

11-1930

The Indiana Tax Survey Committee It's Purpose and Program

J. Clyde Hoffman
Indiana Senate

Follow this and additional works at: <https://www.repository.law.indiana.edu/ilj>



Part of the [Taxation-State and Local Commons](#), and the [Tax Law Commons](#)

Recommended Citation

Hoffman, J. Clyde (1930) "The Indiana Tax Survey Committee It's Purpose and Program," *Indiana Law Journal*: Vol. 6 : Iss. 2 , Article 3.

Available at: <https://www.repository.law.indiana.edu/ilj/vol6/iss2/3>

This Article is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in Indiana Law Journal by an authorized editor of Digital Repository @ Maurer Law. For more information, please contact rvaughan@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

THE INDIANA TAX SURVEY COMMITTEE ITS PURPOSE AND PROGRAM¹

J. CLYDE HOFFMAN*

The joint resolution of the last General Assembly providing for the appointment of a tax survey committee was the outgrowth of the feeling on the part of many members of the Senate and House of Representatives that something should be done to shift some of the tax burden from real estate, and to more equitably distribute the same to other sources. They felt that it was humanly impossible for them to make a careful study of the problems of taxation, or to intelligently vote on bills effecting the same, with no more opportunity for study than is afforded during the sixty day period in which the legislature is in session. It was the hope of the members of the General Assembly that the recommendation of such a committee would enable the members of the next General Assembly to vote more intelligently upon this important subject.

Pursuant to the provision of the joint resolution, relative to the selection of a conference or survey committee, Governor Leslie carefully considered, with the author of the bill and others, various methods of selecting the members of the committee, with the purpose in mind of selecting a group which would represent a cross-section of the taxpaying interests of the state. It was agreed that such a committee should have representatives from the manufacturing and industrial interests of the state, as represented by the Indiana Manufacturers' Association; the commercial, industrial, mercantile, civic and varied interests, as represented by the State Chamber of Commerce; the agricultural interest, as represented by the Indiana Farm Bureau Federation; the banking interest, as represented by the Indiana Bankers' Association; the taxpayers' interest, as represented by the Indiana Taxpayers' Association; labor as represented by the Indiana State Federation of Labor; retail merchants, as represented by the Indiana Retail Merchants' Association; the women voters, as represented by the Indiana

¹ An address delivered before the Indiana State Bar Association, Friday, July 11, 1930.

* See biographical note, p. 109.

League of Women Voters; and the press, as represented by the Indiana Democratic Editorial Association and the Indiana Republican Editorial Association.

It was thought that the combined viewpoints of the representatives from the above groups, together with that of the members of the legislature, would be helpful in working out a fair and just tax program, which might be acceptable to all. Accordingly, the various organizations were asked to designate a member whom they would recommend for appointment on the committee. As a result of these nominations, the Governor made the following appointments: Mr. J. W. Stephenson of the Indiana Manufacturers' Association; Mr. Lewis Taylor of the Indiana Farm Bureau Federation; Mr. A. G. Brown of the Indiana Bankers' Association; Mrs. Leora Teeter of the Indiana League of Women Voters; Mr. Frank D. Stalnaker of the Indiana Taxpayers' Association; Mr. John E. Frederick of the Indiana State Chamber of Commerce; Mr. Adolph J. Fritz of the Indiana State Federation of Labor; Mr. Victor C. Kendall of the Indiana Retail Merchants' Association; Mr. George Saunders of the Indiana Democratic Editorial Association; Mr. Arthur K. Rimmel of the Indiana Republican Editorial Association; Mr. James M. Knapp and Mr. George Saunders of the Indiana House of Representatives; Mr. Joe Rand Beckett, Mr. J. Francis Loçhard and myself of the Indiana Senate.

No attention was paid to the political affiliations of the members, except that representatives of both parties in the legislature and both the Democratic and Republican Editorial Associations were represented. After several meetings, at which all of the members were in attendance, and in which a program of procedure was fully discussed, it was determined that the committee would not make any recommendations or complete its study and survey until after the public had been given an opportunity to be heard on any and all subjects bearing upon the tax problem in Indiana. Accordingly, a program was prepared, covering most, if not all, of the various subjects which would be considered in making the survey. This program was arranged for nine meetings or public hearings, covering a period of two months, which were held in the statehouse. Considerable interest on the part of the various interested groups representing utilities, corporations, industry in general, agriculture, etc., was manifested at these various hearings. Many valuable suggestions were made and discussion was had which has thrown considerable light upon the various points under consideration.

