

CHAPTERS IN IOWA'S FINANCIAL HISTORY.

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Although the State of Iowa was carved out of the Louisiana Purchase her tax laws have their origin not in the civil laws of Louisiana but in the ordinances and laws enacted by the territorial councils and legislatures of the states created out of the old Northwest Territory. When people began to move westward in the thirties and the institutions of government became necessary in the communities settling on the west bank of the Mississippi, congress in 1834 added Iowa to the territory of Michigan. In 1836 Wisconsin with Iowa included was made a territory. Two years later congress gave Iowa, with a population of 22,000, a separate territorial government, the act providing therefor going into effect July 3, 1838. In November following a legislature was convened at the city of Burlington, Iowa, and a body of laws was adopted for the regulation of the affairs of the new territory. Among the statutes enacted was an "Act for Assessing and Collecting County Revenue" approved January 24, 1839.* This statute was a re-enactment almost *verbatim* of the revenue law passed by the legislature of Wisconsin just a year previous.† With truth it might very properly be said that the Wisconsin act of 1838 was an Iowa act as the Wisconsin legislature held its winter session of 1837-1838 and its special session of June, 1838, in Burlington, Iowa. But these laws of Iowa and Wisconsin were re-enactments with some modifications of the revenue laws of the territory of Michigan in force at the time the affairs of both territories were brought within the jurisdiction of the government of Michigan.

Among the "privileges and immunities" to which the inhabitants of Iowa were "entitled" by tradition if not in

* *Laws of Iowa 1838-1839* (reprint of 1900) p. 427 *et seq.*

† *Laws of Wisconsin 1837-1838*, No. 68 "An Act for Assessing and Collecting County Revenue" approved January 18, 1838.

fact when congress annexed the territory to Michigan in 1834 were the provisions of the act of 1792 respecting the manner of raising money to defray the expenses of county government in the old Northwest Territory of which the following are of special significance and interest:

“That the sums which shall from time to time be allowed by the legislature and laid on the counties for the purposes aforesaid shall be apportioned on the inhabitants of the several towns or districts within the respective counties by commissioners . . . [who] shall have special respect to wealth and numbers and may direct the whole assessment to be made in money or specific articles most agreeable with the necessity of the public and the convenience of the people. And the better to enable the commissioners to make such apportionment *consistent with equity and the abilities* of the people they are hereby empowered to take a list” of persons and all “species of property which may be in the county and ought to affect the apportionment.”*

The assessment of persons and corporations for taxation in a manner “most agreeable with the necessity of the public and the convenience of the people” so that the apportionment of the public burdens shall be “consistent with equity and the abilities of the people” is the ideal rule for the apportionment of the expense of maintaining government among its citizens toward which scholastic research and practical legislative reforms have in recent years been universally and steadily advancing.

I.

Prior to 1834 Michigan had entered upon that period of industrial expansion and commercial speculation which made the decade from 1830 to 1840 so notable in the annals of the United States. The creation of banks and the incorporation of industrial or business companies had become a large

* See Laws passed in the Territory of the United States northwest of the Ohio river from July to December, 1792, Chapter III, Section 2.

part of the legislative business by the time Iowa was annexed.* The number of corporate enterprises and their importance in the industrial life of the times had become so noteworthy that the legislators of the territory were forced to consider the matter of their assessment for taxation; and in the revision of the laws in 1833 are to be found the first definite provisions for the taxation of corporations. The statute was entitled "An Act to Provide for the Assessment and Collection of Township and County Taxes" and took effect on April 22, 1833.†

By its provisions taxes were to be "assessed, levied, and paid . . . upon a valuation of real and personal estate, including property and stock in any bank, insurance company, or other incorporation". (Sec. 1), Assessors were directed to make out and return between April 15th and May 1st, a "list or schedule of all the taxable property" in their respective districts. Upon the completion of their schedules assessors of the townships met and "jointly" fixed the valuations of the properties reported. In case objections were filed and affidavits were made as to the value of any person's property the assessors were required to assess the value at the amount sworn to, (Sec. 2). Respecting the method of assessing corporations, Section 3 provided:

Whenever the assessors shall apply to the president of any banking, or other incorporated company, to make an assessment of the property and stock therein, it shall be the duty of the president, forthwith to furnish the assessors so applying, with a schedule of the stock, property and effects, belonging to such company that the same may be included in their assessment roll.

Two provisos were attached to the above, both of which necessarily reduced greatly the productiveness of the law as a tax measure: First, no stock or property of a bank or corporation could be assessed unless the owner thereof was a citizen of the territory of Michigan at the time the asses-

* See Cooley's Michigan, p. 260, et seq.

