subject of taxation as investigation and experience may from time to time suggest; (3) a more frequent appraisement of real estate; (4) the abolishment of the present state levy upon real and personal property and the complete separation of

¹⁷²Rep., pp. 39-44.
state and local revenues at the earliest practicable date; (5) that authority be given to local communities to secure publicity in taxation in such manner as they shall deem best.

RECENT TAX REFORMS.

The recommendations of the commission were favorably received, and within two years four out of the five suggestions were practically adopted. We may take these up in order. It had been found impossible, after repeated trials, to secure an amendment to the constitution permitting the classification of property for purposes of taxation, even the one proposed by the commission being rejected at the polls, so it was suggested that a constitutional convention be called to overhaul the instrument as a whole. Each of the political parties ratified this suggestion, and their action found expression on the official ballot, so that a straight party vote would be a vote in favor of calling a convention.\textsuperscript{173} Probably as a result of this fact, the popular vote on November 8, 1910, was overwhelmingly in favor of calling the convention, being 693,263 for and 67,718 against the proposition. After this vote doubt arose as to whether the convention should be held legally in 1911 or 1912, the corporate interests, which feared that their tax burdens might be increased under a new constitution, contending for the latter date. When it meets there is little doubt that the provisions of the constitution relating to taxation and finance will be carefully revised, and that the rule of uniformity in taxation will be changed.

The second recommendation of the commission to be acted upon was that of the more frequent appraisement of real estate. Between 1825, when the system of the general property tax was first introduced into Ohio, and 1859, the valuations of real property had been made roughly about every six years; from the latter date down to 1910 valuations had been decennial.\textsuperscript{174} This system was adopted when

\textsuperscript{173} Act of April 26, 1910. 101 O. L. 169. Popular vote on convention was provided for by act of March 16, 1909. 100 O. L. 18.

\textsuperscript{174} See above, p. 205, note 75.
the real estate of Ohio consisted almost wholly of farm lands, and had been retained by this state after it was given up by every other state in the Union. Gross injustice was often done by the rapid changes in the value of real estate, which local boards were unable to correct during the interval.\textsuperscript{175} As a compromise between the expense of annual appraisements and the injustice of decennial ones, the commission recommended quadrennial appraisements. By act of March 12, 1909,\textsuperscript{176} this was provided for, to begin in 1910 and continue every fourth year thereafter.

The most important and far-reaching legislation, however, consisted in the appointment of a permanent tax commission.\textsuperscript{177} By this act Ohio took rank among the progressive states in matters relating to taxation, and opened the way for further reforms. The commission consists of three members, appointed by the governor for a term of three years, at a salary of $5,000 per annum. Their most important function, for the present at least, is to consist in the assessment of railroads, express, telegraph, and telephone companies, sleeping car, pipe line, and equipment companies, and other public utilities, which had previously been assessed by a number of special boards. For instance, railroads had been assessed by the county auditors, and the others by various state boards; the taxes on public service corporations had been collected by the auditor; the excise tax on other corporations had been collected by the secretary of state, and other taxes had been paid to the state treasurer. All the machinery for the assessment of these various taxes was now concentrated

\textsuperscript{175}By the decision of the supreme court of Ohio (Davies, Auditor, v. The National Land and Investment Co., 76 O. S. 407) it was held that after the completion of a decennial appraisement of real estate, and its equalization, it was not competent for a local board to re-value or increase the taxable appraisement of real estate, or even to correct gross inequalities caused by the growth of a city. The case thus decided involved property in Toledo, whose value had increased millions of dollars.


\textsuperscript{177}Act of May 10, 1910. 101 O. L. 399.
in the hands of the tax commission, while all taxes were to be paid directly to the state treasurer.

With respect to the assessment of real and personal property of individuals, power is given the commission to order a reassessment of the same in any taxing district, whenever in their judgment it was not assessed at its true value in money. A new appraiser or board of appraisers is to be appointed for this purpose. Taken in conjunction with the quadrennial assessment of real estate it is now possible for the first time to correct inequalities in assessment as soon as they appear; the law therefore marks a great improvement in this regard. The commission also received power to raise or lower the assessed value of any real or personal property, and to require county auditors to place upon the tax duplicate any omitted property.

The tax commission act of 1910 was revised during the last session of the legislature, and was considerably improved by a rearrangement of the sections and by clearer definitions. At the same time the powers of the commission over corporations were strengthened and a determined effort made to force them to pay their taxes. The treasurer of state is directed to send to the tax commission, instead of to the attorney general as formerly, a list of the delinquent public utilities and corporations, and the commission is then to direct the attorney general to institute actions in the courts if it wishes. In general the commission is made the final authority in all matters of administration relating to taxation.

In January, 1911, the tax commission made its first report, covering a period of about six months. During this period their main efforts had been directed to the work of assessing the various public utility corporations, which had previously been assessed by various special boards. While a considerable increase was made in the valuation of practically all corporations—the only decreases being in the case of water transportation and natural gas companies—the true value was in no case reached, since the personal

178Act of May 31, 1911. (House Bill No. 491).
The general property tax of individuals was still so greatly undervalued. There is yet room for a large growth of revenues from these sources when the tax commission shall have carried its work to completion.

Another important part of the work of the commission was that of supervising the appraisement of real property in the state. Although the work was not finished at the time of making their report, they stated that a conscientious effort was being made to have the real property of the state assessed at its true value. In only two cases was it found necessary to order the reappraisal of a taxing district. As there are over 2500 taxing districts in the state, this speaks well for the fairness of the valuation. Previously the assessed valuation had been about fifty per cent. of the true valuation. A table published by the tax commission of 1906 of the sale value and the tax value of real estate properties transferred in four counties during the year 1906 showed that the assessed value was respectively 43, 50, 36, and 37 per cent. of the sale price, and this they regarded as typical. In the case of the smallest properties, worth from $350 to $750, the assessed value was generally higher than the sale price, showing an added discrimination against the small property owner. Some of the larger properties were assessed as low as 10.8 per cent. of their sale price.

Whether this effort to secure the true cash valuation of property for taxing purposes, as the law has always provided, succeeds or not, the movement is in the right direction. The main evil in Ohio in this connection arises mainly in the resulting inequality between individuals, or between individuals and corporations, rather than between different counties, for the rate of state taxation, which is distributed according to the local assessments, is very small—only .134 cents per $100. The tax commission of 1906 recommended the abolition of this levy and the complete separation of state and local revenues, but this was the only recommendation made by them upon which the legislature agreed.

179Rep., p. 56.
has not acted favorably up to the present time. As all the revenue thus collected by the state is for school purposes and is turned back to the counties after its collection, there is really no tax for state purposes upon general property in Ohio today. But since the school taxes are collected according to wealth and redistributed according to the number of children of school age, the effect of the discontinuance of a state levy for this purpose would be to deprive some of the poorer districts of needed funds for education. It hardly seems likely, therefore, that this advice will be followed, nor desirable that it should be.

Finally, the act provided for removing all penalties upon property not listed for taxation prior to 1911, and starting fresh with January first of this year. In order to induce tax-payers to declare the whole amount of their property, it was enacted that no back taxes or penalties should be assessed upon any omitted property, if such property were declared for taxation in 1910. But beginning with January 1, 1911, back taxes and penalties should be collected from all omitted property, for five years preceding the date when it might be discovered. It was hoped that this exemption and the limitation of the tax rate would lead to the declaration of much property that had hitherto escaped taxation. The slate had been wiped clean of accumulated penalties in much the same fashion in 1826, when the general property tax was first introduced; and now that the administration of the tax was to be made so much more strict, it seemed equitable to allow immunity under certain conditions to those who had been evading taxation, if they would give evidence of a disposition to deal fairly in the future.

In addition to the tax reforms thus far described certain other improvements in matters of finance should be mentioned, as they are part of the movement for financial reform which has characterized both legislation and admin-

\footnote{For the act limiting the tax rate see American Economic Review, Dec., 1911, p. 517.}

\footnote{See above, p. 199.}
istration in Ohio for the past two or three years. One important advance consisted in the passage of depository laws, to secure for the state and local governments interest on public moneys on deposit. It had been the universal practice for public officers who were entrusted with public funds to retain the interest on such funds, which was paid by the banks in which they were deposited. The interest thus received, which amounted in some cases to thousands of dollars a year, was by general consent regarded as one of the emoluments pertaining to that particular political office. In 1894 a county depository law was passed, but as it was permissive only it was without effect. A decade later, in 1904, a state and school depository law was enacted, and finally, in 1910, a township law; at the same time all the laws were made mandatory. Under these laws public moneys must be deposited in banks, after competitive bidding if possible, at not less than 2 per cent., and the depository banks must give satisfactory security, usually bonds of Ohio or some minor civil division of the state. The interest paid by the banks on public deposits runs from 2 to 4½ per cent., with an average of about 3¼ per cent. During the year ending Nov. 15, 1909, the amount received by the state government from this source was $155,384.

The most important part of the work, however, has lain not so much in the enactment of new legislation as in the enforcement and better administration of the existing laws. This is well illustrated in the work of the tax commission. Without invoking any powers other than those conferred upon the old boards of appraisement they succeeded in greatly increasing the assessment of property, both individual and corporate. Under the old system, for instance, the county auditors had assessed the property of the railroads, and for the last four or five years the state board of equalization had accepted their findings, inadequate as they were, without a change. Within six months of taking office, the tax commission was able to

101 O. L. 238, 243, 358.
increase their assessments 100 per cent. Probably the greatest gain in these reforms, aside from the increased interest and moral awakening of the people of Ohio, lies in the establishment of the permanent tax commission, for this will be able to direct the agencies of further tax reform, to report abuses, and to suggest improvements. On this point we may fairly indorse the words of Governor Harmon in his recent message to the legislature:

I am more firmly convinced than ever that the cost of the Tax Commission provided with all necessary help is the most productive investment the state can make. But apart from returns in actual revenue, however great these may be, the moral effect of the assurance that fairness and justice will rule with respect to all tax-payers alike is an asset in good government whose value cannot be expressed in figures.
CHAPTER V

HISTORY AND TAXATION OF BANKS AND BANKING IN OHIO.

HISTORY AND TAXATION OF BANKS TO 1819.

To understand the tax legislation with regard to banks in Ohio, it will be necessary at the same time to sketch briefly a history of banking; much of the banking legislation is intelligible only in the light of existing conditions, and a thorough knowledge of these is necessary to a full appreciation of the variable, and often harsh actions of the legislature.

Under the territorial government private associations did what little banking business was called for under the primitive conditions of a frontier settlement. The first bank incorporated by the state was the Miami Exporting Company, of Cincinnati, in April, 1803, which was given "banking privileges"; these privileges were not exercised until 1807, when it abandoned its exporting business and devoted itself solely to banking. Other unchartered associations seem to have existed, for in 1808 the Bank of Marietta asked for, and was given, a charter until 1818. The capital was limited to $600,000, in addition to which the state might subscribe another $100,000; the state was to have one year's credit in paying for these shares, but was to receive profits as if paid for. There was no clause providing for specie payment and no penalty for suspension.1 The Banks of Chillicothe and Steubenville were chartered the same year with the same provisions. In 1812 and 1813 three other banks were incorporated.

During the session of 1813-1814, a bill was introduced in the legislature to tax bank stock, in accordance with a report of the Joint Committee on Finance,2 but failed of passage. The act of February 8, 1815, was the first law

1Sumner, History of Banking in the U. S., p. 59.
2Ho. J., 1814, p. 142.
levying a tax on banks; this provided for an annual tax of 4 per cent. on dividends. If any bank failed to report, the auditor was to levy 1 per cent. on the nominal capital of the bank. The sheriff was authorized to present the bill of the auditor to the bank, and, in case it was not paid immediately, with 4 per cent. additional for the sheriff's fees, to levy on the specie and notes. If he could not obtain enough of these, he was to seize any other property of the bank, advertise, and sell it.

After the conclusion of the War of 1812, a great increase of population took place in Ohio, as the result of renewed immigration into that state. "The numerous banks, which had been chartered before and during the war, and which continued to spring into existence in every part of the state, supplied an abundant circulating medium." Taking advantage of the opportunity, unauthorized persons began to issue notes, and against these Ohio now began a war "which she carried on longer and more vigorously, because apparently with less success, than any other state."

By the act of February 8, 1815, persons signing or issuing notes without proper authority were punished by imprisonment for one year and a fine not exceeding $5000. All contracts with persons or firms issuing such notes were to be void. By the act of January 27, 1816, passed in the next session, the crusade against unauthorized banking was directed against persons acting as agents of any bank of issue chartered by the laws of another state. A fine of $1000 was prescribed for each offense, the use of the courts and the processes of justice were forbidden to all such agencies, and any one interested in such a bank was made personally liable to any note-holder. These acts are interesting and important as showing that the subsequent attack upon the Second Bank of the United States was not isolated or sudden, but was rather part of a long bank-war.

"Chase, Ohio Statutes, I, 42."
"Sumner, op. cit., p. 91."
During the same session the question as to how the state could best derive a revenue from the banks engaged the attention of the legislature. In response to a letter from the governor the auditor drew up a plan by which the banks should give to the state 20 per cent. of their capital stock, to be paid for partly in cash and partly out of the profits from the stock, in return for which the state would extend their charters, make their notes a legal tender, and agree to charter no other banks. As the charters of all the banks in the state, except one, would expire in 1818, the auditor thought they would accede to the plan; and if the one bank should prove recalcitrant, it might be taxed in the same proportion. Both governor and auditor dwelt upon the advantages of having a state fund which—the latter thought—would probably yield "an annual dividend of 80,000 dollars or more, and will probably ever afterwards supercede the necessity of resorting to taxation for the ordinary expenses of government."^5

This plan was presented to the legislature as an alternative to a scheme for taxing the banks, and was carried through by the bank party, which was largely in the majority. An amendment taxing the banks 5 per cent. on their dividends was rejected 43 to 12, as was another, requiring banks to redeem their notes in specie, 43 to 11. The plan outlined above was then enacted into law,^6 by a vote of 42 to 13. This act created six new banks, each with a capital of $100,000, chartered seven unincorporated banks with which the state had previously been at war, and extended the charters of those already in existence from 1818 to 1843. By this law, each bank was required to set off to the state, one twenty-fifth of its capital stock. On this amount of stock the state was to receive regular dividends, and in the final winding up of the concerns of each institution, was to be entitled to one twenty-fifth of its

^5Ho. J., 1816, pp. 85-91. Cf. also rep. of Ho. Com. of Finance, Jan. 18, 1814 (Ho. J., 1814, pp. 178-180), which had already suggested the establishment of a similar fund.

property. No provision was made to pay for the state stock; except that each bank was required to set apart, annually, such a part of its profits, as would at the expiration of its charter, produce a sum adequate to that purpose. The consideration for this bonus was the extension of the charters of all the banks enumerated in the act, and of all others in the state which should accept the terms offered by it, to the year 1843; exemption from all state taxation; and a sort of implied promise that no other banks would be created during their charters. Some of the banks accepted and some refused this offer; but the whole scheme failed with the failure or refusal to comply with its provisions by the banks which originally concurred in it.

**The Attempt to Tax the Bank of the United States.**

After the expiration of the charter of the First Bank of the United States in 1811 there was a great increase in the number of state banks in Ohio, as in the West generally. In Ohio there were four banks in 1811; by 1815 the number had grown to twelve, and in the following year nine additional banks were incorporated. The charters of these early banks contained no clauses for specie pay-

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7It is obvious that in effect this amounted to an annual tax of one per cent, on the capital stock of the banks, which was to accumulate.

8Chase, Ohio Statutes, I, 42. For the later history of these banks, see below, p. 271.

9For a detailed study of this subject, see my article on "Taxation of the Second Bank of the United States by Ohio", in American Historical Review, Jan., 1912. For permission to use part of this material in this place thanks are due the editor, Dr. J. F. Jameson.

10A. Gallatin, Considerations on the Currency and Banking Systems of the United States (Philadelphia, 1833), p. 103. From the tables given there it is possible to construct a table showing the number and capital of banks in Ohio at different periods, as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>No. of Banks</th>
<th>Total Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>1811</td>
<td>4</td>
<td>$895,000</td>
</tr>
<tr>
<td>1815</td>
<td>12</td>
<td>1,434,719</td>
</tr>
<tr>
<td>1816</td>
<td>21</td>
<td>2,061,927</td>
</tr>
<tr>
<td>1820</td>
<td>20</td>
<td>1,797,463</td>
</tr>
<tr>
<td>1830</td>
<td>11</td>
<td>1,454,386</td>
</tr>
</tbody>
</table>
ments, and no penalty for suspension, while the power of note issue was apparently unrestricted. In 1817 nine additional banks were incorporated, in which for the first time restrictions were imposed.

The numerous banks supplied an abundant circulating medium, far in excess of the real needs of the community. The loose credit system of selling public lands also led to bank note inflation on the part of the local bankers; and this was increased after the suspension of specie payments in 1814, by the action of the federal government in accepting state bank notes in payment of the public lands and other public dues. After the War of 1812, moreover, the western country experienced a "boom" in which Ohio fully shared. "Speculation, stimulated by every incentive, ran into wild and extravagant excesses. Improvements of every kind, under its strong propulsion, advanced with wonderful rapidity."11 It was a period of inflation, of speculation, and of rising prices, which must ultimately terminate in a financial crash. Things were rapidly tending to this state, when two branches of the Bank of the United States, which had been chartered by Congress in 1816, were established at Cincinnati and Chillicothe. These branches issued their notes in Ohio to a very large amount, and as they were convertible they displaced the issues of the local banks. Consequently there soon developed strong opposition to the Bank in Ohio, and also in other states.

Nine months' experience with the Cincinnati branch seems to have persuaded the legislature that it was detrimental to the success of the local banks,12 and that, as it was not paying taxes while they were, it occupied a favored position. Accordingly a committee was appointed in the House in December, 1817, to take into consideration the propriety and expediency of taxing the branches of the Bank of the United States situated in Ohio. A report by them against the expediency of levying such a tax was

11Chase, Ohio Statutes, I, 42.
12Ho. J., 1819, p. 400.
reversed by the House, 37-22.\textsuperscript{13} A substitute for their report, asserting the right of the state to levy such a tax and the expediency of doing it immediately was voted in January by large majorities.\textsuperscript{14} To carry out these proposals a bill was introduced "to levy a tax on the capital of the subscribers to the Bank of the United States, employed in banking within this state". After being read a third time, further consideration was postponed until the following December.

In his message to the legislature at the opening of the session of 1818-19, the governor discussed the banking situation at length, and referred as follows to the Bank of the United States:\textsuperscript{15} "Since the incorporation of the Bank of the U. S., and since the passage of the present law of this state against unauthorized banking companies, that institution has established, without asking leave, two agencies . . . . whose course of proceeding, the banks loudly complain, cramps the operations, and diminishes the profits of the latter, as well as impairs the state revenues arising from these sources. . . . . But whether the branches remain among us, of right, or by permission, and while the state banks are subjected to the imposition of taxes, or an equivalent, there appears no evident reason why those branches should be exempt. Their exemption would be a partiality, unjust to the local banks. . . . ."

The House Committee, finally, to whom the matter was referred at the previous session for report, recommended "the propriety of providing by law, that if the branches established within this state shall remain here and transact business, beyond a certain day, a tax shall be assessed and collected of $50,000 annually upon each branch."\textsuperscript{16} In accordance with this recommendation a

\begin{itemize}
  \item \textsuperscript{13}Ho. J., 1817-1818, pp. 144-146.
  \item \textsuperscript{14}Ibid., pp. 307-315.
  \item \textsuperscript{15}Gov. Mess., Ho. J., 1818-19, pp. 92, 94.
  \item \textsuperscript{16}Ho. J., 1818-19, p. 409.
\end{itemize}
bill was introduced into the legislature and was finally enacted into law on February 8, 1819. Whereas the president and directors of the Bank of the U. S. have established two offices of discount and deposit in this State, at which they transact banking business, by loaning money and issuing bills, and by trading in notes and bills; and whereas it is just and necessary that such unlawful banking, while continued should be subject to the payment of a tax for the support of the government.

It was provided that if any of these associations continued in business after September 1, they should be taxed, the Bank of the U. S. $50,000 per annum for each office, and every other company $10,000. On September 15 of each year the auditor was to assess these taxes against the companies, and to make out his warrant to the agent whom he should appoint to collect the tax. In case of default, the agent was authorized to levy on the goods of the bank or its credit; he could seize the specie or notes, searching the bank for them. The officers of the bank might be put to oath to disclose where the funds were, or they might be summoned to court and examined, a refusal to answer constituting contempt. Debtors to the bank must pay the state until the amount of the tax was reached. The sum collected was to be paid by the agent to the auditor and by him to the treasurer. The agent was to have, as his remuneration, two per cent. of the amount collected in specie or notes; five per cent. of goods taken in execution; and ten per cent., if further proceedings were required.