During the progress of the public hearings, the Indiana Legislative Reference Bureau and the Bureau of Business Research of Indiana University have been engaged in accumulating data and statistics for the use of the committee in its survey of the revenues necessary for the state and local governments, and the sources and methods of raising the same, together with such other statistics as are calculated to disclose the methods and sources which have been in use in other states which have adopted various forms of taxation other than those now used in Indiana. From this information, together with that obtained at the public hearings, the committee expects to carefully check and weigh the benefits and disadvantages peculiar to the various forms of raising revenue, and eventually, to submit a tentative report, setting forth the committee's tentative recommendations on the subject. The committee desires free discussion of this tentative report when it is given to the public, believing that the committee will be thereby better informed by the criticism and comment which will result from such discussion, and that it will then be in a better position to formulate its final report and recommendations to the General Assembly.

The work now being done in Indiana is typical of that which is being carried on in almost all of the states at the present time. There seems to be a general feeling abroad in the land that property is carrying too much of the burden of the expense of government. Similar commissions have been at work in many of the states, some of which have made their final reports, while others are just starting with their survey: so it may be generally accepted that the idea of the tax survey committee is not peculiar to Indiana. In that respect, we are merely following the precedent established by most of the other states.

Up to the present time, no definite recommendations have been formulated, but certain underlying principles have been agreed upon as an objective which the committee will strive to attain. These are: (1) To eliminate all property tax for state purposes. (2) To distribute taxation equally, so as not to penalize any class of people, business or industry. (3) To provide a means whereby every citizen who has reached his or her majority may contribute directly to the support of the state government.

The committee is not unmindful of the fact that there are advantages and disadvantages to be found in most forms of raising revenue, and also, that there are those who strongly favor,

and those who strongly oppose, each of the various forms of taxation. We can only hope to weigh all of these advantages and disadvantages in the light of the facts presented, and to approve such as may seem to be best calculated to improve the tax system of Indiana, bearing in mind the principles above set out.

While the committee has not arrived at a point in its study where it has finally determined just what should be recommended, even in a tentative report, it has gone far enough to feel sure of certain things which indicate some of the remedies needed, and where these remedies should be applied. Without attempting to be specific as to the form of new methods of raising revenue, or in any manner to anticipate the action of the committee with reference thereto, some of the items under consideration might well be mentioned here.

The committee is fairly of the opinion that new methods of raising revenue should be employed only as a means of adjusting the present burden on property, and not for raising additional funds; and that if such revenue should be raised by new forms of taxation, a corresponding reduction should be made in the property tax. Public opinion and legal safeguards should maintain this principle inviolate.

The survey committee is aware of the development of the habit of spending for public improvement, whether from the demand of the taxpayers themselves for more convenience, or through the fault of the tax-spending officials, which has gone on from year to year until the present high tax rate was reached, the average for the state at this time being \$2.81, while in some taxing units the rate is well over \$5.00 per \$100.00 on taxable property. The increase in the cost of labor and material has figured in the upward trend of expenditures, but the outstanding cause of high taxes has been the ever increasing tendency to go on and on with public improvements, regardless of the source of revenue and the hardship on the taxpayer. The committee might recommend a limit beyond which no taxing unit could go as a means of curtailing future advances in rates, but it realizes the great part the taxpayers themselves, in the taxing units, must play, if taxes are to be reduced. An awakened public interest in tax-spending, as well as tax-paying, is essential to a reduction in the amount of revenue which must be raised by the various methods of taxation. The committee is convinced that the budgets of the local units should be scanned, with a view to eliminating all items of expenditure which are not essential to

the necessities of local government. Here is the point where, in many instances, it is possible to effect immediate and positive relief, and that without additional legislation.

Information which we have received leads the committee to believe that great economies in government, and a consequent relief from high taxes in many tax units, might be effected by the elimination or consolidation of townships, and in some instances, the consolidation of counties. The elimination of multiple items of overhead expense, and a more uniform valuation of property as a result of such consolidation would undoubtedly bring about improved tax conditions in the localities effected thereby.

We are convinced that much benefit to the taxpayer would result from a more scientific method of assessing property, which would look toward more uniform valuation, not only throughout the taxing unit itself, but through the county and state. We have given considerable time and study to this important phase of taxation, and hope to make some recommendations with reference thereto which will point the way to more uniformity and fairness in the assessment of property, and without which no property tax is just.