† See Laws of the Territory of Michigan, condensed, arranged and passed by the Fifth Legislative Council, 1833, p. 88.

assessors made their returns; Second, the stock or property could only be taxed "in the township in which the person or persons owning the same" resided. The law was vague as to the assessor's powers and the property subject to taxation. The inference from the provisos seems clear that the assessor could demand the names and addresses of the stockholders. It would appear on reading all three sections together that both the shares of stock in the hands of individuals were assessable and the property and stock reported by the president of the corporation. Finally it is to be noted, the president of the corporation did not place a value on the corporate stock or property; neither did the assessor to whom the schedule was given; the valuation was made by the entire assessorial body of the county in joint session.

In February, 1834, the legislature of Michigan passed an act which in many respects was extraordinary. Although its title was general its provisions applied solely to the five counties comprising the territory of Wisconsin, Michilimackinac, Chippewa, Brown, Iowa and Crawford. In these counties a county assessor with assistants was substituted for the township assessors who were continued in the territory to the east of the lake; and an entirely new and more elaborate classification or schedule of taxable property was provided for the assessors. Among the classes of property subject to taxation "stocks in any incorporated company" were included but all of the provisions of the act of 1833, previously noted were omitted.* The reason for the omission is not apparent unless the legislature deemed the amount of taxable corporate property in Wisconsin not of enough importance at that time to require it to be listed in the manner pursued in Michigan. The act of 1833 however was applicable to Iowa when it came under the legislature of Michigan in 1834.

Soon after the passage of the act just referred to a mem-

* See Territorial Laws of Michigan, Vol. III, p. 1270. "An Act to provide for the election of a county assessor and for other purposes." Approved Feb. 24, 1834.

ber of the legislative council from Wisconsin secured the passage of a bill which placed a tax on "all monied or stock corporations deriving an income or profit from their capital or otherwise", such corporations were to be subject to "the same rate of taxation as other real and personal estate." The proceeds of this tax were to be set apart exclusively for the use and benefit of the school fund, but the bill was vetoed by the governor on the ground that it would result in double taxation—a reason which, as was pointed out at the time, had little to support it in view of the provision of the bill that such corporations should pay the same rates of taxes as other property.*

When Wisconsin, with Iowa, was cut off from Michigan in 1836 and given a separate territorial government the new legislature adopted without a change the revenue law of 1833.† At the legislative session at Burlington in 1837–1838 a new revenue law was drafted and approved ‡ which was, as already stated, adopted with almost no alteration a year later by the first territorial legislature of Iowa.

During the overlordship of Michigan and of Wisconsin, the revenue laws of the respective territorial governments were but little executed in the counties west of the Mississippi up until 1838. It is probable that no taxes of any kind were collected in Iowa prior to 1834.§ From 1834 to 1838 there began to be the forms and semblance of local government but the authorities of Michigan and of Wisconsin

* See M. B. Hammond's "Financial History of Wisconsin Territory" in Proceedings of the State Historical Society of Wisconsin, 41st Annual Meeting, 1893, pp. 139–140.

† See Laws of Wisconsin Territory, 1836, No. 16, p. 43.

‡ See Laws of Wisconsin Territory, 1837–1838, No. 68, "An Act for Assessing and Collecting County Revenue" pp. 213 et seq.

§ Mr. F. H. Noble in his *Taxation in Iowa*, p. 9, asserts positively that "No taxes were collected" prior to 1834, basing his statement partly upon a letter to him of the late Senator George W. Jones, the first territorial delegate of Wisconsin to Congress, and partly on original investigations of early county records. Professor Jesse Macy's account of the beginnings of government in Iowa, tends strongly to confirm Mr. Noble's statement. See the interesting account of first murder trial in Dubuque in 1834 and the method of raising money to defray the expenses of the trial in "Institutional Beginnings in a Western State," *Studies in Historical and Political Science*, (Johns Hopkins University) second series, pp. 349–350.

sin territories were so indifferent to the welfare of the people in counties of Iowa that lack of effective government and protection to life and property was the great cause of complaint which brought together the convention at Burlington, November 6, 1837, for the purpose of memorializing congress to authorize the establishment of a separate territorial government for Iowa.*

II.