Similar taxes had already been laid on the Bank of the U. S. in five other states, namely, Maryland ($15,000), Tennessee ($50,000), Georgia (311/4 cents on $100 capital), North Carolina ($5,000), and Kentucky ($60,000), while the constitution of Indiana in 1816 and of Illinois in 1818 prohibited the establishment of any but state banks within their boundaries. The subject was also debated in the legislatures of Virginia, South Carolina, and New York.17 As to their constitutional right to levy such a

tax, the majority of the Ohio legislature seem not to have entertained any doubt. The year 1819 was marked by a crisis, the first in the United States. Prices fell disastrously, many banks failed and the suspension of specie payments was general. Corn was selling at 10 and wheat at 20 cents a bushel (specie) in some parts of Kentucky, and at Cincinnati the following year similar prices prevailed. At such prices farmers could not pay their debts and defaulted on their loans, while the banks did not redeem their notes. Ohio enacted stringent laws in 1819 and 1820 to compel the banks to meet their obligations, though not very effectively. Neighboring states, however, yielded to the pressure and passed various relief laws for the benefit of debtors and of banks which had suspended specie payments. Thus Tennessee passed a stay law in 1819, but it was declared unconstitutional in 1821. Illinois, in January, 1821, suspended executions for debt until November of the same year. Missouri established a state loan office in 1821.

Owing to the adverse balance of trade and the drain of specie from the western country by the Bank of the United States, it was difficult to keep sufficient specie in the state. "It is established," wrote Niles in June, "that 800,000 dollars in specie have been drawn from Ohio within the last twelve months, for the Bank of the United States." The Bank consequently was compelled to foreclose its mortgages and realize upon them. "As a consequence of the transfer of real estate, the Bank owned a large part of Cincinnati: hotels, coffee-houses, warehouses, stores, stables, iron foundries, residences, vacant lots." The effect of this upon the former owners of these valuable properties may easily be imagined. There was,

18Chase, Ohio Statutes, I, 43.
19Niles Register, Sept. 2, 1820.
20Corn sold at 10 cents, wheat at from 12½ to 25 cents a bushel; whisky was dull at 15 cents a gallon. U. S. Gazette, May 23, June 23, 1821.
21For further details see Sumner, op. cit., p. 119, ff.
22Niles' Register, June 26, 1819, XVI, 298.
23Catterall, op. cit., p. 67.
moreover, a general spirit of hostility to the bank in the West, where it was regarded as an intruder, often against the constitution and statutes of a state, possessed of superior privileges, paying no taxes, and acting as mentor to the local banks.

In the meantime, while the feeling of hostility to the bank was rising higher, the case of McCulloch v. Maryland was decided on March 7, 1819, to the effect that the states were debarred by the federal Constitution from levying a tax upon a bank chartered by Congress. The Ohio law, however, directing the auditor of state to levy and collect the tax of $50,000 on each branch of the Bank of the U. S. that should continue to transact business within the state after September 1, remained unrepealed. This law the auditor considered imperative on himself, in which opinion he was upheld by the governor, and that it was his duty under the law to execute its provisions, unless enjoined by proper authority. The auditor was really placed in an embarrassing predicament, but held that as a state officer his first duty was to carry out the mandates of the state laws. On September 11 he was served with a notice that application would be made to enjoin the proceedings under the tax law. On the morning of September 15 the auditor was further served with a copy of a petition in chancery, praying that he be enjoined from charging the bank with the proposed tax, and also with a subpoena from the same court to appear to answer the petition on the first Monday of the following January. As no one of these documents constituted an injunction upon his proceedings under the law, the auditor issued his warrant to John L. Harper, for the collection of the tax.

Before delivering this warrant, however, the auditor submitted the various papers to the Secretary of State, and asked him to secure legal advice as to whether they did operate as an injunction. In reply he received the written

24 Wheaton, 316. The text of the decision is given in full in Niles, XVI, 68.
opinion of several lawyers "that it did not appear that there was any order of court allowing an injunction, or any writ of injunction, or indeed any document whereby the defendant can be charged with notice of the contents of the petition." Accordingly he delivered the warrant to Harper with instructions to go ahead. The latter went to the branch at Chillicothe on September 17, and upon the cashier's refusal to pay the tax, jumped over the counter, "and with force and violence . . . . did take from the said office money and notes to the amount of upwards of the sum of one hundred and twenty thousand dollars." Five days later the amount in excess of $100,000 was restored to the bank. The money thus taken was paid into the Bank of Chillicothe after banking hours, and left there overnight. The next day it was taken to Columbus, and $98,000 was deposited in the Franklin Bank of that city to the credit of H. M. Curry, the treasurer of state, the other $2,000 being retained by Harper as his fee.

Meanwhile the injunction asked for had been served upon Osborn, the auditor, on September 18, in which he was directed not to collect the tax, nor pay it out if collected; he was also requested by the bank to return the money collected. This he refused to do, as the matter had now passed out of his control. Soon after this Harper and Orr, one of the latter's assistants, were arrested at the suit of the Bank in an action at law for the recovery of the money taken by them. Bail was required to double the amount of money collected, and an action for habeas corpus having failed, they remained in prison until the following January, when they were released by the federal circuit court on the ground that the arrest was irregular. On September 22 an injunction was granted by Judge

\*\*Ibid., p. 40.
\*Petition of the Bank of the U. S., etc., in Ho. J., 1820-21, p. 53. The exact sum taken was $120,425, of which $7,930 was a treasury deposit belonging to the U. S.
\*\*For an account of the irregularity in their arrest, see McMaster, History of the People of the U. S., IV, 499.
C. W. Byrd, the United States District Judge, restraining the auditor, treasurer, and the depository bank from making any disposition of the moneys collected as a tax from the Bank.30

By an arrangement of the counsel of both parties a decree was entered, ordering the treasurer to restore the amount of the tax together with interest on the specie part, but providing that the interest, the $2,000 withheld by Harper as his fee, and the costs be appealed for final decision to the Supreme Court of the United States. A perpetual injunction was also granted against the collection of any tax in future under the tax law of Ohio. Not until 1824 did the Supreme Court finally hand down their decision.

During the session of 1820-21 the legislature debated the banking situation and the attitude of the Bank of the United States at length. A very hostile report was made by a committee of the House,31 to whom was referred the whole subject. In pursuance of the recommendation therein made, two acts were passed by the legislature, threatening reprisals on the one hand and holding out an olive branch with the other. The first of these was "an act to withdraw from the Bank of the United States the protection and aid of the laws of this state, in certain cases."32 Sheriffs and jailers shall not, after September 1 next, take into custody persons arrested at the suit of the bank. Officers of justice shall not receive acknowledgements for the Bank. Notaries public shall not make protest of notes payable to the Bank. Heavy penalties were provided for violating the law. The last section of the act provided, however, for the suspension of these provisions under certain conditions. If the Bank would discontinue its suits against the state officers, and would in future submit to an annual tax of 4 per cent. on the dividends of their busi-

30Ho. J., 1819-20, p. 61.
ness in Ohio,\textsuperscript{33} or if it would withdraw its branches, then the act should be suspended.

Four days later a second act was passed setting forth still more explicitly the terms upon which the state was willing to compromise.\textsuperscript{34} The legislature stated its willingness to refund the excess of the tax over 4 per cent. on the dividends. Whenever the Bank will withdraw its suits against the state officers and will submit to the payment of a tax equal to 4 per cent. on its dividends, or if the Bank will withdraw its branches from the state, $90,000 will be refunded to it. And in future a tax of $2,500 shall be collected annually as a tax, or else 4 per cent. on the dividends. No attention was paid to these proposals by the Bank, and the act of outlawry accordingly went into effect the following September. It does not seem to have been observed, however, but remained a dead letter on the statute books until it was finally repealed five years later, on January 18, 1826.\textsuperscript{35}

No further legislation was enacted relative to the Bank of the United States. In 1822 a resolution to repeal the law levying the tax on the branches of the Bank of the United States was rejected in the Senate, 27 to 6.\textsuperscript{36} By this time the bad effects of the crisis of 1819 had largely passed away, the necessary liquidation had taken place, and prices were rising again. The attention of the people and the legislature was moreover being absorbed by other topics of even greater interest, namely schools and canals. When the case of Osborn \textit{vs.} the Bank of the United States came up an appeal before the Supreme Court at the February term, 1824, there was no excitement. The decree of the circuit court was affirmed, except that interest should not be paid on the coin part of the money taken.\textsuperscript{37} As soon as the decision was announced Ohio acquiesced fully, and made no further effort to contest the point at issue.

\textsuperscript{33}This was the rate of taxation on Ohio banks.
\textsuperscript{35}O. L., ch. 675, §1.
\textsuperscript{36}Niles' \textit{Register}, Jan. 5, 1822, XXI, 303.
\textsuperscript{37}March 19, 1824. 9 Wheaton, 739.
Throughout these proceedings [wrote Salmon P. Chase, then a young lawyer in Cincinnati] the state and her officers manifested the utmost respect for the constitutional tribunals of the country. They believed, conscientiously, that the state possessed the right to tax the bank, and measures were taken for the exercise and enforcement of that right. But in no instance was any indignity offered to any judicial tribunal, nor was resistance, in any case, opposed to judicial process. The state was true to the principles which had characterized her former course; and when the Supreme Court decided against her, she exhibited an example of dignified and unconstrained submission to the judgment of that high arbiter.

STRUGGLE OVER NOTE ISSUES, 1819-1854.

During the same session which saw the beginning of the war against the Bank of the United States, an act was passed against those state banks which did not redeem their notes. The holder of the notes was permitted to recover six per cent. damages. Post notes and bank notes under $1 were forbidden. These prohibitions indicate clearly enough a condition of inflation, which is still more strikingly evidenced by another law which made it a misdemeanor to accept a bank note for less than its face value and imposed a fine of not over $500 for so doing. This act was repealed the following year, but at the same session the prohibition of post notes was repeated and the previous laws against banks which did not redeem their notes were strengthened and re-enacted. Of the twenty-five banks in the state in 1819 only six or seven were redeeming their notes. They were classified as seven good, four decent, four middling, and four good for nothing.

The state was fairly flooded at this time with bank paper, most of which was unprotected by adequate reserves,
and some of which was dishonestly issued. The report of a committee appointed "to enquire into the state of the funds in the treasury" in 1820, reported a total balance of $214,396, of which $141,336, or 66 per cent., consisted of bank notes. There was $17,279 in silver coin, and $3,931 in gold coin; the rest consisted of credits in banks, paper representing loans, and redeemed auditors' bills. Subsequent reports of the auditor are filled with accounts of his efforts to enforce judgments against various banks, whose paper he held. In 1821 only one bank in twenty-one redeemed any of its notes, and that one redeemed only $5,000 out of $16,000 presented. In 1822, eight were reported bankrupt; in 1831, twenty were reported in that condition.

The worst offenders against sound banking principles and the most unscrupulous in the issue of their notes had been the banks chartered or incorporated in 1816. In 1820 a joint legislative committee was appointed to take into consideration the propriety and expediency of corresponding with the several chartered banks in this state to ascertain upon what terms they would be willing to surrender their charters; and what measures would be most expedient to compel the payment of their notes in specie. Later in the session they reported that the only part of the law which all the banks had observed was that requiring a certificate of acceptance of their charters. The other provisions were honored only in the breach. No

"Of this amount $78,180 was notes of the Bank of the U. S. or its branches.
"Treas. rep. Ho. J., 1821, p. 66. The treasurer reported that $33,933 in bank notes were in the treasury, for which specie could not be obtained at the banks issuing them. Of these, $11,081 was "tolerable current"; $1483 "irremediably lost to the state"; the rest doubtful. Four years later the treasurer reported the sale of funds consisting of depreciated bank notes and claims against banks amounting to $11,511, for $4,345 in cash. Ho. J., 1825, p. 83.
action was taken, however, looking to a change in their charters, until 1825. An act was then passed amending the law of February 23, 1816, which had granted to the state one share in every twenty-five of the capital stock of all banks chartered under that act, by providing for the return to the banks of all shares which had been set off to the state, if they would pay the state two per cent. on their dividends from their organization to this time, and four per cent. on their dividends for the future, and concede to the state the right to tax them.

It is impossible to say exactly how many of the banks accepted this proposal, as no record appears in the documents of this period. But some years later, by the act of February 21, 1843—the year when the charters of these banks expired—five old banks were re-chartered under a new law. The other eight had apparently either accepted this law of February 5, 1825, or had gone out of existence in the interval. That is, not more than eight banks surrendered their charters, if that many. In 1834 an act was passed authorizing the treasurer to compound with those banks which had not yet accepted the provisions of the act of 1825, and the following year the treasurer reported that two of the banks had paid the back taxes and had been reinvested with their stock, and that a similar arrangement might be affected with one or two others, but that the remainder of the institutions were either insolvent or had dissolved.

During this same session of 1825 the legislature entered upon the new and eventful policy of public improvements, and, as the attention of that body was fully occupied by this important subject, bank legislation languished for several years. By the act of March 12, 1831, a tax of five per cent. was levied upon the dividends of banks, insurance, and bridge companies. Five years later this was amended

51 Act of Feb. 5, 1825.
52 That of March 7, 1842.
53 Act of March 3, 1834.
54 Ho. J., 1835, p. 565.
by an act\textsuperscript{55} providing that the auditor should collect from banks twenty per cent. upon their dividends; but if any bank would agree not to issue any bills smaller than $3 after July 4, 1836, nor smaller than $5 after July 4, 1837, the auditor should collect from such bank only five per cent. of the dividends. Most of the banks accepted this law.

Banks had multiplied rapidly in Ohio during the previous years\textsuperscript{56} under the stimulus brought about by the increased immigration, the building of the Ohio canals, the opening up of large areas of fertile land, and the increased trade.

Both the loans and circulation showed a great expansion and inflation, as to which this law offers ample testimony. Between January 1, 1811, and July 1, 1830, eighteen banks failed, with a combined capital of $1,911,179.\textsuperscript{57}

Fairly complete statistics of banking can be given for the subsequent decade, as the banks were now required to make annual reports to the state treasury department. The following table presents the salient facts for the years 1835-1844.\textsuperscript{58}

\textsuperscript{55}March 14, 1836. cf. Acts of March 13, 1838, and Feb. 9, 1839.
\textsuperscript{56}Among the banks chartered at this time was the Ohio Life and Trust Company (Feb. 12, 1834), which later acted as agent for the State and defaulted in 1857 for a considerable amount of public deposits.
\textsuperscript{57}Statistics showing the banking operations in detail are lacking for this period. In 1820 there were 19 banks in the state with capital of $1,697,463, circulation of $1,203,869, deposits of $454,452, and specie of $433,612; one bank, with a capital of $100,000, did not report. Gallatin, \textit{Considerations}, pp. 97-105.
\textsuperscript{58}Gov. Mess., 1844, p. 16.
### Banking in Ohio, 1835-1844 (Omitting).

<table>
<thead>
<tr>
<th>Year</th>
<th>Capital</th>
<th>Circulation</th>
<th>Specie</th>
<th>Loans</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan., 1835</td>
<td>$6,391</td>
<td>$5,684</td>
<td>$1,997</td>
<td>$10,071</td>
</tr>
<tr>
<td>Jan., 1836</td>
<td>8,370</td>
<td>9,676</td>
<td>2,925</td>
<td>17,080</td>
</tr>
<tr>
<td>Jan., 1837</td>
<td>9,247</td>
<td>8,327</td>
<td>3,153</td>
<td>18,179</td>
</tr>
<tr>
<td>May, 1837</td>
<td>10,870</td>
<td>7,697</td>
<td>2,312</td>
<td>19,506</td>
</tr>
<tr>
<td>Dec., 1837</td>
<td>11,332</td>
<td>6,221</td>
<td>2,674</td>
<td>17,213</td>
</tr>
<tr>
<td>June, 1838</td>
<td>10,299</td>
<td>6,885</td>
<td>2,995</td>
<td>15,881</td>
</tr>
<tr>
<td>June, 1839</td>
<td>10,027</td>
<td>7,444</td>
<td>2,361</td>
<td>16,030</td>
</tr>
<tr>
<td>Jan., 1840</td>
<td>10,508</td>
<td>4,607</td>
<td>1,752</td>
<td>13,414</td>
</tr>
<tr>
<td>1841</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Banks set the laws at defiance and refused to make reports.)

July, 1842 | 7,138  | 1,335       | 827    | 7,725 |

June, 1843 | 3,460  | 1,545       | 633    | 4,019 |

Oct., 1844 | 2,325  | 2,183       | 719    | 2,845 |

In 1836 Ohio renewed the war against the Bank of the United States and other banks chartered outside the state. The federal charter of the Bank of the United States had expired in 1836, but a new one had been granted by the state of Pennsylvania, incorporating it as a state bank. The preamble of the opening act against this bank states that “whereas the stockholders of the Bank of the United States have been incorporated, and whereas the general welfare of this state forbids the establishment within its limits of any branch of the said bank”, and then proceeds to make it unlawful for any bank or person in Ohio to act as its agent, or to circulate its notes. Very heavy penalties were provided for the violation of any of its provisions. This law was repealed January 26, 1838, but the following year it was revived in a modified form. The new act provided that no bank incorporated by the laws of any other state, or by the laws of the U. S., was to establish a branch in Ohio without the consent of the general assembly. It was further made unlawful for any bank or person to act as agents of a foreign bank in Ohio, but the penalties prescribed were not as heavy as in the previous act.

59 March 14, 1836.
60 Feb. 9, 1839.
Nothing illustrates the nature of banking at this period and the power of the banks so well as the attempts of the legislature to control the issue and circulation of unauthorized bank-notes, and the failure of such legislation. In 1838 all unincorporated companies were forbidden to issue notes without authorization; and incorporated companies were forbidden to issue unauthorized notes under pain of losing their charters. The following year unauthorized notes were defined so as to include all paper that was intended to circulate as money. That such legislation was necessary is shown by the growth of various associations, such as libraries, orphans' institutes, and similar organizations, which engaged in banking and issued notes. The auditor's report in 1839 described the attempt of two of these to win recognition of their banking rights from the state by declaring a dividend and then asking to be taxed thereon.

Another kind of unauthorized issues against which the state valiantly, though unsuccessfully, struggled was small notes. In 1838 the act of March 14, 1836 was repealed, and banks were authorized to issue small bills as low as $1, provided they maintained specie payments. Suspended banks were required to resume specie payments by July 4, 1838, if by that time the banks of New York City, Philadelphia, and Baltimore had resumed. As these banks all resumed during the summer, most of the Ohio banks did so also. Specie payments had been suspended in Ohio, in common with the rest of the country, after the panic of 1837. The following year all bank notes under $3 were forbidden after July 4, 1839; all those under $5 and between $5 and $10 after October 1, 1839. If any bank offended it was to pay a fine of $50 for each unauthorized

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Footnotes:
1. Feb. 16, 1838.
2. March 18, 1839.
4. See ante, p. 272.
5. March 13, 1838.
note, or lose its banking privileges. Another law in 1840\(^6\) showed how ineffective this legislation had been. Small notes were once more forbidden, as were post notes and those payable elsewhere than at place of issue. All notes were declared redeemable in specie, no broker was to pay out illegal notes, and no state officer was to receive or pay out notes under $5. This law was successful in reducing somewhat the circulation of unauthorized notes.\(^6\)

As the rest of the story of the state’s struggle against unauthorized issues can be told in a few words, it had best be concluded in this connection. In January, 1842, there were riots against the banks in Cincinnati and Louisville, on account of trouble with the circulation.\(^7\) On January 21, the legislature passed resolutions exhorting neighboring states to resume specie payments and pledging Ohio to do the same. On February 18, an act was passed to enforce the resumption of specie payments, stating that banks not redeeming their notes should be held to have forfeited their charters, and forbidding them from assigning. On March 7, state officers were forbidden, after March 4 of the next year, to pay out any note not redeemable in specie or demand. Another act, passed the same day, showed that unauthorized companies were still issuing notes, for the penalty of forfeiture of charter is prescribed for such acts. There was no further legislation until 1845, when an act\(^7\) was passed forbidding the establishment of unauthorized banks, and the issue of unauthorized bank notes; the prohibition of small notes under $5 was also repeated.\(^7\) The following year \(^7\) the circulation of notes under $5, issued by banks chartered out

\(^6\)Act of March 23, 1840.
\(^7\)Second an. rep. of Bank Commissioners, 1841.
\(^8\)Sumner, *History of Banking*, p. 400.
\(^9\)March 2, 1845.
\(^10\)In 1845 the nomenclature of the Ohio currency was given as “yellow dog”, “red cat”, “smooth money”, “blue pup” and “sick Indian”. Niles’ *Register*, LXVIII, 272, quoted by Sumner, *History of Banking*, p. 403.
of the state, and of all notes not received by such bank on deposit, was prohibited in Ohio. Two years later another act \(^74\) forbade the Ohio banks to pay out for circulation the notes of banks of other states; a penalty of one-half the amount involved was provided. Six years later the last act in this catalogue of bad banking and ineffective legislation was passed: this was an act\(^75\) to prohibit the circulation of foreign bank bills of a less denomination than \$10 after October 1, 1854.

REGULATION OF THE BANKS, 1839-1850.

Meanwhile the state had taken the first important step in the direction of a better regulation of the banks. This was done by the bank commissioner law of February 25, 1839,\(^76\) "of which the banks have complained the most." It provided for three bank commissioners to visit and examine each bank at least once a year; for the publication by each bank of a monthly statement showing the true situation and condition of the bank. The circulation was never to exceed three times the specie, banks were not to buy their own notes at a discount, and were fined twelve per cent. for non-re redemption. If any bank refused to redeem its notes in gold or silver for more than thirty days in one year it should be closed and the charter annulled. All these provisions are intended for the security of the public against the insolvency of banks, and they are such as no bank ought to object to. . . . . Previous to the passage of this law, the public had not means of knowing whether a bank was worthy of credit or not, until it openly proclaimed its insolvency, and then, in most cases, it was too late to secure any of its assets for the payment of its debts. The whole operations of our banks were to the public as a sealed letter, until the means were provided in this act to enable the public to know and judge of their true condition.\(^77\)

The first report of the Bank Commissioners,\(^78\) January, 1840, showed that half the banking capital of the state was

\(^74\)Feb. 24, 1848.
\(^75\)May 1, 1854.
\(^78\)Quoted by Sumner, Hist. of Banking, p. 328.
owned by non-residents, and that one-third of all the loans were to bank officers and directors as borrowers or endorsers. "The banks distrusted one another and the public distrusted them." Nine institutions were mentioned which had illegal circulation.