Another matter which has given the committee no little concern is the tremendous amount of property which escapes taxation entirely by reason of exemptions of one kind or another. By the means of one exemption, large and valuable tracts of real estate are removed from the duplicates of a taxing unit because the owner has deeded the same to an educational institution, reserving for himself and his heirs an annuity greater than could possibly be expected to be yielded by the property, privately owned. The sum total of such exempted property is not available, but it has reached enormous proportions, with a tendency to increase. As a result of the mortgage exemption, more than \$191,000,000.00 was removed from the duplicates in 1929, an amount sufficient to reduce the average tax rate of the state about twelve cents (12c), or approximately one-half of the total levy for state purposes.

Due to the fact that the system of taxing personal property has broken down under the prevailing custom of not returning intangibles for taxation, and the enormous expense and inconvenience incident to the placing of personal property on the duplicate by means of the personal property schedule, all of which result in great inequities and injustice, and demonstrate the unworkableness of the plan, the tax survey committee has

considered with interest the suggestion that the personal property tax be entirely eliminated, and that the revenue derived therefrom be raised by other means, which might be more equitable, fair and just. Personal property in the entire State of Indiana in 1929 yielded 37.1% of the total revenue derived from taxation, or in the neighborhood of \$33,000,000.00. Personal property should have yielded more than double that amount, but it did not, and we all know that it never will yield its fair share of the tax revenue under the existing law. The elimination of the personal property tax would at once do away with the so-called "intangible problem." A saving of the tremendous cost of assessing personal property would be effected. The tendency to tax dishonesty would be, in a large measure, eliminated. The farmer and the manufacturer, the merchant and the banker, would alike approach March 1st knowing that they would not be penalized for having on hand on that day as much money on deposit, as many farming implements, as much live-stock, as much machinery or raw material, or as much equipment, as on some other day of the year. Usually, they do not possess this property for more than a few days or weeks or months, and yet they are compelled to pay the tax on the basis of permanent ownership. The idea is worthy of consideration.

Undoubtedly, we are approaching a point in the cycle of taxation where the abandonment of a tax on any property which can go into hiding is eminent. When property goes into hiding and cannot be forced out, it must and will eventually be abandoned as a source of taxation.

Some, perhaps most of you, will say that we cannot abandon personal property as a tax source, because of the constitutional mandate to "provide such regulations as shall secure a just valuation for taxation of all property, both real and personal." Others may say that it is now impossible to provide regulations which will secure a just valuation of all personal property for taxation. Still others may say the only just method of assessing all property, real and personal, is to assess personal property on such a basis as to remove the desire to place it in hiding. Others may say that it may be assessed on the basis of the income it produces.

Whatever may be the legal aspect of such a procedure, the economic aspect is clear and certain. If it cannot now be accomplished, surely the near future will develop a means to accomplish

that fairness and justness which our constitution contemplates with reference to the taxation of property.

The income tax, the retail sales tax, various forms of excise taxes, mortgage registration fees, and many other forms and methods of raising public revenue, have been suggested to us, and we have given, and shall continue to give, careful consideration to all such, with the purpose of recommending only such new forms of taxation as will serve the economic demands peculiar to Indiana as a large industrial and agricultural state. Such a tax must take the place of a reduction of the tax on property. It must be of such nature as to require all who enjoy the benefits and privileges of government to contribute a fair share, and it must not penalize or hamper industry, agriculture or business. It must be fair to all.

If we accomplish even the minimum amount of relief from the property tax which we believe should be attempted, we should abandon the state levy as a means of raising revenues for state purposes. This year the state levy is twenty-nine cents (29c), or approximately \$12,000,000.00. In order to do this, some other means must be devised to provide this amount of revenue. Many have advocated the income tax as the best form of a new tax to relieve property from its burden. We believe that if such a tax should be finally agreed upon as worthy of recommendation, it should measure up to the requirements above set out; that it should not be a means of loading more of the tax burden on one group of taxpayers than another, but that it should have such exemptions and such rates as to effectually and equitably distribute the burden all along the line from top to bottom. In other words, it should be fair to all, and as little oppressive as possible to any taxpaying group.