The "Act for Assessing and Collecting County Revenue" in the new territory approved January 24, 1839, refers but twice to "Corporations" as subject to assessment for taxation and then simply in connection with a license tax. The board of county commissioners were authorized and directed to "assess" and exact from every "merchant, storekeeper, peddler, company or corporation," an annual license fee of \$10 to \$50, before granting the privilege of vending at private sale any wares or goods.† This fee was our modern license tax pure and simple. If any such corporation retailed "spiritous liquors and foreign and domestic groceries by a less quantity than a gallon to be drank in and about the house where such liquors are retailed" the commissioners were directed ‡ to levy a tax "on each license" of \$100 in incorporated towns and of \$50 in unincorporated towns; and if the company pursued a general merchandising business the tax on the license was from \$10 to \$50 at the discretion of the board.§ This "tax on licenses" as it was called, as well as the license fee exacted as prerequisite to the conduct of all business was not in any sense a corporation tax. The law did not differentiate corporations from private citizens in levying the tax or fee. Aside from those two license exactions corporations went

* See A. R. Fulton's *Sketches of the Northwest*, pp. 148-153; See also Professor Macy's *Institutional Beginnings*. Ibid p. 351.

† See *Laws of Iowa, 1838-1839*, p. 444, sec. 44 and p. 446, sec. 47.

‡ Ibid, p. 428, sec. 1.

§ Ibid.

untaxed in the first years of Iowa's territorial government unless they were taxed under the general provisions of the act making all property real and personal subject to assessment. In some of the acts creating corporations there occur provisions which declare that shares of stock therein shall be considered "personal property".* The provision was probably included in order to insure greater ease in the transfer and sale of shares. Yet it, theoretically at least, brought the stock of the particular company within the scope of the revenue law.

It is difficult to explain why the legislature of Wisconsin after adopting the Michigan law of 1833 as we have seen, should have omitted all the provisions relative to assessing corporations in the law which was passed at Burlington in 1838.† It is more than probable that the Iowa legislature when they re-enacted the law of 1838 did not contemplate the taxation of much else besides real property. Personal property is declared to be subject to assessment but only once is the term used in the entire act. There are no specifications whatever as to what shall be included in the assessment of personal property. All of the schedules for listing property and the processes for enforcing the collection of taxes relate to real estate. As for corporations there probably were not many authorized to do business at the time the revenue act of 1839 was under discussion. Prior to July 4, 1838, the legislatures of Michigan and Wisconsin had created by

* Ibid, p. 245, sec. 2 of Acts Incorporating the Bloomington and Cedar River Canal Company.

† A partial explanation of the marked change in the character of the revenue laws of 1837-'38 noticed above may possibly be found in the resolution of the Wisconsin legislature on December 29, 1837, when a committee was appointed to make a selection of the laws of Michigan for publication (Acts of Legislature of Wisconsin 1837-'38, p. 329). The reason for this resolution was that the "Revised Statutes" of 1833 and the session laws of 1834, of 1834-'35 and of 1835 were so scarce west of the lake at that time, that "not only the people, but the lawyers, judges and legislators were unable to obtain copies of the laws by which they were to govern or to be governed." Judge Charles Mason of Burlington (afterwards the chief justice of the territorial supreme court of Iowa and the author of the Iowa Code of 1851) on November 21, 1838, in writing the secretary of Wisconsin territory explaining the failure of the printer to furnish the copies contracted for, ascribes it in part to the fact that the printer, Mr. James G. Edwards, had not been able to obtain a copy of the printed

by special acts only four corporations whose charters indicated that they were organized to do business in Iowa. It is not unlikely that specific mention of corporations was omitted in the revenue law as an inducement for them to come to Iowa and promote the industrial growth of the new territory. Twenty years later, when the laws were revised we shall find that the legislators omitted railroads from the revenue law for such a reason.

In 1840 the tax laws were quite generally overhauled and re-written but no material changes were made so far as corporations were concerned.* Meantime population was rapidly increasing and the legislature was active in granting articles of incorporation and corporate enterprises began to play an important part in the life of the people. The fact is slightly preceptible in the "Revised Statutes" of 1843. "All bodies corporate and political" were made subject to taxation. "All capital" employed in merchandizing or by money lenders or exchange brokers was to be included in the tax lists.† At the next session of the legislature it was provided that "all the machinery of a corporation" should be assessed in the locality where the same was located‡ and that assessors should include "stocks in any corporation or association" in the returns of personal property.§ These specific enactments in 1843 and 1844 justify the observations previously made concerning the law of 1839.

To what extent the taxation of corporations was discussed

laws, (See Mr. Theodore Lee Cole's article on "A Rare Wisconsin Book" in *Collections of the State Historical Society of Wisconsin*, Vol. XII, pp. 383-389). Under such circumstances the members of the legislature were naturally powerfully influenced by recollections of the laws and practices in the states from which they had migrated. In the Wisconsin legislature of 1836 there were fourteen out of the thirty-nine members from southern states. The proportion was probably not much changed when it convened at Burlington (See *Report of Wisconsin Tax Commission (1898)* p. 21). Those desirous of pursuing this subject farther will find some interesting comments and notes in Professor Macy's "Institutional Beginnings" already referred to. *Ibid* pp. 364-365.