There were now twenty-three banks in the state, of which number the charters of thirteen expired on January 1, 1843, and of two others in January, 1844. Accordingly it was now within the power of the legislature to prescribe the conditions under which their charters should be renewed. This was done by the "act to regulate banking in Ohio", passed March 7, 1842. Heretofore every bank had been chartered separately, but now for the first time a general incorporation act was passed, to apply to all banks alike. The most important provisions were as follows: the banks organized under this law were not to commence business until all the capital had been paid in in specie, which must be certified to by the Bank Commissioners (sec. 4); no loan to be made to a director for more than half his shares, nor to one person for more than certain specified amounts ($8000 in a $100,000 bank, etc.); the circulation was limited to the amount of the capital, and a reserve of 33 1/3 per cent, in specie must be kept (sec. 13); the notes to be countersigned by a state officer, who should guard against over-issue; a tax of one-half of one per cent. on the capital, but this might be changed by the legislature (sec. 20); the denominations of the bills were to be $5, $10, $20, $50, and $100 (sec. 30). In 1843 this act was amended, chiefly by guarding against the abuse of their powers on the part of officers and directors. At the same time four new banks were organized under it, and five old ones were rechartered. Most of the banks in the state, however, refused to organize.


"As the governor said (Exec. Doc., 1840, Doc. No. 76, p. 67) : "It is a question . . . only under what modifications and restrictions they shall be permitted to live."

"Act of Feb. 21, 1843."
under it, as they claimed that its provisions were too strict, and insisted upon a relaxation. On February 15, 1844, three banks which complained of the restrictions of this law and asked extensions of their old charters obtained what they asked for, on condition of assenting to individual liability and keeping one-third of their circulation in specie. Immediately afterwards three others took the same step.

The new banking law was a great improvement upon anything which had preceded it. As the governor, in his message of 1844, said: "Industry and enterprise, relieved from the bondage of banking operations, are recovering their energies with renewed vigor." It was estimated that the people of the state had lost by bad circulation since 1831 one million and four hundred thousand dollars; up to 1844, forty-seven banks had failed in the state.

In 1845 the State Bank of Ohio was organized. A number of existing banks, with an aggregate capital of $6,150,000, were to be combined to form the central bank. Each bank was to report whether it wished to be indepen-

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82A reference to the table on p. 273 shows that the years 1841-1844 were very hard for the banks.
83Rep. of Bank Commissioners, 1844.
84In spite of failure and financial disaster many people thought the liberal issue of bank notes essential to the prosperity of the country, and favored liberal and even loose legislation on the subject. As the governor wrote in his message in 1842: "The error which prevails on this subject has its origin in the common, vague impression that we are dependent on the bank system for the supply of a sufficient quantity of the circulating medium, and that, without bank paper, commerce would not flourish, business would stagnate, and the country cease to advance in prosperity and improvement. This fallacy is the chief cause of that superstitious attachment to the paper system which with some has become idolatry." At the sessions of 1835-6, 1836-7, 1838-9, and 1840-1, petitions for more banks flooded the legislature in unequalled numbers, especially after the crisis of 1837. "The delusion seemed to hold a portion of the people spell-bound with the idea that an addition to the bank issues and bank loans, already existing to an alarming excess, could relieve the country. And the legislature was even censured as refusing to do anything for the good of the country because the insatiable demand for banks was resisted." Gov. Mess. Exec. Doc., 1844, Doc. No. 1, p. 11.
85Act of Feb. 24, 1845.
dent or a branch of the State Bank. When seven banks signified their intention to become branches, they should each elect a member of the Board of Control, which in turn should elect the president. This board had visitorial powers, and control over the circulation. A board of Bank Commissioners was also provided for, consisting, after the first year, of the auditor, treasurer, and secretary of state. Provision was made for a sinking fund of ten per cent. of the circulation. Notes must be redeemed in specie.

By the same act the circulation of the independent banks was based upon a deposit of Ohio or United States bonds with the state treasurer, to the amount of the capital; notes might be issued up to the market value of the bonds; a reserve of thirty per cent. must be kept in specie. Stockholders were made liable for not more than three-fifths of the capital, and provision was made for annual examination of the banks. The charters of both the state and the independent banks were to expire in 1866.

The new banking law was deliberately enacted, after a careful examination of other systems, and was accepted by the banks and the people alike as a solution of the former problems. By the end of the year twenty-one banks had organized and were doing business under this act. "And already", wrote the governor in January, 1846, the people of Ohio begin to feel the influence of this system in the restoration of confidence, the revival of business, the increase of the wages of labor, and the rising prosperity of the state.64

A year later there were twenty-six banks in operation under the new system, of which nine were independent and seventeen branches of the State Bank.67 In 1848 the State Bank had thirty-seven branches, and there were also eleven independent banks, and seven old banks.

There were now three different kinds of banks in Ohio, organized under different laws, but all of them under restrictions in the use of their banking powers. The following table shows the amount of their circulation and

capital on November 1, 1846, and the amount of taxes paid by them during the preceding year.\textsuperscript{88}

<table>
<thead>
<tr>
<th></th>
<th>Capital</th>
<th>Circulation</th>
<th>Taxes paid during year</th>
<th>Percent paid in taxes on average amount of capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nine Independent Banks</td>
<td>$376,170</td>
<td>$612,645</td>
<td>$3,278</td>
<td>1.04</td>
</tr>
<tr>
<td>State Bank and 17 Branches</td>
<td>1,496,757</td>
<td>2,655,346</td>
<td>9,119</td>
<td>.77</td>
</tr>
<tr>
<td>Eight Old Banks</td>
<td>3,953,750</td>
<td>2,406,958</td>
<td>16,272</td>
<td>.41</td>
</tr>
<tr>
<td>Total (34 banks)</td>
<td>$5,826,677</td>
<td>$5,674,769</td>
<td>$28,669</td>
<td>.53</td>
</tr>
</tbody>
</table>

**BANK TAXATION.**

We have now reached the point where for the first time an effort was made to tax banks like other property. Heretofore they had been treated with great partiality by the legislature, in the belief that the prosperity of the state depended upon the development of banking institutions and that their growth ought consequently not be interfered with by burdening them with taxes. The favoritism displayed to them and other interests had in fact led to a strong reaction against this legislative policy, and brought about the passage of the tax law of 1846, which had as its avowed purpose the equal taxation of all property.\textsuperscript{89} It may be well, however, at this point, before taking up this act, to review briefly the history of bank taxation in the state up to this time.

The first law imposing a tax on banks in Ohio was, as we have seen, the act of February 8, 1815, which levied a tax of 4 per cent. on dividends; it further provided that if any banks failed to report their dividends the auditor was to levy a tax of 1 per cent. on their nominal capital. Hardly had this act been put in operation, however, when the new legislature reversed the policy of taxation, and enacted the law of February 23, 1816, according to which all banks accepting its provisions were to be exempt from

\textsuperscript{88} Aud. rep., Dec. 16, 1846.
\textsuperscript{89} See Chapter IV, on The General Property Tax, p. 214.
taxation. In return they were to set aside for the state one-twenty-fifth of their capital stock, to be paid for out of the profits on this stock in twenty-five years. Such banks as did not avail themselves of this act, were still taxed under the law of 1815. The attempt to tax the branches of the Second Bank of the United States in 1819 belongs less to a history of taxation of banks in Ohio than to that of an effort to oust a rival institution from the state by means of the taxing power. It had, obviously, no effect on the status of other banks. The act of March 12, 1831, levied a tax of 5 per cent. on the dividends of banks, insurance, and bridge companies. The revenues from this source increased steadily until they reached almost $75,000 in 1836, after which they fell off again as a result of the panic of 1837. By 1842 those from the tax on bank dividends seem to have practically disappeared.90

By the act of March 2, 1846, the principles of the general property tax were generally applied to the property and industries within the state, though even yet exceptions were made in particular cases. Banks, merchants, manufacturers, and other corporations were dealt with by special rules. That relating to banks imposed a tax of six per cent. on their gross profits. But as many of the existing banks, through their charters or by reason of previous legislation, were exempt from the operation of this act, it failed to bring about uniformity in the taxation of banks. The percentage of taxes paid on their average capital for the year 1846 by the different classes of banks was as follows:91 independent banks, $1.04; State Bank, 76 cents; old banks, 41 cents. As the rate on real and personal property for the same year was 63 cents, it was clear that the "new" banks were taxed more heavily and the "old" banks less heavily than other property under the general property tax. The reason for the more lenient treatment of the old banks was that under the act of March 14, 1836, to prohibit the circulation of small bills,

90And. rep., Dec. 6, 1842.
91See table on p. 280.
a proposition was made by the state to these banks, to release them from the liability to pay more than five per cent. on their dividends, upon the condition that they would relinquish the right to issue small bills. This proposition was accepted by most of the old banks, and they were consequently exempted from the payment of more than five per cent. upon their dividends.\(^92\)

In 1850 an act was passed\(^93\) providing that all banks should be taxed alike on their capital and surplus at the rate of general state taxation, and the banks were asked to accept this method instead of the other forms of taxation to which they were entitled by their charters or through earlier laws. By December of that year only five banks had accepted the provisions of this act.\(^94\)

This same year saw the meeting of the constitutional convention and the following one the adoption of a new constitution. In this the principle of equality in taxation was affirmed, and all discrimination between different forms of property forbidden. Section 2 of Article XII required that "laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise". But section 3 was directly specifically against the banks and left no doubt whatever as to the intentions of the framers of the constitution. They were on the whole hostile to the moneyed interests and corporations in the state; they were afraid of their power in gaining exemptions and favors for themselves; and they distrusted the legislature. Consequently they insisted specifically that banks must be taxed like other industries or individuals. They forbade the granting of special privileges or exemptions of any sort, and they incorporated these provisions in the organic law of the state itself. Section 3 read as follows:

The General Assembly shall provide by law for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues, of any description, without deduction, of all banks now

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\(^{92}\) Aud. rep., Dec. 16, 1846.

\(^{93}\) Act of March 23, 1850.

\(^{94}\) Aud. rep., 1850.
existing or hereafter created, and all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals."

It remained now to carry out by legislation the mandates of the constitution, and the effort to do this led to a protracted struggle between the legislature and the banks, which continued until the reorganization of the banking system in the sixties.

**STRUGGLE WITH THE BANKS OVER TAXATION.**

The efforts to enforce the principles of the constitution as to equality of taxation and the abolition of special privilege led to the passage of a great deal of banking legislation, much of it decidedly hostile to the banks, and all actuated by the determination to restrict the abuses which had characterized the two previous decades. Before taking up the account of the struggle over taxation, we must note a new banking act for the organization and note issue of future banks. This was the "free banking act" of 1851,* which opened the business of banking to any association of three persons complying with the provisions of the law. Up to 1842 banks had been chartered by special acts of the legislature, and the same evils had been observable in Ohio that led in New York and other states to similar free banking measures.

The minimum capital was fixed at $25,000. A bank might begin business when sixty per cent. of the capital stock had been paid in. The notes were to be secured by the deposit with the state auditor of bonds of the United States or of Ohio, and notes might be issued to the amount of bonds thus deposited, but in no case above their market

*Other sections of the constitution dealt with the organization and other features of banks and other corporations, but as these relate to the history of banking rather than to that of the taxation of banks, we shall not consider them here, except to cite section 7 of Art. XIII, which is indicative of the general attitude towards banks at this time: "No act of this general assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, and be approved by a majority of all the electors, voting at such election."

*Act of March 21, 1851.
value (or par value if the market value was above par), nor in excess of three times the amount of the paid in capital. A reserve of thirty per cent. of the outstanding circulation must be kept on hand by each bank, of which one-half must be in coin. The denominations of the notes were fixed at 1, 2, 3, 5, 10, 50, and 100 dollars. Thirteen banks organized under the provisions of this law. 97

There were now four systems of banks in Ohio: the "old" banks (those chartered before 1845), the State Bank with its branches and the independent banks (both chartered under the act of 1845), and the free banks (chartered by the act of 1851). The banking capital of the state was distributed among them in 1854 as follows:

<table>
<thead>
<tr>
<th>Type of Bank</th>
<th>Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Old banks</td>
<td>$1,550,000</td>
</tr>
<tr>
<td>State Bank and branches</td>
<td>4,100,000</td>
</tr>
<tr>
<td>Independent banks</td>
<td>720,000</td>
</tr>
<tr>
<td>Free banks</td>
<td>605,000</td>
</tr>
</tbody>
</table>

Another act 98 was passed on the same day that the free banking law was enacted, providing that banks should be taxed on their capital and surplus at the same rate that other property in the state was taxed, in lieu of the old taxes on profits or dividends. The following year a stronger act was passed, to carry out the constitutional provisions for uniform taxation of all property, ordering that all banks must return to the auditor (1) the average amount of notes and bills discounted during the past year, and (2) the average amount of all other loans. 99 These laws materially increased the taxes on the older banks and were bitterly resisted by them. A struggle now began between the banks and the legislature over the question of the right to tax them in this way, and continued through the rest of the decade. The banks succeeded in breaking down these laws in the courts, on the ground that they violated the contracts made with the banks when they were chartered, or in the case of the "old" banks when they acceded to the conditions of the act of March 14, 1836,

97 Aud. rep., Feb. 12, 1853.
98 Act of March 21, 1851. This was simply a repetition of the act of March 23, 1850.
prohibiting the circulation of small bills.\textsuperscript{100} The old banks were finally compelled to yield, however, as their charters ran out and they could obtain a renewal of them only by meeting the new conditions.

The attitude of the banks is graphically set forth in a report by the auditor of state, from which we quote at length:\textsuperscript{101}

At the date of making this report, but few of the Banks of Ohio have paid the taxes assessed against them under the provisions of the act of April 13, 1852. This delinquency is not a matter of accident, but is attended by circumstances which betray the existence of a conspiracy to trample upon, and override the very authority which gave to the conspirators their corporate existence. In numerous instances, the officers of banks by closing their vaults upon the treasurer, have taken from him all opportunity of making distress without first forcing an entrance. A want of clearness in the law respecting the extent to which the powers of a treasurer reach, has been seized upon as a ready and successful means of intimidating many well disposed officers from exercising the rights which it is believed were intended to be conferred by existing statutes. In other instances, all the valuable effects of the banks have been taken from the banking house, and removed to some unknown place of concealment. By these, and other means involving, in some cases, the bodily peril of the treasurers, the collection of the taxes has been successfully defeated.

In order to compel the payment of their taxes the auditor suggested that the accruing interest on the bonds deposited with the state officers by the "free" and the "independent" banks to secure their circulation be retained to an amount sufficient to pay the delinquent taxes. The legislature did not follow the suggestion of the auditor, but instead passed a drastic act, known as the "crow-bar" law, providing for the seizure of the property of delinquent banks.\textsuperscript{102} It was entitled

an act to enforce the collection of taxes which now are, or may hereafter be due from banks and other corporations, from bankers, brokers, and stock jobbers, and from the agents of foreign corporations, and to protect county treasurers and other officers charged with the collection of the public revenue in the performance of their duties.

\textsuperscript{100}Quoted by Sumner, History of Banking in the U. S., p. 442. For the provisions of the law of 1836, see above, p. 272.

\textsuperscript{101}And. rep., Feb. 12, 1853.

\textsuperscript{102}Act of March 14, 1853. Swan's Statutes, 1854, p. 928.
The act provided that the county treasurer should demand taxes then unpaid, or unpaid on December 21 of any year, assessed under the act of April 13, 1852, of all banks, brokers, and stock-jobbers, with five per cent. penalty. If the taxes were not paid in five days, then the coin and property at the office might be seized, and sold at public auction. But the bank might get back its property by paying the taxes and penalty. The state auditor might do the same for companies doing business in more than one county. Sales or transfers of coin or property for the purpose of evading the tax were declared to be void; and the concealment of coin, securities, etc., for the purpose of avoiding the tax, was declared a misdemeanor, punishable by a fine of $1000, or imprisonment in the county jail, or both.

The Crises of 1854 and 1857 and Condition of the Banks.

In 1854 there was a bank crisis in Ohio and the neighboring states. A heavy run commenced in May upon the Ohio banks for coin, and continued for sixty days before any bank suspended. "A crisis then showed itself in the whole monetary operations of the western country." The notes of many banks in Ohio fell to a discount and the banks suspended. The Ohio valley had been the scene of extensive and rapid railroad building, which was checked by the discovery of fraudulent practices in the issue of stock. A very great reduction of bank circulation took place, especially in the states of the Ohio valley. The bonds deposited with the state auditor declined so in value as to afford insufficient security for the note circulation of the free banks. The notes of the old banks, for whose safety no special provision was made, became almost valueless.

In 1857 a more general financial crisis occurred throughout the country. This resulted largely from speculation and from the undue expansion of credit. The in-

103 Aud. rep., quoted by Sumner, Hist. of Banking in the U. S., p. 444.
104 Ibid., p. 424.
flux of gold resulting from the California and Australian discoveries in 1848 and 1851 greatly augmented the amount of money in circulation, and this was still further increased by a large expansion of credit currency. Between 1848 and 1857 the increase in the amount of coin and of bank notes in circulation was as follows:\(^\text{103}\)

**COIN AND BANK NOTES IN THE UNITED STATES.**

<table>
<thead>
<tr>
<th>Coin.</th>
<th>Bank Notes.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1848</td>
<td>$126,753,027</td>
</tr>
<tr>
<td>1857</td>
<td>276,100,442</td>
</tr>
<tr>
<td>Increase</td>
<td>$149,347,418</td>
</tr>
</tbody>
</table>

There were over 1400 banks in the United States, of which 54 were in Ohio. The following table shows their condition for August and November, 1857; while their position was fairly strong in the former month it had been materially strengthened by November.\(^\text{106}\)

**OHIO BANKS IN 1857.**

<table>
<thead>
<tr>
<th>Liabilities.</th>
<th>Resources.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Circulation.</td>
<td>Deposits.</td>
</tr>
<tr>
<td>Aug. 3 ......</td>
<td>$8,132,305</td>
</tr>
<tr>
<td>Nov. 2 ......</td>
<td>7,637,955</td>
</tr>
</tbody>
</table>

Probably the financial readjustment and liquidation which had occurred three years previously, and perhaps also the restrictive legislation of the past decade, had put the Ohio banks in a better position to weather the storm than those of the eastern states.\(^\text{107}\) One of the few banks to fail was the Ohio Life Insurance and Trust Company, the strongest single bank in the state, which went down on August 24, 1857. This failure was entirely unexpected and was due immediately to the speculation and defalcation of the New York agent. The bank was unable to


\(^{104}\)Ibid., p. 354.

\(^{105}\)The suspension of specie payments was general except in the Ohio valley, in South Carolina, at New Orleans, and by the Chemical Bank in New York City. Sumner, *ut supra,* p. 427.
withstand this shock, however, for the more fundamental reason that it had advanced loans, probably to the amount of five million dollars, for railroad building, upon which it could not realize in its hour of need. The governor's messages and auditor's reports for this period are full of adverse criticisms of prevailing banking methods, and earnest in their advocacy of a coin currency.\[108\]

Some of the worst banking practices were carried on, not by the legally authorized banks of issue, but by private bankers; the Ohio Life Insurance and Trust Company had probably been involved in these practices, the disastrous effects of which were first apparent upon its failure. Many of these bankers borrowed notes from banks outside of the state, at low rates of interest, which they put into circulation in Ohio and redeemed when they returned to the issuing bank. The effect of these arrangements was to introduce into the state a mass of foreign bank paper which expelled from circulation not only nearly all the coin, but also nearly all the notes of the Ohio banks, and exposed the community to great inconvenience and loss. So real was the evil that Governor Chase urged an amendment to the act of February 24, 1848, relating to the circulation of unauthorized bank paper, in order to stop it.\[109\]

By this time the charters of the "old" banks had

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\[108\] Especially interesting are the statements of S. P. Chase, who became governor of Ohio on Jan. 1, 1855. In his inaugural message he writes, "the best possible currency, in my judgment, would be a currency of coin, admitting the use of large notes only for the convenience of commerce." In view of his later official utterances and actions as Secretary of the Treasury, his earlier views, of which this is only one example, are of particular interest. *Exec. Doc.*, 1854. I. 4; 1857. I. 357.

\[109\] Gov. Mess., Jan. 4, 1858. *Exec. Doc.*, 1857. I. 357. In 1859, it was estimated that the issues of foreign banks, then in the hands of the people of Ohio, were equal to the issues of the Ohio banks, or about eight and a half million dollars. "Of this sum a very considerable portion consists of the issues of banks which have suspended specie payments, embracing the bank of Pennsylvania, Maryland, Virginia, Missouri, and parts of the issues of other states. All such issues have depreciated in the hands of the people of Ohio, at least ten per cent., amounting in the aggregate to several hundred thousand dollars." Gov. Mess. *Exec. Doc.*, 1860. I. 549.
expired and they had either been wound up or had re-organized as "free" banks. There were now consequently only three classes of banks in Ohio, whose relative importance, character of business, and financial stability are shown in the following table:110

CONDITION OF OHIO BANKS, AUG. 3, 1857.