* *Laws of Iowa*, 1840, chapter 70.

† *Revised Statutes*, 1843, chapter 132, section 1.

‡ *Laws of Iowa*, 1844, chapter 21, section 13.

§ *Ibid*, section 17.

in the constitutional conventions of 1844 and 1846 it is not now possible to say as no complete record of the debates has been preserved. In the first convention the committee on State Revenues submitted a proposed section to the constitution in which "stocks" were included in the list of properties made subject to taxation * but the section was neglected and the entire subject of taxes was omitted from the draft submitted to the people. The constitution of 1846 likewise made no mention of the matter.

The law of 1844 remained unchanged during the next three years. On the assembling of the first State legislature in 1846, Governor James Clarke, the last territorial governor, dwelt at some length in his message to the new assembly upon the evils of the unjust taxation to which the people were then subject. "The revenue laws", he declared, "at present in existence are radically defective and call for amendment. It cannot be denied, that under the territorial organization, with all our legislative, executive and judicial expenses borne by the general government, a system of taxation exceeded for severity by but few of the states of the union, has prevailed. . . . Reform in this particular . . . is imperiously demanded."† Governor Clarke, like many of his successors, aside from asserting that gross inequalities prevailed in the assessments returned in the several taxing districts and that intangible personal property escaped from taxation, a fact of commonplace notoriety since the memory of man runneth not to the contrary, voiced a widespread complaint but did not particularize what the defects were in the revenue laws of the territory or outline any scheme of effective reform. The legislature in response to his message redrafted the statute of 1844; but the assessment of corporations did not seem to call for particular attention apparently, as the matter is practically ignored in the

* See Shambaugh's Fragments of the Debates of the Constitutional Conventions of 1844 and 1846, p. 122.

† See Journal of Iowa House of Representatives, 1846, p. 12.

law approved. The only provision in the entire act that indicated the existence of corporations was the requirement that every person should give in with his assessable personal property the value of any "interest in the capital stock, undivided profits or means of every company, incorporated or unincorporated," owned by him.* This law remained unchanged until the adoption of the new code in 1851.

III.

Our review of the tax legislation affecting corporations in Iowa prior to 1851 and incidentally of the conditions of industry, commerce and government prevailing during the period under consideration develops several facts of importance which we should notice before passing on to the later developments of corporation taxes.

Corporations were first assessed in Iowa between 1834 and 1836, if there were any to be assessed, under the Michigan law of 1833. That law approximated modern legislative enactments with respect to the method of assessment, the chief accounting officer of corporations being required to return the lists of property or stocks to the assessors. All of the stock or property was liable to taxation without abatement on account of any indebtedness. As soon as Iowa acquired independent control of her territorial affairs corporations as corporations were apparently relieved from assessment. The laws were predominated exclusively by the idea that the property of an individual is not only the true test of the ability of such individual to bear taxes but the best means or basis to take for reaching or determining the assessable valuation of his ability when seeking to place tax burdens upon him. Underlying the laws of 1843, 1844, and 1847, was the assumption that owners of shares of stock or of interests in corporate enterprises would report the value of their holdings to the assessors which would secure the taxation of the corporate property; and in that assumption

* Laws of Iowa, 1847, chapter C, section 10.

undoubtedly we can in part account for the absence of specific directions respecting the taxation of corporations in the statutes of Iowa prior to the code of 1851.

The assumptions of the law were of little effect in practical application, for the results as shown in the assessors' returns in the last three years of the decade were very meagre. The auditor of state could report a total value for the entire State of the stocks and profits in incorporated and unincorporated companies in 1848 of only \$3,748. In 1849 the total value of such stocks reported amounted to \$12,293; and the aggregate valuation in 1850 was \$13,107.* The capital reported for the same years as employed in manufactures was respectively \$237,655, \$318,911, and \$432,838.

In the development of the tax laws in the territorial days a fact of great importance was the overlordship of the government at Washington. The president of the United States filled all of the chief executive and judicial offices † and all of the expenses of the territorial government were borne by the national treasury.‡ The people of the territory were assessed only for taxes for purely local purposes. This relief from the necessity of supporting their territorial government was one of the facts that helps to explain the very primitive character of the revenue laws with regard to corporations.§ The subject of taxation was not forced on the people's attention on account of their beneficial relations with the federal government.

In addition to those already given or suggested two other facts should be kept in mind respecting the nature

* See Reports of Auditor of State in Appendices to the Journal of the Senate; for 1848, pp. 288-289, for 1849, pp. 16-17, and for 1850, pp. 26-27.

† See Act of Congress approved June 12, 1838, section 2, Statutes at Large, volume V, p. 235.

‡ Ibid.