<table>
<thead>
<tr>
<th></th>
<th>8 Indpt. Banks</th>
<th>10 Free Banks</th>
<th>36 State Branches</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resources</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Specie</td>
<td>$153,989</td>
<td>$157,516</td>
<td>$1,414,772</td>
</tr>
<tr>
<td>Other cash res.</td>
<td>438,397</td>
<td>529,007</td>
<td>2,609,826</td>
</tr>
<tr>
<td>Bills discounted, state and U. S. bonds and other res.</td>
<td>2,589,997</td>
<td>2,504,798</td>
<td>10,734,955</td>
</tr>
<tr>
<td>Total</td>
<td>3,172,384</td>
<td>3,191,320</td>
<td>14,759,553</td>
</tr>
<tr>
<td>Liabilities</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Circulation</td>
<td>$707,700</td>
<td>$853,265</td>
<td>$6,571,340</td>
</tr>
<tr>
<td>Due to banks and Indpt. Treasury...</td>
<td>1,000,373</td>
<td>1,057,711</td>
<td>3,089,948</td>
</tr>
<tr>
<td>Cap. stock and other liabilities...</td>
<td>1,472,265</td>
<td>1,280,345</td>
<td>5,098,265</td>
</tr>
<tr>
<td>Total</td>
<td>3,172,384</td>
<td>3,191,320</td>
<td>14,759,553</td>
</tr>
</tbody>
</table>

RENEWED STRUGGLE OVER TAXATION.

After the failure of the savage act of March 14, 1853, to attain its purpose, there was evidently a sort of tacit compromise effected between the banks and the legislature, for in 1856111 a clumsy act was passed which taxed the banks on their business instead of their property, although it endeavored to secure the results of the latter method. The important provisions of the act were as follows: Every bank must furnish the assessor with two statements: the first of the average amount of notes and bills discounted, moneys loaned, and all other property; the second of the capital, the undivided profits, and the amount of time deposits—these three added together shall be deemed the property employed in banking. The county auditor shall enter the first statement on the duplicate, and shall charge

11April 1, 1856. 53 O. L., 51.
thereon such rates of taxes as will produce the same sum as would be produced by charging on the property embraced in the second statement the average rates of taxation on the property of individuals for state and local purposes.

The rule thus laid down was very inconvenient in practical application, and afforded an opportunity for withdrawing a considerable amount of bank property from actual taxation, of which the banks were quick to take advantage.\textsuperscript{112} The constitutional requirement that property employed in banking should be assessed equally with other property was thus set at naught, and it seemed as though the old policy of favoritism was to be revived.

A week later another act,\textsuperscript{113} known as “Kelley’s Bank Tax Law”, was passed, providing for the taxation of those banks which had been chartered under the act of February 24, 1845. These “independent” banks and the State Bank and its branches must be taxed, according to their charters, on their profits; but this act provided for a different method in the case of those banks which consented to it. These banks were to furnish the assessor with a statement of their capital, surplus, and undivided profits; these were to be placed on the duplicate and taxed like other personal property; that portion of their capital, etc., invested in real estate already taxed was to be deducted. “Under this system, for two years, the banks were taxed without any serious objection on their part.”\textsuperscript{114}

During the fall elections of 1856 the pro-bank party came into power in the legislature, and the next session carried out a peace policy in the effort to get the banks to submit to taxation on their property at the general property rate for the state. First the “crow-bar” tax law of March 14, 1853, was repealed;\textsuperscript{115} next it was provided that those banks which accepted the tax provisions of the act of March 23, 1850, should make returns to the county

\textsuperscript{113}Act of April 8, 1856.
\textsuperscript{114}Aud. rep., 1859.
\textsuperscript{115}By act of Feb. 26, 1857.
auditor and not to the state auditor, and should be taxed in the county in which they were doing business.116 A week later a comprehensive law was passed re-incorporating the Bank of Ohio and its branches.117 The circulation was to be graduated according to the amount of capital stock paid in (about one and one-half times the capital on the average); provision was made for a ten per cent. safety fund; and a reserve equal to thirty per cent. of the circulation must be kept, of which at least half must be specie.118

But the constitution provided that "no act of the General Assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people, at the general election next succeeding the passage thereof, to be approved by a majority of all the electors voting at such election." Accordingly this act was submitted to the people for their approval at the election on the second Tuesday in October, 1857, but failed to become law.119 At the same time an amendment to the constitution, to tax banks separately and on different principles from the property of individuals, was submitted to popular referendum. It was worded, "Bank and individual taxation equal—yes [or no]". This seems like a shrewd framing of the question for the purpose of defeating it, and defeated it was.

This same election saw the victory also of the radical anti-bank party, and in the following session they signalized their return to power by the virtual re-enactment of the drastic act of March 14, 1853. The new law was entitled, "an act to tax the property of Banks and Bankers, so as to require all property employed in banking to bear a burden of taxation equal to that imposed on the property of other persons." The officers of every bank were re-

116Act of April 8, 1857.
117Act of April 14, 1857.
118On Sept. 30, one week before the election, the State Bank and its branches resumed specie payments.
120Act of April 12, 1858.
quired under oath to return annually to the county auditor the average amount of notes and bills discounted, and the average amount of all other moneys, effects and dues of every description (deducting, however, the cash reserve). If taxes assessed under the act of April 13, 1852, were still unpaid the county treasurer was to demand them by leaving a written notice and if they were not then paid, together with a five per cent. penalty, in five days, he was authorized to seize the coin, securities, etc., of the bank; and to sell the same ten days after advertising them for sale. The other provisions of the earlier act were also re-enacted almost verbatim.

This was almost the last act in the struggle between the banks and the state.

The independent banks and the branches of the State Bank refused to pay taxes under this law, as they had under the law of 1853. They claimed that the section of the incorporation act of 1845, which prescribed the rule of taxation for them, was a contract, not liable to be impaired by subsequent legislative or constitutional provision; and that they were, therefore, not liable to be taxed by a different rule, however warranted by constitution or law in respect to institutions not similarly protected. This claim had been carried into the courts, and the Supreme Court of the state denied it, but it was sustained by the Supreme Court of the United States, to which an appeal was taken. A new tangle was now given the legal situation by a decision of the State Supreme Court in December, 1857, announcing its adherence to its original position.

It seemed as though the banks would escape taxation altogether. The state officers were bound by the decision of the state court and tried to enforce the collection of the taxes imposed by the law of 1857. But the banks, relying upon the decision of the Supreme Court of the United States, placed to the credit of the state, as previously, the taxes required by the act of 1845, and made no return for taxation under the later laws. In some in-
stances injunctions were obtained from the federal courts, restraining the state officers from the execution of the law. These injunctions and some defects in the law itself prevented any collection of taxes under it, while the law prevented the collection of the sums deposited by the banks in lieu of taxes under the act of 1845.

COMPROMISE.

In the face of this deadlock, the question was now definitely presented to the legislature as to whether they would have the claim of the banks to exemption contested again in the federal courts, or whether they would modify the act of 1858.121 As the auditor wrote in 1859,122 the door is again open for an expenditure of some thirty or forty thousand dollars on the part of the state, if she sees fit to undertake it, in attempting to enforce against the banks the collection of a tax which has been repeatedly adjudicated and decided by the court to be unconstitutional and void.

The legislature, however, refused to acknowledge itself defeated and passed the general property tax law of April 5, 1859, which again provided for the taxation of banks on the basis of their property at the general rate of state taxes.123 Bankers, brokers, and stock jobbers must report each year to the county auditor the average amount of notes and bills discounted, and the average amount of all moneys, etc., loaned, invested, or otherwise used with a view to profit, less the amount of the specie reserve on hand. The amounts returned "shall be taxed for the same purposes and to the same extent" that other personal property was taxed. Banks organized under the "State Bank of Ohio act" should have fifty per cent. penalty added in case of their refusal to make such statement (sec. 63). It will be noticed that the basis of taxation laid down in the law of 1858 was here restated. The banks again resisted and many of them secured injunctions restraining the assessment and collection of these taxes, so that the state

12356 O. L., 175, §§ 60-68. 2 Swan and Critchfield, 1438.
obtained no revenues from these banks.\textsuperscript{124} Four of the banks had accepted the provisions of the act of 1850, and claimed the right to pay taxes under that act.\textsuperscript{125}

In view of the decision of the Supreme Court of the United States it seemed foolish to continue to try to club the banks into submission by penalties and threats. Accordingly the legislature at length changed the basis of taxation from property to a combination of capital and profits. The act of April 4, 1861,\textsuperscript{126} taxing banks, provided that every bank should each year give the assessor (1) the amount of capital, (2) the undivided profits, (3) the amount of term deposits (i.e. not drawn on demand). The sum of these three were to be considered the property of the bank employed in banking, and were to be taxed as other property. Banks organized under the State Bank law of February 24, 1845, should make the same returns, but might deduct real estate already taxed. These banks must notify the county auditor of the acceptance of this form of taxation in lieu of that imposed by the act of April 5, 1859, if they should accept it.

Most of the banks accepted the provisions of this act, and paid their taxes under it from now on. Their back taxes they paid according to their charters, under the decision of the Supreme Court of the United States. As there was now practically nothing in controversy the suits against the banks were discontinued.\textsuperscript{127} Additional pressure was brought to bear upon the few banks that had not agreed to the provisions of the act of 1861, by a clause in the act authorizing the banks to suspend specie payments, denying this privilege to those banks that did not agree to be taxed under the act of 1861.\textsuperscript{128} Here at last was an effective weapon with which to compel obedience.

\textsuperscript{124}Eighteen banks brought suit in 1861, twenty-one more in 1862. In January, 1862, a perpetual injunction was granted the banks.

\textsuperscript{125}Aud. rep., 1860.

\textsuperscript{126}O. L., 1861, p. 59. This act amended that of April 5, 1859, repealing sec. 60-68.


\textsuperscript{128}Act of Jan. 16, 1862. 59 O. L. 3.
In November, 1860, the number of banks in Ohio, with their capital and circulation, was as follows:  

<table>
<thead>
<tr>
<th>Type of Bank</th>
<th>Capital</th>
<th>Circulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Bank and 36 branches</td>
<td>$4,104,500</td>
<td>$7,403,959</td>
</tr>
<tr>
<td>Seven independent banks</td>
<td>632,264</td>
<td>575,685</td>
</tr>
<tr>
<td>Eleven free banks</td>
<td>1,124,600</td>
<td>655,243</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$5,861,364</strong></td>
<td><strong>$8,634,887</strong></td>
</tr>
</tbody>
</table>

The banking system of Ohio had now finally been clearly defined by law, and was proving to be one of the best in the Ohio valley. It had been developed out of many trying and even disastrous experiences, and the bad features had been gradually eliminated. The charters of the State Bank and of the independent banks would expire on May 1, 1866, when all the banks of the state could be brought under the free banking law, which must be regarded as the proposed ultimate basis of the Ohio system at this time. The charters of the free banks did not expire until 1872. But before Ohio could finally work out her own system, the establishment of the national banking system introduced a disturbing factor, and profoundly altered the banking situation, not only in Ohio but throughout the Union. The period after the outbreak of the Civil War therefore introduces us to a new era in the history of banking and bank taxation in Ohio.

In 1858 Ohio adopted an independent treasury system. Taxes were to be collected in coin or notes of those specie paying banks of Ohio which issued no notes under $5—a virtual exclusion of Ohio bank paper. After July 4, 1860, no notes under $10 were to be received; after July 4, 1865, none under $20. After 1872 nothing but...
coin was to be used by the state.\textsuperscript{132} In adopting this system Ohio, in common with a number of other states, was but imitating, though somewhat feebly, the example of the federal government, which had established its Independent Treasury system in 1846. Before the program indicated could be even partially entered upon in Ohio, however, the outbreak of the Civil War, the suspension of specie payments by the banks, the issue of the greenbacks, and the establishment of the national banking system prevented the execution of the plan, although the law remained on the statute books, to be revived possibly at some later date.

THE ORGANIZATION OF NATIONAL BANKS AND THEIR TAXATION

The banks of Ohio, together with those of Indiana and Kentucky, were the only ones in the country, with some scattered exceptions, which had not suspended specie payments by January 1, 1862.\textsuperscript{133} But by the act of January 16, 1862, the Ohio banks were authorized temporarily to suspend specie payments, and to receive and pay out United States demand notes.\textsuperscript{134} There was quite a struggle in the board of control of the State Bank as to whether they should permit that bank and its branches to suspend, but it was finally carried.

With the organization of the national banking system\textsuperscript{135} the Ohio banks re-organized as national banks more promptly than those of any other state in the Union. The first annual report of the comptroller of the currency, of November 28, 1863, showed that of the 134 banks that had up to that time been organized as national banks, 38 were in Ohio, or almost double the number in any other state (20 each in Indiana and Pennsylvania were next).\textsuperscript{136} The number of independent banks was reduced from eight at

\textsuperscript{132}Bankers' Magazine, XII, 961. Quoted by Sumner, Hist. of Banking in the U. S., p. 442.
\textsuperscript{133}Bankers' Mag., XVI, 650.
\textsuperscript{134}O. L., 1862, p. 3.
\textsuperscript{135}By act of Congress of Feb. 25, 1863.
\textsuperscript{136}Bankers' Mag., XVIII, 617.
the beginning of the year 1863 to five in August, and the free banks from 13 to 10. The circulation of these two kinds declined from $1,800,000 in January, 1863, to $444,000 in November, 1865, and to $189,000 in November, 1866. Thus the forms of banking which had been developed in Ohio during the previous twenty years yielded to the national system. An act of March 16, 1865, prescribed the methods by which the "free banks" might retire their circulation and close up business.

The State Bank with its thirty-six branches, whose charter expired on May 1, 1866, also prepared to wind up its business. On November 25, 1865, the president sent out a circular letter asking that all notes issued by this institution be immediately presented for redemption. At the same time they began the work of destroying the circulating notes as rapidly as they came in. By November, 1866, the commissioner of statistics was able to report that "the banks of Ohio now consist of only two kinds, national and private banks." There were 88 private banks in the state, situated in forty-five counties (or just half of all), with an aggregate capital of $2,743,664 or an average of about $31,000. In October of the same year there were 135 national banks in the state, with an aggregate capital of $21,904,700, or an average of $162,000, and outstanding circulation of $18,000,000. There were also $98,410 state bank notes still outstanding.

With the reorganization of the Ohio banks under federal law the question soon presented itself as to whether the state could tax these banks. The auditor, in his report for 1863, expressed the belief that the situation was the
same as in the case of the branches of the Second Bank of the United States,\textsuperscript{143} and that therefore the national banks could not be taxed by the state. Nevertheless the assessors proceeded to assess the value of shares in national banks in the hands of the owners, and to list them for taxation. Their right to do this was resisted by the shareholders on the ground that the capital of the banks was invested in United States government bonds, and as these were exempt from taxation the shareholders could not be taxed. Against this contention the new auditor held that the individual shareholders could be taxed on their shares, though the banks as such could not be taxed.\textsuperscript{144} The legislature took the latter view and passed an act providing for the taxation of shares in the hands of the individual shareholders.\textsuperscript{145}

As the banks and bankers still resisted the collection of these taxes,\textsuperscript{146} the matter was carried up to the Supreme Court of Ohio, which held that the state had power to tax shares in the national banks located in Ohio, subject to the limitations that such tax should not exceed the rate imposed upon other moneyed capital of individuals, nor that imposed upon shares in the state banks.\textsuperscript{147} The way now being cleared, the legislature passed a definite act "to provide for the taxation of bank shares and bankers."\textsuperscript{148} All shares of stockholders were to be listed at their true value in money and taxed where the bank was located; real estate was to be taxed locally and deducted from the value of the shares. Each year the president and cashier were required to make out a list under oath of the stockholders and their shares, which was to be given to the county auditor. The shares were then to be entered on the duplicate and taxed to the shareholders; if they did not pay their taxes it was

\textsuperscript{143}See above, p. 260, ff.
\textsuperscript{144}Aud. rep., Exec. Doc., 1865, I, 339.
\textsuperscript{145}Act of April 2, 1865.
\textsuperscript{146}Aud. rep., Exec. Doc., 1866, I, 132.
\textsuperscript{148}Act of April 16, 1867. Swan and Sayler, 763; O. L., 1867, p. 204.
made illegal for these shares to be transferred or to have dividends paid, as long as taxes and costs remained unpaid. But the banks were permitted to pay the taxes and deduct the amount from the dividends.

There had grown up, alongside the national banks, a large number of private or unincorporated banks, which up to this time had practically escaped taxation. This same act now provided for taxing them on their surplus. They were required each year to send a statement to the county auditor showing (1) the average amount of discounted notes, (2) the average amount of accounts receivable, (3) the average amount of cash, (4) the average amount of stocks, bonds, etc., (5) the average amount of real estate, (6) the average amount of deposits, (7) the average amount of accounts payable, other than deposits, (8) the average amount of government securities, (9) the amount of capital. From items 1-5 the auditor was to deduct items 6-8, and enter the remainder on the duplicate, where it would be taxed at the general rate of taxation. That this was not altogether successful in subjecting the private banks to taxation seems to be indicated by the complaint of the governor a few years later that "it ought not to be possible, as it now is, for private bankers to do a very large business and yet only pay taxes on office furniture."

No further changes were made in the legislation regarding bank taxation until 1876, when a state board of equalization of bank property was provided for, in accordance with a recommendation to that effect from the state.

149 This was amended by the act of April 17, 1881 (O. L., p. 109), which provided that item 9 should consist of the value of all property not otherwise enumerated, and this was to be added to the remainder obtained by the method described above for purposes of taxation. By act of April 16, 1900, item 8 was defined as government securities exempt from taxation, and item 9 as the value of office furniture and other property not enumerated. The auditor was to subtract items 6-8 from items 1-5 and add 9, and to place the value so obtained on the duplicate to be taxed at the general rate. (O. L., 1900, p. 347).

auditor. He pointed out instances of the shares of a national bank being assessed at $161 in one county, while the shares of another bank in an adjoining county were assessed at only $35. 372 By this act the state auditor, treasurer, and attorney general were constituted a board to equalize the valuation of bank shares for taxation, under the act of April 16, 1867. 373 This was amended the following year, however, and the board forbidden to add or subtract more than $100,000 for any one county. 374 By the act of 1883 the constitution of the board was changed, and it was now made to consist of the governor, auditor, and attorney general. 375 In 1890 the law was extended to savings banks. 376

The tax commission of 1893 concluded that the banks paid a larger proportion of their incomes to the state in taxation than any other class of corporations; they paid from 17 to 23 per cent. of their net income, while railroads paid only from 5 to 12 per cent. of their net earnings. 376 They described the system of taxation for incorporated banks as follows:

The state board of equalization for banks is required to meet on the third Tuesday of June annually at the office of the auditor of state and examine the returns of the banks to the county auditors and the value of shares as fixed by the county auditors, and has power to hear complaints and equalize the value of such shares, but shall not increase or reduce the grand aggregate value of bank shares as returned by the several county auditors by more than twenty per centum. 377

In 1908 another tax commission described the system again, which remained the same as already set forth. By custom only sixty per cent. of the “book value” of their personal property is placed on the tax duplicate in the particular locality where the bank is situated, in order to

372 And. rep. 1875, p. 67.
375 Act of March 9, 1883. O. L., p. 54. Revised March 26, 1902.
O. L., p. 71.
376 O. L. 1907.
378 Report, p. 96.
make its property bear a burden relatively fair to other property in the community, and upon this amount the local and state tax rate is applied. Real estate belonging to the bank is not included in this calculation, for it is taxed as other real estate.  

158 This same practice was followed by the permanent tax commission in 1910.  

159 The last revision of the statutes of Ohio show the system of bank taxation today substantially as it was fixed in 1867.  

160 A student of taxation in Ohio reaches the following conclusion regarding the taxing of banks:  

While Ohio has some of the worst tax laws in the Union, notably in assessing railroads, it is a great comfort to the writer to be able to boast that its law for the taxation of banks is as near perfect as can be made.
CHAPTER VI
HISTORY AND TAXATION OF RAILROADS.1

EARLY RAILROAD BUILDING.

The early history of railroads is nowhere better illustrated than by the experience of Ohio. Her peculiar position between the Great Lakes and the Ohio River, together with the situation of the passes through the Allegheny Mountains, have forced most of the artificial lines of communication between the East and the West to cross the state. From the first the people of Ohio have manifested the liveliest interest in the subject of transportation, and were prompt to see the advantage of railroads when this method of transportation was first suggested. Rich in its natural resources, Ohio was the mecca of emigrants from the states to the east. While the accessible sections on the banks of the Ohio River were first populated, the settlers soon pressed on to the interior counties of the state to territory equally rich in soil and timber. An enterprising people, eager for rapid growth and ambitious for the immediate development of the state's resources, they exhibited a liberal spirit towards all kinds of internal improvements.

With growth of population and increased production the need of a market became continually more pressing. The route down the Ohio and Mississippi rivers to New Orleans was never wholly satisfactory, and moreover did not afford an outlet for the interior settlements. State and county roads were built, generally to afford access to a navigable waterway, and in 1825 the canal system was begun. These ran north and south and connected the central part of the state with the Great Lakes or the Ohio River; in connection with the Erie Canal they now provided a through route to the Atlantic coast. Prices rose, production increased, and the population grew at a rapid rate. Their success fostered a spirit of enterprise among

1I desire to record my indebtedness, in the preparation of this chapter, to Mr. H. A. Clark, of Marquette, Mich., who, while a member of my seminar at Oberlin College, wrote a paper on this subject, of which I have here made liberal use.
the people and paved the way for the building of railroads.