§ This relief from territorial taxes noted above was one of the principal arguments used against the first proposals for the organization of a state government. See editorial comment in Iowa City Standard September 3 and 24 and October 8, 1841, and December 12, 1844. See Shambaugh's Documentary Material relative to the History of Iowa, volume I, p. 133.

of the tax laws in force during the period here under consideration although these facts for the most part counteracted each other in their influence upon legislation. One has already been referred to. These two facts were first, the "anti-corporation" feeling that was aroused among the people during the forties, and second, the feverish eagerness with which the inhabitants of the towns and cities sought to induce eastern capital to come west and promote railroads and manufactures in the young and thriving and ambitious communities on this side of the Mississippi. The feeling against corporations was aroused by the disasters which followed in the wake of reckless speculation and ill-advised undertakings by companies either dishonestly promoted and conducted or improvidently managed. There was but one bank of note issue in the territory and its career was unceremoniously cut short by the legislature in 1845. So pronounced was the sentiment against banks in 1846 that the constitution submitted to and adopted by the people absolutely prohibited the legislature of the new State from creating any bank with note-issuing powers.* Throughout the debates in the constitutional conventions of 1844 and 1846 and the discussions which followed in the press, this anti-corporation sentiment was manifested in a marked degree.† The consequences of such belligerent opposition to corporations would have led naturally to some drastic legislation respecting corporate taxation, but the overweening desire of the inhabitants of the cities to promote railroad construction, plank-road building, and manufacturing enterprises, made the legislatures of those days cautious lest they discourage eastern capitalists from venturing beyond the Mississippi. Instead of taxing corporations heavily as many undoubtedly would have liked to do communities were more likely to vote taxes to aid them

* On this subject see F. D. Merritt's *The Early History of Banking in Iowa*, p. 51, et seq., and Jno. Jay Knox's *History of Banking* pp. 770-779.

† See Shambaugh's *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, p. 67 et seq, 94-101, 140 et seq, 188-191, 195-204, 224, 228, 275.

in constructing their lines or plants and to exempt them as much as possible from public burdens.

It was at such a time when there was no particular demand on the part of the general public for changes in the revenue law that very material alterations were made in its provisions. In 1848 the legislature appointed a commission of three to revise and codify the laws. The commission reported to the governor in December, 1850, submitting a thorough-going revision, incorporating in their proposed code much new legislation. This was especially true of the chapter relating to "Revenue," notably in those portions prescribing the property subject to taxation and the methods for its assessment.*

The stock or shares of any bank or incorporated company whether organized under the laws of Iowa or not were made liable to taxation.† Ferry franchises—an important industry in the days preceding the railroads—were henceforth to be taxed "as realty"‡ just as corporate franchises in general are now assessed in New York. The principal accounting officers of corporations were required to report and list all of their property to the assessor.§ But the most radical changes affected railroad and construction companies and insurance companies.

The property of "corporations or companies constructing canals, railroads," and "similar improvements" were to be taxed through "the shares of the stockholders." The shares of non-resident share-holders were assessable in the county in which was "either terminus of the structure." The secretary of the company was required to report to the assessor the list of such non-resident share-holders and their addresses, the shares held by each and the par and market value of their shares. In case of refusal to certify the list the shares

* See Code of Iowa, 1851, title VI, chapter 37.

† Ibid, section 456.

‡ Ibid.

§ Ibid, section 453.

were assessed to the corporation. The county first listing was entitled to levy and collect the taxes on such non-resident stock-holders.* Insurance companies incorporated outside the State but doing business in Iowa were to be assessed one per cent. for state purposes and one per cent. for county purposes on the premiums received in the several counties. The agents were required to list the receipts to the assessor and were made personally responsible for the payment of the tax.† These departures from the principle of the general property tax in 1851 were recommended by the code commissioners without any public agitation for such changes and they were adopted by the legislature without causing any noteworthy comment in the press of the State.‡

But this popular indifference did not continue long. The importance of corporations in the industrial life of the people, the great advantages which these artificial creations of the State had over individuals in the production and distribution of wealth soon became apparent. It was also perceived that the General Property tax was not a very effective method for taxing them and the increasing pressure of taxes in the cities and counties made those who had to hear them more and more disposed to seek efficient laws for their assessment. The history of the plans pursued with various classes of corporations, the results attained and the lessons which the experiments enforce, constitute an interesting and instructive narrative that would greatly exceed our space. In what follows, only an outline of the development of corporation taxes after 1851 is attempted, as that development is exhibited in statutory enactments, judicial decisions and public discussion.

* Ibid, section 462.

† Ibid, section 464.

‡ The general indifference of the people to the legislative changes in the revenue laws in 1851 is indicated by the fact that the columns of *The Iowa Star*, a prominent Democratic paper published at Des Moines, does not so much as mention in its news reports or notes, let alone comment upon editorially, the amendments wrought in the tax laws by the code; and this paper had a special correspondent at Iowa City who reported quite fully the proceedings of the sessions of 1850—1851.

OUTLINES OF GROWTH OF CORPORATION TAXES AFTER 1851.

The legislatures of American states have few problems more difficult to deal with than the enactment of laws for the assessment for taxation of industrial and commercial companies or corporations that will prove at once efficient and equitable in their practical execution. Modern corporations, particularly some of the more recent evolutions within whose control or sphere of influence are held subject not only the industries and trade of communities but the avenues of trade, the lines of communication and means of transportation, as well as the main sources of supply of the raw materials of manufacturers, such corporations have become the most notable and the most potent factors in our economic life. Their operations are so extensive and multifarious, the evidences of their property and revenue or income so elusive when sought by the agents of government for taxation that the history of the finance of American states exhibits a vast amount of legislative experimentation in their efforts to tax them. Great diversity in methods characterizes the revenue laws of the states. Indeed it is more accurate to say that the utmost confusion prevails and the public mind is in consequence in utter perplexity amidst the divergent laws and conflicting theories respecting the subject.

During the past decade there has been observable in the legislation of the several states a tendency towards uniformity in methods of corporate taxation, a tendency which we may expect to see increase as the various laws and the diverse experiences thereunder are studied and their lessons learned. In such comparative study the history of corporation taxes in the State of Iowa is not without interest and profit withal. Her revenue laws have been modified from time to time, in consequence of changing needs, resulting either from the failure to enforce statutes or from the development of new forms of industry which required special machinery for their assessment and taxation. It is essential,

if we would arrive at just conclusions with respect to matters of present concern, that we know the nature of the efforts heretofore made to secure equitable tax laws, the conditions of industry and State and local finance which gave rise to them and the results of the methods pursued. We shall at least appreciate better the difficulties that confront those who seek to remodel the revenue laws if we know the history of such legislation.

I.

It is early in the history of Iowa that we find the assessment of corporations for taxation in a manner different from that pursued in the taxation of her private citizens. The State was not admitted into the union until 1846. In 1851 the legislature adopted a code of laws and therein are to be found the beginnings of what recent financial writers have come to designate by the term "corporation tax." The principle of the General Property tax theretofore followed in assessing commercial and industrial companies, as well as private individuals, was then partially abandoned by the legislature as inadequate in determining the taxable capacity of corporations. In the subsequent legislation and revision of her laws it cannot be said that Iowa kept abreast of Massachusetts, New York or Pennsylvania in the enactment of effective tax laws; yet since 1890 the people of this State have become aroused to the importance of reform in the methods of corporate taxation.

Iowa, it should be remembered, is a state in which agriculture, merchandizing, manufacturing, and mining constitute the chief industries of the people who have always enjoyed to a marked degree a general prosperity. Throughout the entire history of the commonwealth the State government has been very economically managed when its cost is compared with the outlays for those of other American states. The financial history of the counties and cities, gen-

erally speaking, has been characterized by economy in public expenditures. This has been due for the most part to constitutional and statutory provisions restricting expenditures and especially the use of the funding powers. The extravagance that characterizes the local finance of so many states has never been conspicuous in the municipalities of Iowa or long continued if here and there it occurred. This is due no doubt mainly to the fact that there are no large cities in the state. On account of these conditions the citizens of Iowa have never been pushed sharply on the problems of taxation and compelled by the pressure of burdensome taxes to readjust their revenue laws so as to bring them into accord with the best economic theory and experience.*

Not that the people always have been complacently satisfied with the workings of their system of tax laws—far from it. Complaints and protests against the escape of persons and property from taxation have been common and at times pronounced. The first message to the Iowa legislature by the retiring territorial governor directed attention to the evils of taxation prevailing in 1845; † and in subsequent years various governors and financial officers of the state in their biennial messages and reports dealt with the subject. But, with a few exceptions, which we will consider, their observations and recommendations were concerned with the evils of undervaluation, and ordinary “tax dodging,” with the taxation of intangible personal property and with ways and means for making more effective the

* The population of Iowa in 1850 was 192,214; in 1860, 674,913; in 1870, 1,194,020; in 1880, 1,624,615; in 1890, 1,911,826; and in 1900, 2,231,853, on a land area of 55,475 square miles. Concerning the cities and towns of the State “Bulletin” No. 23 of the Twelfth Census says: “Of the 681 incorporated places [in 1900] there are 495 which have less than 1,000 inhabitants, and 593 which have less than 2,000 inhabitants. There are 64 incorporated places which have more than 2,000 and less than 5,000 inhabitants; 10 which have more than 5,000 and less than 10,000 inhabitants; 8 which have more than 10,000 and less than 25,000 inhabitants; and 6 which have more than 25,000 inhabitants, namely: Des Moines, 62,139; Dubuque, 36,297; Davenport, 35,254; Sioux City, 33,111; Council Bluffs, 25,802; and Cedar Rapids, 25,656.” The urban population of Iowa in 1900 amounted to 975,641, nearly one-half the entire population of the state.