Railroad construction was undertaken in Ohio by private enterprise. As the state had built the canals, its assistance was not expected in the building of what might become a competitor of the public works. The legislature, however, was liberal in granting charters to private companies, each of which was by special act. The first act to incorporate a railroad company in Ohio was that of February 23, 1830, granting a charter to the Ohio and Steubenville Railway Company. Although this road was never built, its charter is of interest, for it was the legislature's guide in drafting subsequent ones, and contained the provisions peculiar to early railroad charters. Like all of these, both in England and the United States, it provided for the use of the track by all shippers, who were expected to own their own carriages. Maximum rates of toll were prescribed for freight and passengers. The capital stock was limited to $500,000, and the stipulation made that no part of it should be used in banking. The right of eminent domain was also granted to the company. The following year a second charter was granted, and in 1832 there were ten. In January of this year there was already a standing committee on "Rail-roads" in the Ohio House of Representatives, and bills were beginning to come in from prospective companies asking for acts of incorporation. In-

That this provision was needed seems to be shown by the experience of the state with the Ohio Railroad Company in 1835. A provision in its charter read that "the funds of said company shall be paid out in orders drawn on the treasurer, in such manner as shall be pointed out by the by-laws of the company; and that all such orders for the payment of money so drawn shall, when presented to the treasurer, be by him paid and redeemed." Under authority of this clause the company began issuing notes and successfully put out a large circulation. The state granted a subsidy to the railroad and with this some of the notes were redeemed, but no work of a permanent character was done on the road, and upon its suspension a few years later (1842) the state lost all of the $557,000 it had granted. Several hundred thousand dollars in worthless currency were left outstanding. Leland, "The Ohio Railroad". Mag. of West. Hist., XIII, 744.

interest was rapidly growing; up to and including 1836 the general assembly granted fifty-six charters, but only five of these roads were actually built. These were the Mad River & Lake Erie, the Mansfield & Sandusky City, Little Miami, Columbus & Xenia, and Kalamazoo & Erie railroads. Of these the last named was the first railroad actually built in the state, being finished in 1836, between Toledo, O., and Adrian, Mich., a distance of about 33 miles.

The contrast between the large number of charters granted and the few roads built indicates clearly the speculative and even visionary nature of many of these enterprises. On the scale on which they were projected they were certainly premature, and local capital was lacking to carry them through. Railroad construction was found to be a far more expensive and difficult undertaking than had been anticipated. It was difficult to enlist capital in a venture which gave promise neither of immediate nor large returns. Notwithstanding the general desire to obtain railroads, efforts to raise by stock subscriptions sufficient funds to construct the roads authorized were futile. In not a single case was sufficient stock subscribed to complete the road as planned.

Meanwhile the canals of the state had been built and opened to traffic, and were proving successful enterprises. The state had invested a large amount in their construction and did not wish to see the profits of the canals cut into by this new transportation agent. Moreover the policy of internal improvements was taken up again in 1835 on a more extravagant scale and further sums were desired for canal building. Rivalry sprang up between the canal and railroad interests of the state, which found expression especially in the charters granted to railroads. It was argued by the canal interests that it would be unwise for the state to imperil the financial success of the canals, in

which it was itself so heavily involved, by allowing the construction of railroads which would become direct competitors and would undoubtedly make serious inroads on the income of the canals. This argument did not prevent the granting of charters, but it did secure the incorporation in some of them of a provision by which they agreed to pay to the state such amounts annually as in the opinion of the Board of Public Works would be equivalent to one-half the tolls charged by the state at the time upon like property transported by canals during the season of navigation but for the existence of the railroad.

This provision proved later, however, to be of little value. Since the stock subscriptions failed to secure the money needed to build railroads, the state next granted the companies, by new charters or amendments to the old ones, the right to borrow money, and to pledge their income and stock for its repayment. In most cases the amount to be borrowed was limited to the amount of stock paid in or subscribed, but often up to an amount not exceeding the authorized capitalization. Every effort was then made to increase the subscriptions and the authorized capital, so as to borrow larger amounts. There was present every inducement to speculation, the overstraining of credit, and even wilful misrepresentation and fraud. Later charters or amendments gave the railroads power to pledge the income and property of the company, and in some cases the franchise, as security for money borrowed.

STATE AND LOCAL AID.

The railroads, however, were still unable to command sufficient means to build their lines, and what progress they were making was abruptly checked by the panic of 1837. But the people were interested and clamored impatiently for their construction. They wished a means of transportation that would not only afford an outlet for the products of the interior sections of the state, which were not reached by the canals, but which would also cheapen

*Rep. of RR. Comm’r, 1875; cf. ibid., 1868.*
transportation and reduce the time required to get produce to the market. As stock subscriptions and loans had not been successful in providing the necessary capital, state aid seemed the only other solution. Accordingly, in 1837, an act was passed providing for a loan of credit by the state to railroad companies, and a subscription to the stock of turnpike, canal and slackwater navigation companies.\(^7\) In one form or another similar aid had been extended to railroad companies in other states, especially in the South.\(^8\) The Ohio act provided that the state should loan its credit to railroads in 6 per cent. transferable stock, redeemable in twenty years, to the amount of one-third of the capital stock, provided that the other two-thirds had been actually paid in.

In order to insure the state against any loss through mismanagement of the companies or through fraud the act imposed certain restrictions and prescribed certain conditions which had to be complied with before the Fund Commissioners could issue the certificate of stock in their behalf, thus creating a state liability.

First, it was required that the Board of Public Works should have approved of the plan and estimated most of the road and have determined that the road would be of public utility, and further that within two years after its completion, it would in their opinion yield a net profit of at least two per cent., on the money invested in its construction and rolling stock.

Second, it was required that the Fund Commissioners be satisfied by the oaths of the officers of the company that subscriptions had been made to their capital stock, equal to two-thirds of the sum necessary to complete the road and fixtures, and that the company had vested and expended a sufficient amount of their capital to make the state secure in the sums to be advanced under the authority of the act.

Third, it was required that the Fund Commissioners

\(^7\) Act of March 24, 1837.

\(^8\) See Cleveland and Powell, *Railroad Promotion and Capitalization* (N. Y., 1909), chap. XV. The Ohio law is incorrectly stated (p. 217).
be also satisfied by the oaths of the officers of the company that it had actually expended in its construction and in the purchase of land for the same one-third of the capital stock subscribed.

Fourth, it was required that the Fund Commissioners be satisfied (by what kind of proof was not specified) that the stock subscriptions should be subscribed by responsible individuals or corporations.

Fifth, there was required a written pledge, duly executed under the authority of the president and directors of such company of the capital stock, estate, tolls, and profits of the company, to secure the re-payment of the sums advanced by the state.

Sixth, it was also required that the last mentioned pledge should be accompanied with such security as the Fund Commissioners might approve, for the faithful expenditure of the principal and the punctual payment of the interest.

In addition to these six prerequisites to a loan of credit under the law, the provision was also made requiring additional security if the security of the road and works be deemed inadequate by the Commissioners of the Canal Fund.

Under the provisions of this law the following aggregate sums were loaned to railroad companies in state scrip or stock:

The Painesville and Fairport Railroad Company
(in one issue) ........................................... $ 6,182

The Mansfield and Sandusky City R. R. Company
(in three issues) ..................................... 33,333

The Mad River & Lake Erie Railroad Company
(in four issues) ...................................... 270,000

The Little Miami Railroad Company (in three issues) .................. 115,000

The Ohio Railroad Company (in four issues) .................. 249,000

The Ashland & Vermillion Railroad Company (in two issues) .............. 44,000

Total .................................................. $717,515
The records of the canal fund commissioners show non-compliance with the law to have been the rule rather than the exception. In every case where a loan of credit was made at least one of the requirements stated above was violated. In some cases transfers of real estate were entered at fabulous prices, on the basis of which “paid-in subscriptions” the state loaned its credit; in some cases the board of public works did not pass upon the public utility of the road or its certainty of success; in some cases there was no adequate proof that a sufficient amount of capital had already been expended to secure the state in its loan. Railroad companies seeking state aid evaded the provisions of the law, and this evasion was possible because of the negligence of the canal fund commissioners. A few years later a commission appointed to investigate these transactions reported that the liabilities assumed by the state in aid of railroads were created by reason of there not being bestowed upon those transactions the close attention to the law, and that degree of regard to economy and the public interest which were demanded by the importance of these transactions and the heavy amounts they involved.\(^8\)

The burdens involved in this addition to the state debt, coming as they did in the midst of a period of industrial depression, together with the extravagance and fraud involved in these loans, led to the repeal of the loan law after an experience of three years.\(^9\) Of the loans made by the state to railroads during this period three-fifths was lost. The Ohio Railroad was a gigantic fraud and utterly collapsed; the road was never built and the entire amount loaned and given to the road was wasted.\(^10\) The Paines-


\(^9\)Act of March 21, 1840. Those roads which would have been entitled to loans of credit upon the faith of subscriptions to their stock prior to Dec. 1, 1839, were granted such loans after the repeal of the law. By virtue of this provision $200,000 was loaned after this date.

\(^10\)When the Board of Public Works was authorized to sell the personal property of the Ohio Railroad Company in 1844 in order to realize something from the state’s loan, subscription of stock, gift of
ville & Fairport railroad and the Ashland railroad were failures, the roads being abandoned, and the whole amount of state loans was sunk. In 1862 the state disposed of its holdings in the Little Miami railroad at par, and in 1866 it sold the stock of the other roads for a total of $36,658. That is, in return for loans of $717,505 the state got back a total of $292,658.

The law of 1837 had provided for the prompt payment of the interest on the state's loans of credit, but the railroads had failed to meet these obligations. Consequently an act was passed in 1843 providing that certificates of stock should be issued by each company for the amount for which the state had become liable, together with the interest then due and unpaid.12 By this time three of the railroads had failed, while the Mansfield road had met all its payments, and continued to do so. Of the other two railroads the Little Miami company issued additional stock at the time for unpaid interest to the amount of about $7000; subsequent issues of stock and bonds in payment of dividends brought the total holdings of the state up to $200,000 of stock and $56,000 of dividend bonds on December 15, 1862, when they were sold for par. This was the only road which repaid the state for its original investment. The interest in the other two roads was held until 1866, when $33,333 of stock in the Sandusky City Company was sold for $583; the common stock of the Mad River Company, amounting now to $395,000, was closed out for $33,841, and preferred stock to the amount of $4,588 for $2,234.13

In addition to the state aid just described the rail-


[13] "The holdings of the state were sold by the Sinking Fund Commissioners to Rush R. Sloane, of Sandusky, by order of the general assembly in June, 1866." W. F. Gephart, Transportation and Industrial Development in the Middle West (N.Y., 1909). P. 166, n.
roads received assistance in stock subscriptions and loans of credit from counties, townships, cities, and towns as well. The total authorized subscriptions down to 1851 granted by laws in which the sums were specified are given in the following table. Some laws were passed in which the amount of the subscription was not specified.

<table>
<thead>
<tr>
<th>Subscriptions</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>37 counties</td>
<td>$4,173,000</td>
</tr>
<tr>
<td>55 townships</td>
<td>$1,005,100</td>
</tr>
<tr>
<td>16 cities</td>
<td>$1,672,000</td>
</tr>
</tbody>
</table>

Total subscriptions: $6,850,100

<table>
<thead>
<tr>
<th>Loans</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 county</td>
<td>$92,500</td>
</tr>
<tr>
<td>1 city</td>
<td>$600,000</td>
</tr>
</tbody>
</table>

Total local aid: $7,542,600

After the breakdown of the policy of state aid and the return of prosperity in 1846 the legislature granted freely to the local governments the power of subscribing to the stock of local railroads. Such subscriptions were usually made upon vote of the people. The early railroads were short local affairs, and it came to be regarded as a local question whether aid should be granted, and if so to what extent. The constitution of 1851 prohibited the state or any of the local divisions from loaning their credit or subscribing to the stock of works of internal improvement. While the grant of local aid was made in response to a pressing demand for better railroad facilities, the policy on the whole must be regarded as unwise. The stock subscriptions were generally made without due regard to business principles, and the funds thus secured were carelessly used. Practically all of the money thus loaned was lost, while on the other hand, many of the counties were still paying thirty years afterwards the principal and interest of bonds for roads that in some cases were not built or operated. But grave as were the abuses, it taught the

"Dr. W. F. Gephart, in his Transportation and Industrial Development in the Middle West. p. 167, estimates that the total amount of subscriptions by the state and local governments in Ohio was not less than $40,000,-000. To the present writer one-fourth of that sum seems a safer estimate."
people of Ohio some valuable lessons in railroad finance at a period when the roads were yet young and the experience consequently less costly than it might have been later. And the policy did have the good effect of facilitating the development of a much needed improvement.

**TAXATION OF RAILROADS TO 1851.**

The early policy of the state was to develop the railroads rather than to overburden them with taxation. However, provision had been made for the taxation of the railroads already built by charter stipulation that these railroads would be subject to taxation on their dividends when they exceeded 6 per cent. per annum. Of the four roads in operation in the state on December 15, 1851, but one—the Little Miami—had declared a dividend exceeding 6 per cent., and provision had been made for taxing it by listing its stock and dividends. It was to be assessed on these to such an extent as would equal a tax levied on other transportation companies by the general property tax law. No general act taxing property had been passed since the beginning of railroad construction until the so-called "Kelley law" of 1846. This required railroads to list for taxation the full amount of their capital stock paid in by individual shareholders at its true value in money. Stock held by counties and cities was exempt from taxation. They were also required to list for taxation all personal property, money, and credits, but were allowed to deduct their actual debts. It was the duty of the county auditor to assess the capital stock and other personal property of the railroads, and such taxes were to be collected, accounted for, and paid over, as were other taxes levied for state purposes. The early railroads whose charters contained provisions for their individual taxation were, of course, not affected by this act.

In 1848 was passed "an act regulating railroads", which provided for the organization under a general char-

*Act of March 23, 1849.
*Act of March 2, 1846.
ter of all railroad companies. The early idea that any person might use the road on condition of paying toll, was now given up, and the modern conception of the railroad as an essential monopoly was adopted. Provision was also made for borrowing money by the railroads. But any good road which availed itself of the privileges conferred by this act subjected itself to a change in method of taxation, and might hereafter be taxed according to the act of 1846 instead of its charter provisions. Any company thus taxed was required to make an annual report to the auditor of state, showing the amount of its capital stock, the gross amount of its tolls or receipts during the previous year, the cost of repairs and incidental expenses, the net amount of profits and dividends, with such other facts as might be necessary to a full statement of the affairs and condition of the road.

Few of the roads having charter provisions governing taxation availed themselves of this act of 1848. The Mad River and Lake Erie Railroad was the only one that had paid a tax on its dividends, the majority of the roads failing not merely to pay any taxes but even to send in reports. State officials were lax and little effort was made to enforce the law. Accordingly in 1851 a somewhat more definite attempt was made to reach the railroads which were escaping taxation. Railroads were divided into two classes: those having special charters providing for their taxation when dividends exceeded 6 per cent.; those whose charters made no provision for taxation. Railroads in the second class were required to list their paid-in capital stock, on which they were taxed as provided in the law of 1846. Those in the first class were required to report their dividends to the state auditor within ten days after the dividend was declared; if they declared more than the maximum allowed without being taxed the auditor was instructed to draw

17 Act of Feb. 11, 1848.
18 An abstract copy of these reports may be found in the annual reports of the auditor during this period.
19 Act of March 25, 1851.
upon them for 6 per cent. of the dividends of the previous year. The personal and real property used exclusively for corporate purposes was exempted from taxation. This legislation was short-lived, for it was soon changed by the adoption of the constitution of 1851.

In 1850 only four or five roads were completed and opened to traffic, with a length of less than 300 miles, though work was proceeding on eleven others. After the first outburst of activity new enterprises were not projected on so lavish a scale. In the four-year period 1837-40, during the operation of the loan law, 20 charters were granted. The effect of the industrial and financial depression is clearly seen in the period 1841-45, when only 13 roads were chartered, but with the succeeding revival the number increased to 61 in 1846-50. In 1851 the constitutional convention met, and it became evident that strict provisions would be framed concerning railroads, banks, and other corporations. There was consequently a rush for new charters or amendments to old ones. The legislature in their single session passed 21 acts to incorporate railroads, 29 acts amending previous incorporation acts, and 36 acts authorizing counties, cities, towns, or townships to subscribe to stock. All the charters and amendments to charters contained authority to borrow money. The doors were thrown open as wide as possible to enable the railways to borrow money and procure stock subscriptions. An act was also passed permitting the consolidation of continuous lines.21

The adoption of the constitution this same year put an end to legislative activity of this sort and rendered many of these acts obsolete. It prohibited local governments from subscribing, raising money for, and loaning their credit to any joint stock company, and forbade the general assembly from passing any special act conferring corporate

21Act of March 3, 1851.
powers.\textsuperscript{22} This latter section was made effective the following year by the passage of a general incorporation act for all kinds of companies, corporations, and societies.\textsuperscript{23} The good effects of such a law is evidenced in the fact that during the session of 1852 only twenty-four local acts were passed, mostly concerned with county and township affairs. The taxation of railroads, as of all other corporate property, was regulated by two sections in the new constitution, which required the taxation of all property in accordance with a uniform rate at its true cash value, and that corporate property should be forever taxed like the property of individuals.\textsuperscript{24}

Appropriate legislation was soon passed to enforce those provisions.\textsuperscript{25} It was provided that every canal, turnpike, insurance, bridge, telegraph, and other company “shall list for taxation at its actual value, its real and personal property, moneys, and credits within this state.” Property was to be returned to the auditor of the counties in which it was situated, and moveable property appportioned \textit{pro rata} according to the value of the fixed property. All property so listed should pay all local and state taxes. The auditor now proceeded energetically to enforce the law and to collect taxes from the railroads.\textsuperscript{26} He notified the county auditors to assess the railroad property upon their own estimate if the officials failed to file a statement. Railroad officials challenged the legality of the tax law, asserting that their charters guaranteed them “reasonable” taxes. But they soon acquiesced in the determination of the legislature and the state officials to tax their property in the same manner as that of individuals and never opposed the tax laws the way the banks did.\textsuperscript{27} In the two years 1852-3 the assessed valuation of railroad property in

\textsuperscript{22}Art. VIII, sec. 6, and Art. XIII, sec. 1.
\textsuperscript{23}Act of May 3, 1852.
\textsuperscript{24}Art. XII, sec. 2, and Art. XIII, sec. 4.
\textsuperscript{25}Act of April 13, 1852.
\textsuperscript{26}The auditor was John Woods.
\textsuperscript{27}See ch. V, p. 283.
the state was increased from $8,945,571 to $17,591,894, an increase of 96 per cent.; large as this increase was, the auditor asserted that the assessment did "not yet place it upon the duplicate at its full cash value."\[28\]

**REGULATION AND TAXATION, 1850-1866.**

During the decade 1850-60 railway building in Ohio progressed more rapidly than in any other state in the Union. Chicago and the Mississippi and Missouri rivers were reached during this period, and through connections established between the Atlantic seaboard and the grain states of the Middle West. As Ohio was the gateway through which all these lines were compelled to pass, every increase of harvest in the West or of trade and manufactures in the East increased the traffic on the Ohio lines. As early as 1854 Ohio had more miles of railroad than any other state in the Union, namely 2367; by 1857 the mileage had grown to 2844, built at an estimated cost of $90,000,000.\[29\] They now reached every county of the state except eleven,\[30\] and there were already three or four roads whose main business was the carriage of coal and iron.\[31\] At the beginning of the decade they began to compete actively for traffic with the canals, which they overtook about the middle, and completely outdistanced by the end of the period.

As an evidence of the growing importance and extent of the railway system may be cited the fact that an act of 1856 authorized the consolidation of railroad companies in Ohio with railroad companies of states adjoining.\[32\] The consolidations that created the great trunk lines out of a series of unconnected links had now commenced.

With consolidation went rate wars and discrimination on the part of rival roads. These occurred not merely be-

\[28\]Aud. rep., Feb. 12, 1853.
\[30\]Aud. rep., 1853.
\[32\]Act of April 10, 1856.
between competing railroads, but also between the railroads and the canals. The legislature passed several futile acts against the latter, and in 1861 endeavored to regulate the former by the passage of the “equalization act.”\(^{33}\) This required every trunk railroad that connected with two or more railroads at or near the same place to carry all passengers and freight from such roads and to charge no more to one railroad than to another. Another section imposed a penalty of three times the amount of the freight charges if a railroad diverted freight from the road over which it had been ordered to be conveyed by the shipper. Evidently modern railroad practices had an early origin.

Comparatively little of the capital invested in railways was furnished by citizens of Ohio. In 1859 the commissioner of statistics referred to the common idea that most of the railroad bonds were held in Europe, which he considered a mistake.\(^{34}\) Of the bonds issued by fifteen railroads in Ohio he calculated that $10,000,000, or one-third, were held in Europe, and $23,000,000 in the United States, which was probably typical of all the railroads. But the bonds held in Europe were the best ones, chiefly first and second mortgage, while those owned in this country were largely third mortgage and income bonds, which were consequently not so well secured. An interesting statement, in view of subsequent assertions as to stock watering and overcapitalization, was the following: “probably not over two-thirds of the nominal cost of our roads is represented by money.”\(^{35}\)

Tax evasion was as characteristic of the railroads during this period as was discrimination, and only meager tax reports were made to the auditor. In 1859 a general tax law was passed, of which one section dealt with rail-

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\(^{33}\)Act of April 11, 1861. \textit{O. L.}, 1861, p. 74. For an account of the discrimination practiced by the railways against the canals, see a forthcoming monograph on Internal Improvements in Ohio.