† See Message of Gov. James Clarke, Senate Journal, 1846, p. 12.

then existing laws—not with the relative merits of various methods or principles of taxation.*

II.

The development of the "corporation tax," that is, of a mode of taxing corporations peculiar to corporations and distinct both as to principle and as to procedure from that followed in the taxation of individuals was a matter of slow growth, even after the legislature adopted it in 1851. Legislation along these lines has been very uneven and piecemeal in character until recent years. One class of corporations would receive attention and then another. One method of assessment would be taken with one class and another basis with another class. And with the same class there have been several changes in the methods pursued.

From 1851 to 1862 railroads were assessed on shares of stock. Between 1862 and 1872 a gross earnings tax was assessed on railroads—at first a flat rate and then a graduated tax.† Since 1872 the general property tax has been applied to railways.‡ Express companies have been subjected to various methods of taxation. Up to 1868 they were assessed as ordinary corporations. In 1868 the legislature passed a peculiar act that assessed them locally on forty per cent. of their gross earnings in each locality where there was an office or agency and the forty per cent.

* See Message of Gov. Wm. M. Stone, 1868, p. 81; Message of Gov. Samuel Merrill, 1870, pp. 41-42; Message of Gov. J. G. Newbold, 1878, p. 6; Message of Gov. J. H. Gear, 1880, pp. 4-5; Message of Gov. Wm. Larrabee, 1888, p. 34, of 1890, p. 32; Message of Gov. Horace Boies, 1894, p. 5; Message of Gov. F. D. Jackson, 1896, pp. 6-8.

See also Reports of the Auditor of State—Report of 1848 in Appendix to Senate Journal, p. 133; Report of 1850 in Appendix to House Journal, pp. 6-8; Report of 1856 in Appendix to House Journal, p. 159; Report of 1877, pp. 5-10; Report of 1880, pp. 6-8; Report of 1882, pp. 6-8; Report of 1885, pp. 126-129; Report of 1893, pp. 7-8; Report of 1895, pp. 3-4.

See also Report of the Treasurer of State for 1869, pp. 13-15; and Special Report of the Treasurer of State to the House of Representatives 26th General Assembly, February 7, 1896, House Journal, pp. 267-277.

† See Laws of Iowa, 1862, chapter 173, section 16 and Laws of Iowa, 1870, chapter 106.

‡ See Laws of Iowa, 1872, chapter XXVI; Code of '73, sections 1317-22; Code of '97 sections 1334-1339.

were listed and returned by the assessor as "personal property."* Two years later the act was repealed and from that time until 1896 they were assessed as were private individuals.† In 1896 a tax of one per cent. was placed upon "the entire receipts for business done" within the State.‡ In 1900 the present law was passed providing for their assessment upon the basis of the market value of their stocks and bonds.§ Insurance companies have been assessed upon their gross earnings or income ever since 1851 with the exception of Iowa, domestic or local companies. The latter, were assessed as ordinary citizens up to 1897 when they were subjected to a specific tax on their income.¶ In 1878 the assessment of telegraph and sleeping and dining car companies was taken out of local jurisdictions and placed under a state board.|| The act of 1858 providing for the establishment of "Free Banks" made such corporations, and not the stockholders, liable for the payment of all public dues ** and on the adoption of the national banking system this mode of assessment was continued †† and it is now applied to all forms of the banking business.‡‡ Under the code of 1897, all ordinary business corporations are assessed on the market value of their shares of stock less the value of their real property taxed locally and the corporations are held accountable for the taxes levied.§§

To a small extent Iowa has imposed differential or discriminating taxes upon some classes of corporations. Beginning with the code of 1851, all insurance companies

* Laws of Iowa, 1868, chapter 180.

† Laws of Iowa, 1870, chapter 100.

‡ Laws of Iowa, 1896, chapter 32.

§ Laws of Iowa, 1900, chapter 45.

¶ See Revision of 1860, section 718; Code of '73, section 807 and Code of '97, section 1333, and Laws of Iowa, 1900, chapter 43.

|| Laws of Iowa, 1878, chapter 59.

** Laws of Iowa, 1858, chapter 114, section 11.

†† Laws of Iowa, 1866, chapter 108; also Laws of Iowa, 1868, chapter 153; Code of '73, sections 812, 818-20; Laws of Iowa, 1874, chapters 60, 63.