\(^{34}\)\textit{Exec. Doc.}, 1859, I, 791.

\(^{35}\)\textit{Ibid.}, p. 793.
road taxation. By this act the officers of any railroads, canal, bridge, insurance, telegraph, or other joint stock company except banking, were required to list all the personal property of their company at its actual value with the auditor of the counties in which the property was situated. The value of the rolling stock and movable property was prorated to the various townships and cities according to the value of the real estate in them. All property so listed was to pay the same taxes as other property. If the county auditors believed that the reports contained false or incorrect valuations they were required to make a correct appraisal and to substitute the same for that filed by the railroad companies.

Under this act each railroad was valued and listed by its own officers according to their own rules or opinions, and, even with the sincerest purpose to act fairly, great inequality prevailed in the amounts returned by the different roads. And there was no adequate power in any public officer or board to correct this, in spite of the authority given the county auditor, for he was quite unable to deal with a large corporation. This led to a recommendation from the governor that a board of assessors be created for the purpose of assessing each railroad for taxation, to consist of the several county auditors of the counties through which the roads passed. The following year the legislature passed an act embodying this suggestion.

The act of 1862 was an important one and with slight modifications governed the appraisal of railroad property in Ohio until 1910. It constituted the county auditors of the counties through which a railroad ran a board of appraisers and assessors for such railroad. They were to ascertain

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36 Act of April 5, 1859, § 16. 2 Swan and Critchfield, 1438. Personal property was defined to include "roadbed, water and wood stations, and such other realty as is necessary to the daily running operations of the road, moneys and credits of such company or corporation."


39 Act of May 1, 1862. O. L., 1862, p. 88; Swan and Sayler 766.
the value of the personal property of the road (defined as in the previous act), and apportion it among the counties according to the value of the real estate. They might require from the officers of any road a statement under oath as to the property, business, etc., of such road; and officers of roads refusing to appear before the board of appraisers, or to submit books, etc., should be judged guilty of a misdemeanor and might be punished by imprisonment up to thirty days and fine up to $500. The procedure of the board was also carefully defined.

The auditor of a county in which a railroad had its principal office, or (in case the principal office was in some other state) the auditor of the county having the largest city upon the road, was president of the board. It was his duty to arrange the time and place of meeting, and to notify the other members of the board at least five days before the time appointed for the meeting. Provision was made for carrying on the business of the board in case of the absence or disability of the president. One of the members was to be appointed secretary and a full record of the minutes of the proceedings must be kept. If the

"By act of April 14, 1863, the term "personal property" was enlarged so as to include also the undivided profits, reserved or contingent funds, in whatsoever way they might be invested. A subsequent act further included under this head locomotives and cars not belonging to the company, but hired for its use or run under its control by a sleeping car or other company. For the convenience of railroads this property might be listed and valued separately from its own property by the board of appraisers, but it was required that this valuation should be included in the aggregate valuation.

"These provisions as enacted in 1862 still govern the procedure in the board, but in the last respect they have been made more specific by the act of April 30, 1891. This act enumerated what the minutes of the county auditors' board should contain—that they should consist of a full and complete record of the votes of each member of the board; that the valuation of the property should be made only on motion offered and duly seconded, and that on all such motions the yeas and nays should be called and each member's vote should be recorded by the secretary; that immediately after the board's adjournment the secretary should make a complete record of all the transactions of the proceedings of the board,
president of the board failed to call a meeting before the second Tuesday in May, the several county auditors were empowered to meet on that day in the proper place and proceed to ascertain all the personal property of the railroad under consideration.

The boards of railroad appraisers and assessors were soon supplemented by a state board of equalization for railroads, composed of the state auditor, treasurer, and attorney general. At an annual meeting to be held the last Wednesday in July at the office of the auditor, complaints were to be heard and the property of railroads equalized. The law empowered the board to increase or reduce the valuations placed on individual railroads, but not to reduce the aggregate valuation below that returned by the county boards of appraisers. There was evidently more fear of evasion of taxes than of injustice to the railroads. In practice the state board has changed the valuations made by the county boards but slightly. The following table shows the results of the board's work for five year intervals since its creation, and may be taken as typical (000 omitted):

and set forth therein the names and official capacity of the officials of the railroad present at the meeting just held; and that a certified copy of the proceedings, signed by the president and secretary, should be forwarded at once to the county auditor of each county constituting the board, and the same should be recorded in a book kept in the county auditor's office, subject to the inspection of any person during office hours.

The tax commission act of 1910 changed this system. See below.

43 This original law has been but slightly modified. The date of the annual meeting has been changed to the first Wednesday after the tenth day of June (Act of April 2, 1866): The boards of county appraisers were required to send immediately after their adjournment to the board of equalization all the reports of the various railroad officers and such other information as the state board might require (Act of March 16, 1867). The office of commissioner of railroads and telegraphs was created the same year, and this official was made a member of the board of equalization (Act of April 5, 1867).
### Financial History of Ohio

<table>
<thead>
<tr>
<th>Year</th>
<th>Value as fixed by Co. boards.</th>
<th>Additions</th>
<th>Deductions</th>
<th>Value as fixed by state b'ds.</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1866</td>
<td>$48,817</td>
<td>$886</td>
<td>$679</td>
<td>$49,024</td>
<td>2 add. 3 ded.</td>
</tr>
<tr>
<td>1871</td>
<td>64,545</td>
<td>785</td>
<td>453</td>
<td>64,877</td>
<td>7 add. 2 ded.</td>
</tr>
<tr>
<td>1876</td>
<td>83,917</td>
<td>397</td>
<td>184</td>
<td>84,129</td>
<td>3 add. 3 ded.</td>
</tr>
<tr>
<td>1881</td>
<td>83,597</td>
<td>828</td>
<td>661</td>
<td>83,764</td>
<td>6 add. 3 ded.</td>
</tr>
<tr>
<td>1886</td>
<td>89,273</td>
<td>215</td>
<td>172</td>
<td>89,316</td>
<td>4 add. 3 ded.</td>
</tr>
<tr>
<td>1891</td>
<td>104,954</td>
<td>398</td>
<td>457</td>
<td>104,896</td>
<td>7 add. 7 ded.</td>
</tr>
<tr>
<td>1896</td>
<td>104,684</td>
<td>67</td>
<td>35</td>
<td>105,015</td>
<td>3 add. 2 ded.</td>
</tr>
<tr>
<td>1901</td>
<td>116,891</td>
<td>379</td>
<td>376</td>
<td>116,894</td>
<td>6 add. 4 ded.</td>
</tr>
<tr>
<td>1906</td>
<td>148,066</td>
<td>...</td>
<td>6</td>
<td>148,060</td>
<td>0 add. 1 ded.</td>
</tr>
<tr>
<td>1907</td>
<td>152,403</td>
<td>...</td>
<td>...</td>
<td>152,403</td>
<td>0 add. 0 ded.</td>
</tr>
<tr>
<td>1908</td>
<td>156,096</td>
<td>...</td>
<td>...</td>
<td>156,096</td>
<td>0 add. 0 ded.</td>
</tr>
<tr>
<td>1909</td>
<td>156,783</td>
<td>...</td>
<td>...</td>
<td>156,783</td>
<td>0 add. 0 ded.</td>
</tr>
</tbody>
</table>

This method of assessing railroads did not long go unchallenged, and the criticisms made at the beginning have been constantly reiterated down to the present time. The auditor in 1864 objected that the county auditors “are wholly unacquainted with the value of this species of property; they are more or less subject to local influence. . . . . The result is, some roads are appraised too high, and some too low.” And two years later he again criticized the work of the county boards, “who know little, if anything, of the value of that species of property. We should have direct returns under oath to the state board of equalization.” Fuller criticism of this plan may, however, be reserved till later.

### Construction and Taxation After the Civil War

After the phenomenally rapid railroad building that took place in Ohio during the fifties, the growth of the railway net proceeded more slowly. On July 1, 1867, the total mileage in the state was 3,877. Consolidations were also taking place and the railway service for through traffic was being greatly improved.

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lines was but intensified by these changes, and discrimination in rates was generally practised. An effort was made to end this by the passage of a “long and short haul” act in 1871, which forbade railroads “to charge or receive for transportation of freight for any distance in this state, a larger sum than is charged by the same railroad for the transportation of freight of the same class or kind, for an equal or greater distance.” The penalty for infraction of this law was the forfeiture to the aggrieved party of double the amount of the overcharge, with a minimum of $25. The act was primarily designed to prevent excessive charges for local freight, which seemed out of all proportion when compared with the long-distance charges, which competition was rapidly bringing down. Between the years 1869 and 1881 the number of tons moved one mile in Ohio grew from 739 to 3682 million, while the ton-mile rate decreased from 2.446 to .915 cents. It was estimated that there was saved to the shippers over $337,000,000, being the difference between the actual rates and those of 1869; for the same period the total taxes of Ohio amounted to $316,000,000. Unfortunately for the implied argument, the savings on through transportation charges did not go into the pockets of Ohio tax-payers, or but to a slight extent.

The law of 1871, moreover, did not affect its purpose of reducing local freight charges and of preventing discrimination. The commissioner of railroads and telegraphs directed attention to a large number of “clear and palpable violations of the law” by railroad companies. In relation to rates prescribed by law for the transportation of persons and property he said,

there is not a railroad operated in the state, either under special charter or the general law, upon which the law regulating rates is not in some way violated nearly every time a regular passenger, or freight, or mixed train passes over it.

"Act of April 26, 1871. O. L., 1871, p. 78. This awkwardly worded act was re-enacted two years later in much improved phraseology. Act of March 11, 1872. O. L., 1872, p. 27.

"Ringwalt, Transportation Systems in the U. S., p. 245.

In subsequent reports the commissioner turned apologist for the railroads. During the eight years 1868-75 the taxes paid by the railroads of Ohio amounted to 2.988 per cent. of their gross earnings in the state. The commissioner pointed out that in those states where railroads were taxed on the basis of their annual incomes, the rule was to take 3 per cent. of the gross income as the value of the road for taxation; he concluded therefore that the Ohio railroads bore their fair share of taxation.\textsuperscript{50}

In 1872 the legislature passed an extraordinary law, known as the “Boesel law”, which authorized “counties, cities, incorporated villages, and townships to build railroads, and to lease and operate the same.”\textsuperscript{51} There was an immediate rush on the part of these local units of government to avail themselves of the right to build railroads, and within seven months bonds to the amount of $2,685,050 had been deposited with the treasurer of state for this purpose;\textsuperscript{52} by December 23 the local indebtedness under the Boesel law was $3,177,000.\textsuperscript{53} The following year the state supreme court held the act unconstitutional, as it contravened section 6 of Article VIII, but before that the bonds deposited had amounted to over $6,000,000.\textsuperscript{54} This activity certainly evidenced the existence of a widespread demand, particularly on the part of the smaller towns and villages, to secure better railroad facilities. While the method outlined by the Boesel law was extremely ill-advised, it yet met with an immediate popular response. Today the need then made apparent has been met successfully by the building of electric interurban lines, which afford the needed facilities to towns neglected by the steam roads.\textsuperscript{55}

\textsuperscript{50}Reports. Exec. Doc., 1874, I, 791; 1875, I, 894.
\textsuperscript{51}Act of April 23, 1872.
\textsuperscript{55}See my article on “Interurban Railways in Ohio”, in the Journal of Political Economy, May, 1907.
Meantime the methods of appraising and taxing railroad property laid down by the laws of 1862 and 1865 had remained unchanged in spite of criticisms. The system of local assessment by boards of county auditors resulted in an undervaluation of railroad as compared with other property, as well as unequal treatment of different railroads. Between 1878 and 1892 the changes in the taxable valuation and the gross receipts of three of the most important Ohio railroads was as follows.\(^{56}\)

<table>
<thead>
<tr>
<th>Railroad</th>
<th>Year</th>
<th>Valuation</th>
<th>Gross Receipts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lake Shore and Mich. So.</td>
<td>1878</td>
<td>$12,996,609</td>
<td>$13,505,159</td>
</tr>
<tr>
<td></td>
<td>1892</td>
<td>12,457,745</td>
<td>22,415,382</td>
</tr>
<tr>
<td>Cleveland and Pittsburg</td>
<td>1878</td>
<td>5,731,000</td>
<td>2,272,106</td>
</tr>
<tr>
<td></td>
<td>1892</td>
<td>4,495,000</td>
<td>3,429,278</td>
</tr>
<tr>
<td>Pittsburg, Fort Wayne and Chicago</td>
<td>1878</td>
<td>10,732,001</td>
<td>7,830,000</td>
</tr>
<tr>
<td></td>
<td>1892</td>
<td>10,525,048</td>
<td>11,659,142</td>
</tr>
</tbody>
</table>

**Excise Taxation, 1893-1911.**

In 1893 a tax commission was authorized by the legislature\(^{57}\) and appointed by the governor, "to thoroughly investigate the whole subject of taxation in the state", among which the taxation of railways came in for its due share of attention. The commission concluded that the true value of the railroads in the state could most justly be estimated by capitalizing the net earnings at 6 per cent. Upon this basis they found the true value in Ohio of the two first roads named above to be, respectively, $32,598,273, and $16,031,438.\(^{58}\) From these and other facts they concluded that the railways of the state paid taxes upon a valuation of from 25 to 30 per cent. of their real value, while other property paid on a valuation of about 50 to 60 per cent. The total assessed value of railways was only $105,000,000, while that of horses alone was $47,000,000, or almost half as much. It was evident that, from whatever


\(^{58}\)Rep., p. 55.
point of view the subject was studied, the railways were paying less than their fair share of taxes to the state. To remedy this, it was suggested that a franchise tax be levied, in addition to existing taxes, based upon the gross earnings within the state.

Acting upon this advice the general assembly the following year imposed an excise tax of one per cent. on the capital of sleeping car companies, estimating the capital in Ohio according to the proportion in the state of the total lines over which the cars ran.\textsuperscript{59} In 1895 a similar excise tax of one-half of one per cent. was exacted of all railroads in the state, based upon that proportion of the gross earnings which the mileage within the state bears to the total mileage. This tax was increased in 1901 to one per cent. The interurban electric railways, which had developed very rapidly in the previous half decade, were by an act of 1904 to be assessed in the same manner as steam railways, that is by the auditors of the counties through which they passed acting as a board of appraisers and assessors.\textsuperscript{60}

A vigorous protest was made in 1901 before the state board of equalization under the leadership of Tom L. Johnson, mayor of Cleveland, against the inequalities in railroad taxation. A carefully prepared brief was presented showing that the railroads of Ohio were appraised for valuation at only 21.9 per cent. of their market value, and that even with the excise tax of one-half of one per cent. the rate of taxation per $1000 was only $2.36 for the railroads in comparison with an average rate of $2.45 on all other property.\textsuperscript{61} A strong effort was then made to secure an increase by the board of equalization in the aggregate valuation of railroads. Attorney General Shields maintained, however, that the board had no legal right to increase the total appraisement made by the county boards


\textsuperscript{60}Act of April 25, 1904. \textit{O. L.}, 1904, p. 572.

of appraisers. The railroads also filed a reply in which they asserted that the state board of equalization was appointed merely to equalize the appraisals made by the county boards, and that if they increased the aggregate valuation they ceased to be a board of equalization and became one of original appraisement. The right of the state board of equalization to alter the aggregate valuation has, as a matter of fact, never been established by any decision. Although this effort failed, the excise tax was doubled this year by the general assembly, thus compensating for the low local assessments. As a result of the agitation and publicity moreover several of the county auditors refused, under political necessity, to receive passes from the railroads which they were sworn to assess at their "true value in money." The methods and conditions under which the work of assessment were usually carried on are so well described in the following typical account that it is quoted at length:

The Cleveland end of the county auditors' annual entertainment by the steam railroads is over until another year. Yesterday another board of county auditors paused long enough in the round of pleasure occasioned by their Cleveland trip to appraise the Lake Shore Railroad. When this was done, the transaction requiring only a little more than an hour to accomplish, the last board of railway assessors to meet in Cleveland this spring adjourned.

When the auditors composing the board met about a half hour after their adjournment yesterday it was not on business that they were bent.

The dictum of the attorney general and the caveat of the railroads both seem to the writer unwarranted in law, for the act creating the state board of equalization provided only that they should not reduce the aggregate valuation originally made by the county boards, thereby giving them authority, by implication, to raise the aggregate valuation.

In spite of the low local assessments, the taxes per mile of line in Ohio were exceeded in 1900 by those of only nine other states, of which seven were in the East, the other two being Indiana and Illinois. Professor Bemis, in his Report, based his contention of the undervaluation of the Ohio railroads upon a comparison with the two neighboring states. The taxes were $304 per mile in Ohio, $374 in Illinois, and $403 in Indiana. Cf. Interstate Commerce Commission Report, 1900, p. 97; Seligman, Essays in Taxation, p. 142.

"Cleveland Plain Dealer, May 21, 1904."
It was to do full justice to an ample banquet tendered by a grateful railroad to its late judges. It took longer to dispose of this part of the day's business than to appraise a railroad worth, according to its own tax return, $14,500,000 and, according to Prof. E. W. Bemis, between $60,000,000 and $90,000,000. Bemis was denied a hearing, however.

One of the brightest spots in the life of the average auditor is when he rides to Cleveland or some other city, on transportation abundantly provided by a generous and expectant railroad company, to fix by his vote the amount of taxes which that railroad will pay during the ensuing year.

"What can we do?" asked a rural auditor yesterday. "The minute we strike town the railroad has a man on hand to meet us and show us around. And does a railroad know how to show a man a good time? Well, I guess so. They're princes, that's what they are. Everything the very finest, too. I don't think I'll be able to eat anything now for a week."

The meeting at which this auditor assisted in valuing the company whose powers of entertaining he praised so highly, was held this week. The auditor arrived in Cleveland on the evening of the day before the meeting. That night he, accompanied by a number of fellow visiting auditors, was taken in tow by the agent of the railroad to assess which was the common errand of them all. The agent was a good fellow. So were the auditors. Dinner, the theater and an evening of pleasant entertainment, such was the study and preparation given by the auditors to the work expected of them as public officials the next day.

"What do we know of the value of different styles of locomotives, or the depreciation which rolling stock suffers by a year of usage?" quoth the auditor, who happened to be a most competent and intelligent public official and one whose word on the value of farming implements or the respective merits and demerits of different breeds of cattle is worth its weight in gold in his own community. "The railroad gets us all here; we are up against a problem with which we are utterly incapable of wrestling. What do we do? Why, what can we do? The railroad company says a certain thing is so and so, and, unless we happen to know otherwise—which is a very rare occurrence—we take their word for it. All we know when we sit down there to appraise a railroad is what the company's agent has been pouring in our ears. He has shown himself to be straightforward and generous in his dealing with us and his word is all we have. Generally it goes."

At the close of the meetings, to appraise the road, and the meetings never last over two hours, after Auditor Wright has hurled a few farewell shots at his colleagues, the auditors hasten to a hotel, where there is a 'steen course dinner. In the evening this is repeated and there are smokers galore. In the case of one railroad assessed this week, the evening's entertainment was furnished by the company at one of its private cars which was side tracked conveniently in the down town yards.
The series of meetings just closed has been marked by one distinctive feature. This is the fearlessness which several auditors showed in voting for large increases. In not a few instances substantial boosts to railroad's valuation have been almost carried, a very small majority alone defeating them. In one or two cases a tie vote has defeated a motion to increase the company's return. Several auditors have consistently voted at all the meetings they attended for every proposition to increase which came before the board. In many cases petty differences between various auditors have prevented additions which various auditors wanted to go through for the benefit of their particular counties.

But anyway, the auditors, with the exception of a few like Auditor Wright of this county, who objected to being made the recipients of small gratuities by the railroads, have all had a real good time, a pleasure outing, and a round of enjoyable experiences.

The increased agitation and interest in the subject of taxation led in 1906 to the appointment of a second tax commission to investigate the existing system and recommend changes. Among the recommendations made was a simpler and more modern method of taxing public service corporations, such as by gross receipts or other special charge, in lieu of all other taxes, which will more effectively and uniformly reach franchise values and be substituted for the complex, diverse and inadequate methods now prevailing in Ohio.

This was secured in 1910 by the creation of a permanent tax commission, to which was given the duty of assessing the public service and other corporations in the state.

Their most important function, for the present at least, is to consist in the assessment of railroads, express, telegraph, and telephone companies, sleeping car, freight line, and equipment companies, and other public utilities, which had previously been assessed by a number of special boards. For instance, railroads had been assessed by the county auditors, and the others by state boards; the taxes on public service corporations had been collected by the auditor, the excise tax on other corporations had been collected by the secretary of state, and other taxes had been paid to the state treasurer. All the machinery for the assessment of these various taxes is now concentrated in the hands of

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The commission was appointed on Sept. 21, 1906, and made their report on Jan. 10, 1908.

Report, p. 45.
the tax commission, while all taxes are to be paid directly to the state treasurer.

After the value of the property of public service corporations is assessed by the commission, the valuations are apportioned to the local taxing districts in which they are situated. In the case of express, telegraph, and telephone companies, the value of their property is to be determined by the value of their capital stock in accordance with certain rules; from the value so determined is to be deducted the value of real estate already taxed. In the case of other public utilities "all the personal property thereof, which shall include all real estate necessary to the daily operations of the public utility and money and credits within the state" is to be assessed by the commission, and in addition detailed statement of the various kinds of tangible property must be made by the corporations.

At the same time that the machinery of assessment was simplified and unified, the principle of differentiation was introduced in the taxation of corporations. Previously all the public service utilities had paid the same excise tax of one per cent. of their gross receipts earned within the state; this large class was now broken up into smaller groups, upon each of which was laid a different rate.67 Railroad and pipe line companies are taxed four per cent. of their intra-state gross receipts; express and telegraph companies, two per cent; and street, suburban and inter-urban railroad companies, electric light, gas, natural gas, water works, telephone, messenger or signal, union depot, heating or cooling, and water transportation companies, 1.2 per cent. of such gross earnings or receipts. The companies in the last two groups are also subject to the assessment and taxation of their property in the usual manner. Sleeping car, freight line and equivalent companies are also taxed 1.2 per cent. on the proportion of their capital

67Owing to the constitutional requirement of uniform treatment of all forms of property, corporate and individual, corporation taxes as such may not be imposed in Ohio, but excise taxes for the privilege of carrying on their business within the state are exacted of public utilities.
stock adjudged by the commission to represent the capital and property of each company owned and used in Ohio, after deducting the value of all real estate taxed locally in Ohio. The differentiation in rates thus introduced was fully justified on the ground of difference in character, and the increase in rate was defended on the ground that it now applied strictly to intra-state business only, which was more carefully defined. Moreover, some new utilities, like union depot companies, were now for the first time subjected to taxation.

The act of May 10, 1910, had changed the basis for determining the amount of the excise taxes payable by railroads, substituting a tax of 4 per cent. on the gross earnings from intra-state business for the old tax of 1 per cent. on that proportion of their total gross earnings represented by their mileage in Ohio. As many of the railroads could not state their intra-state earnings, owing to the short time since the passage of the act, the commission accepted from such companies an estimate of their intra-state earnings, based upon the mileage principle. Even under this arrangement the assessed basis of taxation for railroads was increased some $20,000,000, or about 100 per cent. The increase in the taxable basis of all other public utilities amounted to $634,000, or 8.4 per cent. As a result of the greater care and thoroughness exercised by the commission the state revenues from these sources and from the franchise taxes upon foreign corporations were increased over $550,000.

Owing to the fact that the taxable values of railroads have been distributed among the local taxing districts for purposes of taxation, no statistics exist in Ohio which show for each year the aggregate taxes on railroads. Hereafter, we may expect to have these.
CHAPTER VII

BUSINESS AND MISCELLANEOUS TAXATION.

LOTTERIES.

Lotteries were not infrequently resorted to in the days of early state finance\(^1\) to raise funds for special purposes, and Ohio was no exception to the general rule. During the session of 1806-7 the legislature passed an act authorizing a lottery to raise money to build a bridge across the mouth of the Muskingum River,\(^2\) but it did not succeed.\(^3\) At the same time private lotteries were forbidden.\(^4\) Six years later it was provided that all lottery tickets heretofore issued by the authority of the state should be negotiable.\(^5\) Practically all the lotteries authorized by the state were for educational or public purposes; in 1817 the legislature authorized one for the benefit of the Ohio University.\(^6\) In 1824 the sale of unauthorized lottery tickets was forbidden, and in 1830 an act was passed to prevent lotteries. Apparently, however, this did not mark their end, for another and final act was passed in 1851 prohibiting lotteries.\(^7\) They do not appear again in the legislative records, as the constitution of 1851 absolutely prohibited them.\(^8\)

BANKS.

Banks were the first corporations to be subjected to taxation by the Ohio legislature, the first act taxing them

\(^1\) Cf. Ely, *Taxation in American States and Cities*, p. 113; McMaster, *History of the People of the U. S.*, I, Index.
\(^3\) T. Flint: *Western States*, II, 391.
\(^4\) Act of Jan. 30, 1807.
\(^5\) Act of Jan. 8, 1813. Chase, in his Statutes of Ohio, says Ohio resorted to lotteries only once, but this subsequent legislation seems to disprove this statement.
\(^7\) Acts of Feb. 10, 1824; Feb. 22, 1830; March 8 and 24, 1851.
\(^8\) "'Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this state." Art. XV, sec. 6.
being passed in 1815. As the history of bank taxation is so important it has been treated more fully in another place.

AUCTIONEERS AND SALES AT AUCTION.

Another source of revenue was tapped in 1818, by an act which levied a tax of three per cent. on the net amount of sales at auction; it was limited, however, to goods and merchandize, the growth, product or manufacture of any foreign country. Sales of insolvent estates, of executors or administrators, or on execution, were exempt. One-third of the receipts from the tax were to go to the county in which the auction was held, and the remainder to the state. The court of common pleas was to appoint auctioneers, who should give bonds, and pay a license tax of $20 a year. An amendment of February 18, 1824, made all goods sold at auction subject to the law, and gave the whole amount of the tax to the state; the proceeds were set aside as a literary fund, except that in Hamilton county one-half was to go to the Commercial Hospital and Lunatic Asylum of Ohio. In 1829 stock and farming utilities and manufactured goods made by individuals in their homes or by societies were exempted from the operation of this tax. In 1831 the legislature again revised the law on this subject. The former exemptions were removed, and all property sold at auction was divided into three classes: the first paid one per cent.; the second, one and one-half per cent.; and the third, two per cent. The license tax on auctioneers was to be fixed by the court, not to exceed $500 a year, but the disposition of the proceeds of the tax remained the same. By further amendments of 1834 and 1835 a fourth class was introduced on which the tax should be three-quarters of one per cent. The existing legislation was

9See Ch. V, History of Banks and Bank Taxation.
10Act of January 30, 1818; in effect May 1.
11Act of January 19, 1829.
codified in 1840, but no changes made in the law except to exempt judicial sales.\textsuperscript{15} No further legislation was passed on this subject until 1875, when the appointment of auctioneers and the determination of the rate of the license tax were left to the court of common pleas.\textsuperscript{16} Since that date no change has been made.\textsuperscript{17} The law therefore stands today substantially as it was first enacted in 1818, the only important amendment having been that of 1831. For the year ending November 15, 1909, the receipts to the state were $85.67 from this source.

\textbf{INCOME TAX ON LAWYERS AND PHYSICIANS.}

In 1825 the first and only income tax ever imposed by the state of Ohio was laid on attorneys and counsellors at law and physicians and surgeons who had been practising over two years. The court of common pleas was to list them annually on the tax duplicates at from $5 to $50 and they were to be taxed on these amounts.\textsuperscript{18} In 1830 the tax was made directly upon incomes, and called for an annual tax of not over $5 upon the incomes of lawyers and physicians.\textsuperscript{19} The assessors of the counties were to make a list of the lawyers and physicians and report them to the county commissioners, who were to rate them for taxation. The law remained in force until the adoption of the new constitution, when it was repealed.\textsuperscript{20} It was of little significance as a revenue producer, but served to secure the registration of the lawyers and physicians in the state. The state received only a very meager revenue from this source, the largest amount being $7301 in 1851.\textsuperscript{21}

\textsuperscript{15}Act of March 16, 1840.
\textsuperscript{16}Act of March 20, 1875-72. \textit{O. L.}, p. 66.
\textsuperscript{17}Rev. \textit{Stat.}, 4222-4238.
\textsuperscript{18}Act of Feb. 7, 1825; in effect March 1, 1826.
\textsuperscript{19}Act of Feb. 22, 1830.
\textsuperscript{20}Act of March 18, 1852.
\textsuperscript{21}For complete receipts see Ch. II, appendix, Table II.
BUSINESS AND MISCELLANEOUS TAXES

TAX ON BROKERS.

The act of February 3, 1825, which initiated in a very partial manner the general property tax in place of the old tax on lands, also imposed taxes upon merchants and exchange brokers. The latter were divided into three classes for purposes of taxation, and their capital arbitrarily listed at the amounts assigned to these classes: those with a capital of $60,000; those with a capital of $30,000; and those with a capital of $15,000. The associate judges of each county were to list and class exchange brokers by June 1 of each year and deliver the list to the assessor, who were then to assess them on this basis at the rate of the general property tax. The attempt to classify exchange brokers was given up in the act of March 14, 1831, which directed that they were to be taxed according to the value of the stock in trade used. This was further amended by the act of March 21, 1840, which provided for taxing the capital of exchange brokers and stock jobbers; their capital was to be placed on the grand list for taxation for state and local purposes.

Money brokers were taxed, by the act of March 12, 1845, one-eighth of one per cent. annually on all money bought and sold; they were required to take out an annual license. By an act passed the following day they were permitted to set off their debts against their credits. The following year money brokers were again required to take out a license and were taxed according to the amount of their business. The broker was required to take an oath as to the amount of money he believed he would employ during the year next ensuing. Under such a naive law a great many pessimists as to their business outlook must have developed in Ohio. The classification and grading of

22The amendment of Jan. 17, 1826, gave the duty of listing and classing to the assessor, who must file the list with the clerk of the court of common pleas.

23Act of March 2, 1846. By act of March 19, 1849, this law was extended to stock brokers.
the tax was also very clumsy and inequitable; it was as follows:

<table>
<thead>
<tr>
<th>Amount of Business</th>
<th>Annual Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $10,000</td>
<td>$60</td>
</tr>
<tr>
<td>$10,000—20,000</td>
<td>120</td>
</tr>
<tr>
<td>20,000—30,000</td>
<td>180</td>
</tr>
<tr>
<td>30,000—40,000</td>
<td>240</td>
</tr>
<tr>
<td>40,000—50,000</td>
<td>300</td>
</tr>
<tr>
<td>Over $50,000</td>
<td>$6.00 on each additional $1000 plus the previous tax.</td>
</tr>
</tbody>
</table>

It will be noticed that the tax amounted to $6.00 on each $1000 for the highest members of the class, but was regressive within the class, being much heavier on the lowest members of the group, since the tax was a fixed sum for every one within the group. Fortunately this law was repealed after three years, and money brokers were taxed like other individuals under the general property tax.

By the act of April 13, 1852, exchange brokers and stock jobbers were grouped with bankers and were taxed on the average value of all moneys, stocks, etc., during the past year, at the same rate as the property of individuals; property so listed to be subject to all taxes for state and local purposes. No change was made by the act of April 5, 1859, but after that date the specific mention of brokers as subjects of taxation disappeared from the laws.

**TAX ON MERCHANTS AND MANUFACTURERS.**

In casting about for additional sources of revenue to meet the proposed expenditures for internal improvements the governor suggested the capital employed in mercantile business. This he estimated at $3,000,000, yielding an annual profit of about $375,000, which he thought could bear a tax of four per cent., and thus produce to the state the sum of $15,000 annually. The act of February 3, 1825, accordingly levied a tax on the capital of all merchants

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24 Act of March 20, 1849.
employed within the state. Merchants were divided into eight classes and were taxed on the amount of capital assigned to the class in which they were placed. The classes and the amounts of capital assigned to each were as follows:

- Class 1: $50,000 capital
- Class 2: 40,000 capital
- Class 3: 30,000 capital
- Class 4: 20,000 capital
- Class 5: 15,000 capital
- Class 6: 10,000 capital
- Class 7: 5,000 capital
- Class 8: 2,500 capital

The associate judges of each county were given the duty of listing and classing the merchants and of delivering the lists to the assessor. Aggrieved merchants were given the right of appeal to the board of equalization, who might order a change of class. Two years later all merchants dealing exclusively in goods or merchandize of the growth or manufacture of Ohio, and employing less than $200 stock in trade, were exempted from taxation. This was quite in line with the general tax policy of the state during this period, when the tax machinery was used as a means of granting favors, of encouraging particular industries, and of retaliation and suppression. The attempt to classify merchants was given up in the act of March 14, 1831, which simply taxed “according to the value of the stock in trade used”; but the same exemption given by the act of 1827 to small merchants, trading in Ohio products, was continued. With the introduction of the general property tax

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26 An amendment of Jan. 17, 1826, assigned the duty of listing and classifying to the assessor, who must file his list with the clerk of the court of common pleas.

27 Act of Jan. 31, 1827, § 9. "Where payment of the tax on merchants was resisted on the ground that the merchandize taxed was the growth or manufacture of foreign countries and other states, and was not therefore constitutionally subject to taxation by state authority, the court overruled the objection and sustained the constitutionality of the law." Raguet v. Wade, 4 Ohio Rep., 107, cited by Chase, Ohio Statutes, II, 1478 n.
in 1846, merchants and manufacturers were taxed on the value of their property like individuals, and this principle has since been continued.\(^{28}\)

Manufacturers were not subjected to taxation until 1831, the general policy of favoring these enterprises not permitting the imposition of any tax burdens upon them before this time. By the act of March 14, 1831, a number of industries, hitherto exempt, were enumerated as being specifically subject to taxation; these were: “all grist, oil, and saw mills; all manuf actories of iron, glass, paper, clocks; and nails; all distilleries, breweries and tanneries; all iron, brass and copper founderies; . . . all stocks or capital invested in steamboats . . . .” These were taxed at the ordinary rate of taxation. In the subsequent acts of 1846, 1852, 1859, and 1878, manufacturers were grouped with merchants and were taxed on the average value of all their property during the previous year. The law is substantially the same today, merchants and manufacturers listing their stocks as personal property, to be taxed for general state and local purposes under the general property tax rate.\(^{29}\) It shall be listed in the township, city or village in which it is situated. All other personal property is listed at the residence of the owner.\(^{30}\)

**INSURANCE COMPANIES.**

The first law laying a tax on insurance companies in Ohio seems to have been that of February 22, 1830. By this act domestic insurance companies were required to pay four per cent. of their dividends; foreign insurance companies paid an annual license fee of $50 for each agency and also four per cent. of the profits of such agencies; if, however, the tax on the profits exceeded $50, then the amount of the license was to be subtracted. This act was repealed the following year and the “act to tax bank, insurance, and bridge companies” levied a tax of five per cent.

\(^{28}\) Acts of March 2, 1846; April 13, 1852; April 5, 1859.

\(^{29}\) R. S. § 2740-2742.

\(^{30}\) R. S. § 2735.
on the dividends. Foreign insurance companies were required to pay six per cent. of the profit on premiums received in the state.\textsuperscript{31} The revenues from the taxes on insurance companies is shown in the table of receipts at the end of chapter II.\textsuperscript{32}

No further legislation occurred until 1846, when the tax on domestic insurance companies was raised to six per cent. on their gross profits.\textsuperscript{33} This would seem to indicate that the business was prospering in Ohio. By the constitution of 1851 it was provided\textsuperscript{34} that corporate property should be taxed like the property of individuals. Accordingly the law of April 13, 1852, ordered all insurance companies, as well as canals, railroad, bridge, telegraph, and other joint stock companies, to list all their property at its actual value; all property so listed to pay the same tax as other property in the state.\textsuperscript{35} No distinction was here made between domestic and foreign insurance companies, and as a result the latter escaped taxation in Ohio since they had no property in the state. During the period of the Civil War the business of insurance attained an enormous development in Ohio, and was steadily on the increase;\textsuperscript{36} the auditor urged the taxation of foreign insurance companies in his report for 1865.

It was not until 1876,\textsuperscript{37} however, that foreign insurance companies were again specifically taxed. An act of that year provided that foreign insurance companies doing business in Ohio should return annually to the auditor of the county in which an agency was kept the amount of the gross premium receipts of such company, which should be entered upon the tax list and taxed at the same rate as all other personal property.\textsuperscript{38} Similar legisla-
tion in other states directed against Ohio companies finally called forth the retaliatory act of April 12, 1889.\textsuperscript{39} This provided that the superintendent of insurance should collect from foreign insurance companies such sums as would, added to county taxes, produce $2_{\frac{1}{2}}$ per cent. on the gross premium receipts of such companies; provided that if Ohio companies were charged more than $2_{\frac{1}{2}}$ per cent. in other states or countries, a like tax should be imposed upon companies from those states. If any company refused to pay these taxes, its license to do business in the state should be revoked. The proceeds of this tax were to be paid into the state treasury for the general uses of the state.

In 1893 a slight change was made in the tax. Foreign insurance companies were taxed on their gross premium and assessment receipts; but if the policy holders participated in the earnings, such distribution of earnings was first to be subtracted.\textsuperscript{40} The retaliatory feature remained unchanged. In 1902 another change was made in the basis of the tax. An excise tax of $2_{\frac{1}{2}}$ per cent. was levied on the gross premiums, less the return premiums and considerations for reinsurance, but no alteration was made in the retaliatory feature.\textsuperscript{41} No change was made in the law respecting domestic insurance companies, and they are taxed on their property like other corporations.\textsuperscript{42} In 1900 a tax of $\frac{1}{2}$ per cent. was imposed on the gross premium receipts of all insurance companies, in addition to existing taxes, to defray the expenses of a state fire marshall and his department.\textsuperscript{43} For the year ending November 15, 1909, the receipts from the insurance department were $1,049,277.

\textsuperscript{39} O. L., 1889, p. 274.
\textsuperscript{40} Act of April 19, 1893. Amended by act of March 27, 1894. O. L., 1893, p. 201.
\textsuperscript{41} Act of April 29, 1902. O. L., p. 290. Amended by act of April 25, 1904.
\textsuperscript{42} R. S. § 2745, 2745d.
\textsuperscript{43} Act of April 16, 1900. O. L., p. 389.
TRANSPORTATION COMPANIES.

The first of the various companies engaged in the work of improving the means of transportation in Ohio to be subjected to taxation for state purposes were the bridge companies. An act of March 12, 1831, levied a tax of five per cent. on the dividends of bridge companies, as well as on those of bank and insurance companies. That the bridge companies were included in a trio with the other two businesses shows that they must have been profitable. In the same year all stocks or capital invested in steamboats, and all pleasure carriages with two or four wheels, were taxed in the hands of their owners according to their value in money. The general property tax law of March 2, 1846, provided for the taxation of railroad, canal, and slackwater navigation companies according to their true value in money. By the act of April 13, 1852, every canal, railroad, turnpike, insurance, bridge, telegraph and other company was required to list for taxation, at its actual value, its real and personal property, within the state. Property was to be returned to the auditor of the county where it was situated and moveable property to be apportioned pro rata according to the value of the fixed property. Property so listed was to pay all state and local taxes. No change in principle was made by the law of April 5, 1859.

After this date a wide differentiation took place in the value and tax bearing ability of these different corporations. Railroads grew in magnitude and importance and called for peculiar and separate treatment; the history of their taxation is discussed elsewhere. Private canals fell into disuse and were abandoned, while the state canals were never, of course, objects of taxation. Turnpikes and bridges were constructed by governmental rather than by private aid, and the property of the early private companies was taken over by the counties or townships. Other corporate property was taxed under the general property

\(^{44}\)See chapter VI, on the History and Taxation of Railroads.
tax, though after 1860 special boards or other tax machinery began to be used in assessing taxes on these transportation agencies. With the development of special companies for the transmission of news attention began to be directed to their taxation, and to these we may now turn.

THE TAXATION OF TELEGRAPH, TELEPHONE, AND EXPRESS COMPANIES.

The first mention of any of these companies for purposes of taxation occurred in the act of April 13, 1852, which provided that telegraph companies, among others, should list their real and personal property for taxation under the general property tax rate. Foreign companies managed to escape under this general act, so in 1862 a law was passed taxing foreign telegraph and express companies on their net receipts within the state. Express companies were permitted to deduct the amount required to be paid out for transportation expenses, and telegraph agents might deduct the necessary expenses of their offices. Severe penalties were provided for non-compliance and the agents were made personally liable. If the returns were not made by the agent, the auditor was to enter them upon the tax duplicate with a penalty of 50 per cent. If the taxes were not paid the agent was made personally liable and his personal property was subject to sale, while if the taxes were unpaid in thirty days it was made unlawful for any one to act as agent, and the company could not do business.

After a three years' trial of this law it was amended by the act of April 13, 1865. Telegraph companies were no longer allowed to deduct the "necessary expenses" of their office, but were taxed on their gross receipts. Evidently these expenses had swollen to undue proportions. In the case of express companies the right to deduct the cost of transportation from gross receipts was continued, but the law stipulated that the amount deducted be not

44Act of May 1, 1862. 59 O. L., 91. Swan and Sayler, p. 769.
4562 O. L. 174.
46This had been urged by the auditor. Exec. Doc., 1864, 1, 225.
the amount required to be paid, but the amount actually paid for transportation charges. The principal agent of the company, moreover, was permitted to make the returns to the county auditor, instead of the local agents. For a period of twenty-eight years following this law there was no further legislation on this subject, but the telegraph companies must have prospered, if any inference can be drawn from the following rates: 49

<table>
<thead>
<tr>
<th>Rates for 10 words in cents.</th>
<th>Western Union 1868</th>
<th>Western Union 1869</th>
<th>Atlantic &amp; Pacific 1868</th>
<th>Atlantic &amp; Pacific 1869</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 50 miles ..................</td>
<td>45</td>
<td>30</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>For 100 miles ................</td>
<td>60</td>
<td>40</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>For 200 miles ................</td>
<td>75</td>
<td>70</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td>For 300 miles ................</td>
<td>90</td>
<td>90</td>
<td>40</td>
<td>70</td>
</tr>
<tr>
<td>For 400 miles ................</td>
<td>105</td>
<td>110</td>
<td>50</td>
<td>..</td>
</tr>
<tr>
<td>For 500 miles ................</td>
<td>120</td>
<td>130</td>
<td>50</td>
<td>..</td>
</tr>
</tbody>
</table>

The rise in the long distance rates of the Western Union company in 1869, after the competition of the Atlantic & Pacific company ceased, is significant, as well as the fall in the short distance rates.