‡‡ Code of 1897, sections 1321-1322.

§§ Code of 1897, sections 1323, 1325.

incorporated outside the state have been subjected to a specific tax on their premium income while Iowa companies were practically exempt until 1897. Under the code of 1897, Iowa companies were assessed one per cent of their premiums, less losses paid; other state companies two and a half per cent without any deductions, and foreign companies three and a half per cent. Such discriminations have not met with general favor and their discontinuance, at least between the outside or foreign corporations, has been strongly urged.*

The state supervision of the assessment of corporations has not become a prominent feature of Iowa's revenue laws as is the case in some of the older eastern states like Massachusetts or New York. During the days of "Free Banks" prior to 1865 State "Bank Commissioners" ascertained the taxable value of the property of all such banks.† Between 1862 and 1872 railroads reported their gross earnings to the state treasurer and to him they paid all of their taxes. One-half of the tax paid was turned over to the counties by the State. Since 1872 railroads have been assessed by the state executive council and the valuations determined upon have been certified to the county authorities. Beginning with 1878, telegraph, sleeping and dining car companies have been assessed by the same body. Since 1868 all insurance companies with the exception of local companies have paid a state tax to the state treasurer as a condition of doing business in Iowa. But a state commission or board whose sole business should be the supervision and control of the assessment of corporations has never been seriously urged in Iowa.

There has been comparatively little progress in Iowa in the divorcement of State and local sources of revenue, although for many years there was a strong tendency in favor of such a financial policy and much was done in this direction. The first law in which we find a suggestion of the separation of State and local revenues was the act of 1851

* See Treasurer of State's Report for 1899, pp. XIII-XVII.

Laws of Iowa, 1858, chapter 114, section 11.

taxing foreign insurance companies, by which one half of the tax was reserved to the State and one half to the counties. This plan was followed in the law of 1862 imposing the tax on the gross earnings of railroads. The taxes on foreign insurance companies since 1868 have been paid entirely to the State; since 1897 local and domestic companies have been required to pay a tax to the State. Besides these dues insurance companies pay to the auditor of state fees that are also appropriated by the State. In 1896, all corporations were required to pay a fee or license tax on filing their articles of incorporation which is paid into the state treasury. Beginning in 1878, telegraph companies and later telephone companies paid all their taxes into the state treasury and were relieved of all other taxes except local charges upon real estate. In 1896 the specific tax on the business receipts of express companies was made payable to the State.

Nearly all of those acts, however, were passed in face of decisions of the supreme court in the railroad tax cases, rendered between 1860 and 1880 which held that the legislature could not prohibit local authorities from taxing the property of corporations in their midst. Finally the authorities of Polk county and Des Moines assessed the stock of a number of Iowa companies and in 1899, in the case of the *Hawkeye Insurance Co., vs. French* (109-505), the court reaffirmed its former rulings and declared invalid the exclusive state tax on domestic insurance companies.* That ruling invalidated the state taxes on express, telegraph, and telephone companies and was the cause of the laws of 1900 under which the executive council fixes the valuations of the property of such corporations and certifies to the county auditors the assessments upon which both state and local taxes are now levied. There was one attempt made to get around the effect of the decision in the law passed in 1900 for the taxation of domestic insurance companies. They are required to pay a tax on their premiums, less losses, to the

* See observations of Treasurer of State in his Report for 1899, pp. XVII-XIX.

State and in their local assessment are authorized to make deductions from their assets to such an extent as to give them exemption from local taxation. The purpose of the act is so obvious that it is doubtful whether it will be sustained.*

BURLINGTON is the largest, wealthiest, most business doing and most fashionable city, on or in the neighborhood of the Upper Mississippi. We are all in excellent good health and the city is improving with great rapidity and elegance. Boats arrive and depart daily, bringing emigrants and goods and carrying away produce and the good wishes of our citizens. We have three or four churches, a theatre, and a dancing school in full blast. Today we shall celebrate the anniversary of our independence in a most patriotic and becoming manner. A week from next Monday the extra session of the legislature will commence at this place. And about the last of August we shall be in the midst of a most animated political contest. What can be more interesting than all these things? And yet our Territory is but a two-year old. Down-easters do you hear that?—*Iowa Territorial Gazette, July 4, 1840.*

A MEETING of the citizens of Butler county was held a few days ago, and passed a set of resolutions which we find in *The Transcript*, declaring that Butler county warrants should be held and sold at par, and that the people should view with indignation the attempt of any person to depreciate, for the objects of speculation, the warrants of that county.—*Dubuque Express and Herald, Nov. 12, 1858.*

* See Laws of Iowa, 1900, ch. 43.

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