On April 27, 1893, the general assembly passed the Nichols law, thereby changing entirely the method of assessment. 50 In place of the annual statements filed with the county auditors and forwarded by them to the auditor of state, a board of appraisers and assessors was provided for, composed of the state treasurer, attorney general, and auditor, who should assess the value of the property of express, telegraph, and telephone companies doing business in the state. Every such company must file annually with the auditor of state a sworn statement comprising the following items: (1) the amount of capital stock, (2) place of business, (3) the par and market value of its shares (if there be no market value then the actual value), (4) the value of the entire real and personal property. In addition to these items the telegraph and telephone companies were required to state (5) the length of their lines within the

50 *O. L.* 330.
state, and (6) the length of their lines without the state. The express companies were also to return the gross receipts for the year, for each office in Ohio. In determining the value of the property within the state for assessment the board was to be guided by the value of the capital stock; the taxes were to be apportioned to the counties in which the companies did business, and real estate taxed locally was to be deducted. The following year provision was made for severe penalties in case of non-compliance with the law: failure to file the statement when due subjected the negligent company to a fine of $500, followed by an additional penalty of $100 per day until filed. This act was called forth by the resistance of the telegraph companies to the increased taxes imposed upon them by the law of 1893; they contested the constitutionality of the Nichols law, but it was declared valid by the Supreme Court.

During the same session the express companies were singled out for special and heavy taxation, by the imposition of an excise tax of 2 per cent. on their gross receipts. The gross receipts were to be ascertained by deducting the amounts actually paid to railroads for transportation from the entire receipts for business done in the state. This was to be fixed by the state board of appraisers and assessors before described, who were to apportion the taxes among the counties in which the business was done. Heavy penalties were provided in case of failure to pay this tax, but they were not thereby exempted from the general tax on their tangible property. This tax remained in operation for eight years until it was superseded by the Cole law tax on all public service corporations in 1902.

TAX ON PUBLIC SERVICE CORPORATIONS.

In 1902 the Cole law levied an excise tax of 1 per cent. on the gross receipts earned in the state, of public service corporations, for the privilege of operating in Ohio. The

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\[342\] FINANCIAL HISTORY OF OHIO \[342\]
Businesses enumerated by this act are all domestic and
foreign corporations engaged in steam, street, suburban or
interurban railroad, express, telegraph, telephone, electric
light, gas, natural gas, pipe line, waterworks, messenger or
signal, union depot, heating, cooling, and water
transportation companies. These companies report their
earnings and other information to the state board of
appraisers and assessors, which consists of the auditor,
treasurer, secretary of state, and attorney general, and the
1 per cent. tax is imposed by this board, and collected
through the office of the auditor of state. The express
companies must file their entire receipts; the telegraph and
telephone companies their gross receipts; the railroads,
their gross earnings; the street and interurban railways,
their gross earnings; and other corporations, their gross
receipts. The tax is used exclusively for state purposes.55
In addition to this excise or privilege tax, the real and
personal property of these corporations is subject to the
same taxation as other property in the state, for state and
local purposes.

In 1910 the principal of differentiation was introduced
in the taxation of these corporations.* Previously all the
public service utilities had paid the same excise tax of one
per cent. of their gross receipts supposedly earned within
the state; this large class was now broken up into smaller
groups, upon each of which is laid a different rate. Rail-
road and pipe line companies are taxed 4 per cent. of their
intrastate gross receipts; express and telegraph companies, 2
per cent.; and street, suburban and interurban railroad
companies, electric light, gas, natural gas, waterworks, tele-
phone, messenger or signal, union depot, heating or cooling,
and water transportation companies, 1.2 per cent. of such
gross earnings or receipts. The companies in the last two
groups are also subject to the assessment and taxation of
their property in the usual manner.

55 Rev. Stat., § 2780-17 to § 2780-23.
TAX UPON FOREIGN AND DOMESTIC CORPORATIONS.

As the constitution of 1851 called for the uniform taxation of all property, whether in the hands of individuals or corporations, it became necessary to devise some method that would not conflict with this provision, when the heavier taxation of corporations was decided upon. Consequently the various corporation taxes are known not as taxes, but as fees or excise or privilege charges. In 1902 the Willis law imposed a general corporation tax upon all foreign and domestic corporations (except those conducting a public service, which were otherwise taxed). Domestic corporations, operating for profit, are required to file a report containing the amount of the authorized capital and its par value, and the amount subscribed, issued, and paid up; upon the subscribed or outstanding capital stock they are to pay annually $1/10 of 1 per cent., but not less than $10. Foreign corporations operating for profit, are required to pay $1/10 of 1 per cent. upon the proportion of their authorized capital stock represented by property owned and used and business transacted in Ohio but not less than $10. Domestic corporations, not operated for profit, have to pay $1 annually. This tax is collected by the secretary of state and the proceeds used exclusively for state purposes. In 1904 an act "to relieve owners of stock from double taxation" excepted certain companies which were otherwise taxed, as foreign insurance, banking, savings and loan, or building and loan, and transportation and transmission companies engaged in Ohio in interstate commerce. The individual was not taxed on the shares of corporations already taxed.

In 1910 the rate of taxation was slightly raised.* Each

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*The title of the corporation tax law of April 11, 1902, was, "An act to require corporations to file annual reports with the Secretary of State and pay annual fees therefore." 99 O. L. 124.

"Act of April 25, 1904. 101 O. L. 496.


corporation for profit organized under the laws of Ohio is now required to make an annual report, and is subject to a fee of three-twentieths of one per cent. upon its subscribed or issued and outstanding capital stock. Each foreign corporation for profit doing business in Ohio must make similar reports annually; and is subject to a tax of one-tenth of one per cent. for 1910, and three-twentieths of one per cent. for each year thereafter, upon the proportion of the authorized capital stock represented by property and business in the state. Public utility, insurance, and building and loan companies required to make other reports and pay other taxes are not subject to these provisions.

LIQUOR TAXES.

The taxation of the sale of liquors in Ohio is an interesting subject, because, so far as a layman can see, the whole business is illegal. The constitution of 1851 (Art. XV, sec. 9) provided that "no license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against the evils resulting therefrom." The vote on this clause was close, being 113,237 to 104,255. The framers of the constitution intended to prohibit the license of the liquor traffic and a majority of the voters supported them. As the constitution has never been amended in this regard, the existence of the traffic in liquors in Ohio would seem to be illegal. But while the constitution has not been changed, it has been evaded; under the clause giving the general assembly the right to regulate the evils arising therefrom, it is regularly fined or penalized each year by the collection of a tax. The history of the liquor taxes in this state is therefore very largely a history of judicial interpretation.

It was not long after the adoption of the constitution before the first legislation on the subject was passed. The act of May 1, 1854, provided against the evils resulting from the use of intoxicating liquors, by punishing the sale

52 O. L. 153. No state laws had been passed in the period prior to 1851 taxing or regulating the liquor traffic, but this had been done locally.
of intoxicating liquors to be drunk in or about the building where they were sold. A penalty of a fine of from $20 to $50 and imprisonment of from 10 to 30 days in the penitentiary was provided. Apparently no limitation was placed upon the sale of liquor for home consumption; only the saloon was forbidden. Not until 1882 were saloons legalized and the business put upon a legal basis.\textsuperscript{60} Under the Pond Law a system of taxation was provided, graded in amount according to the location of the business, with the requirement of a bond for the performance of all the conditions of the act, and providing penalties of fine or imprisonment, or both. At the January term, 1882, of the Supreme Court, this act was declared unconstitutional, on the ground that, as it was unlawful to sell intoxicating liquors to be drunk upon the premises, and the Pond law gave the privilege of freely trafficking in intoxicating liquors to dealers who execute bonds and pay into the treasury, in advance, annual sums of money, and as it is impossible for dealers who fail to comply with the statute, to sell intoxicating liquors of any sort without committing a crime, the tax, as levied, is, in effect, a license.\textsuperscript{61}

The following year the general assembly tried to meet these criticisms and to pass a law authorizing the liquor traffic that would stand the constitutional test. The Scott law was accordingly passed on April 17, 1883,\textsuperscript{62} providing for a tax of $200, and omitting the bond and penalty features of the Pond Law, but making the assessment a lien upon the real estate on or in which the business was conducted. At the January term, 1883, the Supreme Court decided this act “a valid and constitutional amendment.”\textsuperscript{63} In Butzman \textit{v.} Whitlock\textsuperscript{64} it was held that the Scott law, so far as it provided for a lien on real estate, was, in

\textsuperscript{60} O. L. 66.
\textsuperscript{61} State \textit{v.} Hipp, 38 O. S. 199. This, and subsequent digests of decisions are taken from Bates's \textit{Annotated Ohio Statutes}, II, 2417 m-2418.
\textsuperscript{62} O. L. 164.
\textsuperscript{63} State \textit{v.} Frame, Benner \textit{v.} Bauder, 39 O. S. 399.
\textsuperscript{64} 42 O. S. 223.
effect, a license law, and therefore unconstitutional. The Supreme Court similarly held,\(^{65}\) that, so far as the law provided for a lien in the manner set forth therein, it was, in effect, a license law, and therefore unconstitutional.

The general assembly was becoming wiser, and was now able, after the rocks had been pointed out on which a liquor law might suffer shipwreck, to pass a seaworthy act. The Dow law, with the praiseworthy and constitutional title of "an act providing against the evils resulting from the traffic in intoxicating liquors", was passed on May 14, 1886,\(^{66}\) providing, among other things, for a yearly tax of $200 on the traffic in intoxicating liquors, and one of $100 on the traffic in malt or vinous liquors. Of the proceeds, three-fourths were to go into the county treasury and one-fourth into the poor fund. In Adler v. Whitbeck and Anderson v. Brewster,\(^{67}\) the constitutionality of this statute was upheld. The syllabus of the former case was as follows: "It is competent for the general assembly of the state to impose a tax on the business of trafficking in intoxicating liquors as a means of providing against the evils resulting therefrom". Neither the tax so imposed, nor a provision that the same shall attach as a lien on the property in which it is conducted, constitutes a license within the meaning of the constitution.

Up to this time the liquor tax had gone into the local treasuries, but insufficient state revenues led the governor in 1886 to suggest that the state be given twenty-five percent of the proceeds of the liquor traffic tax.\(^{68}\) The suggestion was followed, in part at least, in the act of March 26, 1888,\(^{69}\) which raised the amount of the tax to $250, swept away the distinction between the different kinds of liquors, and gave the state one-fifth of the proceeds. Successive amendments have raised the tax still further and

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\(^{65}\) State v. Sinks, 42 O. S. 345.
\(^{66}\) 83 O. L. 157.
\(^{67}\) 44 O. S. 539. 576.
\(^{68}\) Gov. Mess., 1886, p. 744.
\(^{69}\) O. L., 1889, p. 116.
have increased the share of the state in the receipts, but have not altered the law. The various changes in the Dow law are shown in the following table:

<table>
<thead>
<tr>
<th>Date of law</th>
<th>Amount of tax</th>
<th>Share of state</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 14, 1886</td>
<td>$200 and $100</td>
<td>0</td>
</tr>
<tr>
<td>March 26, 1888</td>
<td>$250</td>
<td>2/10</td>
</tr>
<tr>
<td>Feb. 20, 1896</td>
<td>350</td>
<td>2/10</td>
</tr>
<tr>
<td>March 28, 1906</td>
<td>1000</td>
<td>2/10</td>
</tr>
</tbody>
</table>

The revenues to the state from this source have been important and have steadily increased, amounting, for the year ending November 15, 1909, to $2,045,138. A provision for local option was contained in the Dow law, by which a special election could be held when one-quarter of the voters in a township petitioned for it, to decide the question of legalizing the liquor traffic; the issue is decided by a majority vote. On January 1, 1911, there were 62 "dry" counties in the state out of a total of 88.

TAX ON CIGARETS.

Similar to the liquor tax law is that levying a tax upon the business of trafficking in cigarettes. The first tax of this sort was imposed by the act of April 24, 1893,\(^9\) "to tax the business of trafficking in cigarettes or cigarette wrappers", which exacted an annual payment of $300 on the wholesale and of $100 on the retail business. One-half of the proceeds were to go to the state and the other half into the county treasury. This law was amended the following year\(^11\) by reducing the tax to $30 and $15 on the wholesale and retail business respectively; the distribution of the tax remained the same. This act bore a title similar to that of the Dow law, "to provide against the evils resulting from the traffic in cigarettes", which suggests a relationship between the two. For the year ending November 15, 1909, the tax yielded $23,000.

INHERITANCE TAXES.

In the search for new sources of income for the state treasury the inheritance tax was also hit upon, as being

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\(^9\) 90 O. L. 235.
\(^11\) Act of May 18, 1894. 91 O. L. 311.
both equitable and productive. The first action was taken by the legislature in the session of 1892, when the House passed a collateral inheritance tax bill on April 5, by a vote of 60 to 18. As the legislature adjourned within two weeks from this date no action was taken by the Senate, but early in the following session they passed the bill, and it became law on January 27, 1893. This act was primarily experimental in its character, and was copied in large part from the Connecticut statute on the subject. It imposed a tax of 3½ per cent on all collateral inheritances above the sum of $10,000. The list of persons considered as direct heirs and therefore not subject to the tax, was a very long one, and included the following: father, mother, husband, wife, brother, sister, niece, nephew, lineal descendants, and adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter.

The same session of the legislature which passed the first collateral inheritance law, provided for the appointment of a tax commission, "to thoroughly investigate the whole subject of taxation in the State," and to make recommendations for a revision of the tax laws. Among the recommendations submitted by them were two which bore upon this subject—a privilege tax on transfers of property by deed, mortgage or will, and upon appeals, writs of error, etc.; and an extension of the collateral inheritance tax to classes exempted by the present law, and an increase of the tax. Two laws were accordingly passed in 1894, designed to carry out these suggestions, of which one was a direct inheritance tax and the other amended the existing

72 "The tax upon inheritances is another means of reaching personal property which otherwise escapes. It is to be approved because it is an effective substitute for the tax upon intangible property." Rep. Ohio Tax Commission, 1893, p. 62.

73 Ho. J., 1892, p. 150.

74 Sen. J., 1893, p. 36.


76 90 O. L. 14.

77 Rep., p. 70.
collateral inheritance tax law. By the latter act the rate was increased to 5 per cent and the exemption reduced to $200. Of the proceeds from the tax 75 per cent was to go to the state and 25 per cent to the county in which the tax was collected. No change was made in the list of persons who were considered direct heirs, but bequests to the state and local government, public institutions of learning, public charity, or any other exclusively public use were exempt from the operation of the law.78

The direct inheritance tax law was designed to complement the collateral inheritance tax, and was passed the same day.79 Estates over $20,000, passing to any of the persons enumerated as direct heirs in the earlier act of January 27, 1893, were subjected to a progressive tax, graduated from 1 per cent on the smallest estates to 5 per cent on those over $1,000,000. The same distribution of the proceeds was provided for as in the twin collateral inheritance tax, namely 75 per cent to the state and 25 per cent to the county in which the tax was collected. It may be noted that at the time of its enactment this was the only progressive direct inheritance tax in the United States.80 The following table shows the various rates and the scale of progression:81

<table>
<thead>
<tr>
<th>Estate</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under $20,000</td>
<td>0</td>
</tr>
<tr>
<td>$20,000—$50,000</td>
<td>1%</td>
</tr>
<tr>
<td>50,000—100,000</td>
<td>1½</td>
</tr>
<tr>
<td>100,000—200,000</td>
<td>2</td>
</tr>
<tr>
<td>200,000—300,000</td>
<td>3</td>
</tr>
<tr>
<td>300,000—500,000</td>
<td>3½</td>
</tr>
<tr>
<td>500,000—1,000,000</td>
<td>4</td>
</tr>
<tr>
<td>1,000,000 and over</td>
<td>5</td>
</tr>
</tbody>
</table>

78Act of April 20, 1894. 91 O. L. 169. The act was declared constitutional in Hagerty v. State, 55 O. S. 613.
79Act of April 20, 1894. 91 O. L. 166.
80Actually, the tax is degressive instead of progressive.
81Seligman, Essays in Taxation, p. 134.
This act was a short-lived one, for on June 27, 1895, it was declared unconstitutional by the Supreme Court of Ohio, after having been held invalid by the circuit court. Both courts agreed that the tax was not on property, but on the right or privilege of succession, and hence was not inconsistent with the clause of the constitution requiring uniform taxation of all property. But both the exemption of $20,000 and the progressive scale were held to be in conflict with that section of the Bill of Rights which stated that "government is instituted for their [the people's] equal protection and benefit." The principle of a direct inheritance tax was thus sustained, though the application of it in this particular act was declared improper. As a result of this decision the collections ceased and the state and county auditors were directed to refund the payments already made. But upon June 8, 1897, this act was in turn declared unconstitutional because it failed to receive the concurrent vote of two-thirds of the members of the general assembly. Consequently another act had to be passed to remedy this defect and to legalize the repayments already made.

For several years after this no further changes were made in the direction of extending the inheritance tax legislation. But in 1904, in response to an urgent appeal from Governor Herrick that the revenues of the state be increased, a bill was rushed through both houses of the general assembly under suspension of the rules on the last day of the session. This act provided that a tax of 2 per cent should be imposed on all estates in excess of $3000 passing to direct heirs, these being defined as in the previous law of 1894. This time the entire proceeds of the tax were to flow into the state treasury. In a test case the

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82 State v. Ferris, 53 O. S. 314.
83 Art. XII, sec. 2.
85 Act of April 8, 1898. O. L., 1898, p. 96.
86 Act of April 25, 1904. 97 O. L., 398. The vote was 66 to 23 in the House, and 27 to 7 in the Senate.
law was declared constitutional, but it was nevertheless repealed the following session. The governor declared in his annual message his belief that it was "the wish of the great majority of the people of the state that the inheritance tax law be repealed," and this was accordingly done by the act of April 2, 1906. The collateral inheritance tax still remains in force, though the returns therefrom are very small, amounting, for the year ending November 15, 1909, to only $45,139.

MISCELLANEOUS BUSINESS TAXES AND LICENSES.

In addition to those described above, the state levies an annual license tax on peddlers, $12 if they go on foot, $20 if with one horse, $28 if with two horses, $60 if on boat or train. A license tax is also levied on itinerant vendors of $25 per annum. A license tax is imposed on the manufacturer, importer, or agents of any commercial fertilizer of $20 on each train. This last is paid directly to the Ohio state board of agriculture.

CONCLUSION.

In the early history of taxation in Ohio a number of special taxes were made use of which were swept away when the general property tax was put into universal application. As new businesses or lucrative pursuits attracted legislative attention they were subjected to taxation by means of special acts. The state derived its main revenues from the tax on land, but in addition to that, it obtained some income from taxes on sales at auction, on lawyers and physicians, merchants and exchange brokers, bankers, brokers and stock jobbers, canal, railroad, turnpike, bridge, insurance, and other companies. With the introduction of the general property tax in 1846, and

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8998 O. L. 229.
90Rev. Stat., sec. 2731-1 to 2731-17.
especially after the requirement by the constitution of 1851 of the uniform taxation of all property, these separate taxes were swept away, or were coalesced under the general property tax. This all embracing tax or rather complex of taxes, took the place of the various special taxes. Gradually, however, with the development of the industrial life of the state and of new corporate interests, the general property tax was seen to be quite inadequate. Then began the third phase in the history of taxation in Ohio, the splitting off of certain industries or forms of property from the general property tax and taxing them at a different rate, or on a different basis than property, or by special machinery. This last period has seen the growth of a number of very interesting and important taxes, which have had a peculiar development in Ohio because of the inhibition placed upon legislative freedom by constitutional prohibitions.

But not merely have special corporation and inheritance taxes been developed, from which the state derives an increasing revenue, but there has been achieved in Ohio the practically complete separation of state and local sources of revenue. The general property tax has thus been left to the local governments. The administration of this tax has, however, been centralized in the hands of the state tax commission, which is given power to order reassessments. Serious study has been given to the subject of taxation in Ohio of recent years, and the establishment of a permanent tax commission may be said to have ushered in a fourth stage in the history of taxation in that state. Much progress has already been made, but much remains to be done. Most important is the change in the uniformity clause in the state constitution; but it is fairly certain that the constitutional convention now sitting (March, 1912) will modify this rule. Substantial improvements have been made in the administration of the tax on realty, but more scientific and precise methods of valuation should be generally introduced. The next important step in the direction of further reform will be the finding of a satisfactory
substitute for the discredited tax on intangible personalty, but it is difficult at this time to suggest what this may be. Perhaps the addition of a direct inheritance and a mortgage tax to the already existing corporation taxes would yield substantial justice. Or, if the uniformity clause in the constitution is amended, personal property may be classified and taxed at a lower rate than realty.

Whatever the future may hold in store, the student of taxation in Ohio cannot conclude this historical survey without having his conviction of the inequity of the general property tax system deepened. But progress, though slow, has been made. Experiments had to be made, and change has sometimes been difficult, even though it was evident that the existing system was unjust and undesirable. At last, however, the general property tax has begun to disintegrate, and we may confidently expect to see developed in Ohio an improved system, probably along the lines already marked out by her sister states further to the east.
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