A considerable number of persons have advocated a retail sales tax as a means of furnishing the revenue needed to replace the state levy. This form of taxation has many points of merit. It is sometimes called a consumption tax, and is paid only on sales or purchases of goods for consumption by the ultimate consumer. In a slightly different form, it is known as a retail license tax. Both are identical in results, as the tax is based on the amount of sales. In one instance, the purchaser is supposed to pay the tax, while in the latter, the merchant is supposed to pay the tax for the privilege of doing business, but, as a matter of fact, a part, if not all, is passed on to the purchaser. A practical example of this form of tax is our gasoline

tax, which seems to have almost universal approval as a means of raising revenue. It is, at the present time, a tax of about 25% of the amount of the purchase, but the public pays without complaint. A retail sales tax would be so slight in comparison that it is urged no objection would be made by the consumer. Such a tax should not be over 1% of the amount of the sale. Even those in the most limited circumstances would thus contribute to the support of the government which protects them. They would pay, on a 1% tax, only \$1.00 for each \$100.00 of merchandise purchased. The payments are so gradual that this form of tax is said to be less noticed by the taxpayer than any other form of taxation. The method of collecting this tax should, and probably would, be simple and accomplished by little trouble to the merchant. An accurate record of sales would be the only requirement, so that at any stated period, 1% of the total of such sales would be the computed tax, which could be shown by statement and paid to the treasurer in the same manner as the income tax is now paid. There is, perhaps, no other form of taxation which would more fairly distribute the tax burden, and perhaps, as has been said, none so little felt by the taxpayer.

A number of states, twenty-two to be exact, have adopted and are now using some form of income tax, either for personal or corporate incomes. The experience is varied, ranging from the criticism, in some instances, where the rates are low, that it does not produce sufficient revenue, to other instances, where the rates are high, that it is a burden on industry, with a tendency to drive industry from the state. With the experience of other states for us to follow, if we should adopt the income tax, the rates and exemptions should be such as to make it less objectionable from the standpoint of either of the criticisms above mentioned. The sales tax has not been widely adopted by the states, and the experience is correspondingly limited.

Various other forms of excise taxes have been suggested and considered, none of which, however, are capable of yielding an amount commensurate with that of the income or retail sales tax.

The tax survey committee is not concerned with the question of constitutional revision. It may or may not incorporate within its report to the General Assembly a recommendation suggesting the amendment of the constitution, depending upon the opinions which it may receive relative to the power of the legislature under the present constitution to enact into law the recommendations which it shall make. However, we believe that the income

tax, the sales tax and other forms of excise taxes, along with certain needed changes with reference to assessment of property, can be enacted into valid law by the legislature under our present constitution.

The members of this committee are serving without pay, and at their own expense, and have no other purpose than to serve the people of Indiana by working out a more equitable system of taxation. We hope to suggest methods to relieve property from its burden, which will indirectly benefit Indiana industry, agriculture and business. We realize the difficulty of the task which we have undertaken, and believe that our efforts will meet with success only in proportion to the cooperation which we may receive from, and the confidence bestowed by, those groups and individuals who constitute the various taxpaying interests of the state.

Perhaps the greatest obstacle in the way of a solution of the tax problem is the general tendency of each group of taxpayers to push the burden on some other group or groups, and the apparent unwillingness on the part of some to accept that which seems best for all. Each taxpayer is too prone to measure the desirability of a certain form of tax by the effect it will have on his bank account, rather than the good of the state as a whole from an economic standpoint. We know how impossible it will be to please all, but we urge those groups which may have a feeling of antipathy toward a certain form of tax, to be liberal and unselfish in their views, so far as human nature will permit, and to approach the subject with us in the spirit of unselfishness.

We firmly believe that the people of Indiana will approve any tax system which is reasonably fair and just to all. To recommend such a system to the next General Assembly is the goal we have set for this committee to attain.

INDIANA LAW JOURNAL

Published Monthly, October to June, inclusive, by The Indiana State Bar Association

EXECUTIVE OFFICE, 429 CIRCLE TOWER, INDIANAPOLIS, INDIANA
EDITORIAL OFFICE, BLOOMINGTON, INDIANA

SUBSCRIPTION PRICE, \$3.00 A YEAR SINGLE COPIES, 50 CENTS
Canadian Subscription Price is \$3.50; Foreign, \$4.00

Subscription price to individuals, not members of the Indiana State Bar Association, \$3.00 a year; to those who are members of the association the price is \$1.50, and is included in their annual dues, \$7.00.

The complete management of the Indiana Law Journal is exercised by The Indiana State Bar Association through its officers. The Editor, Editorial Boards and other officers of The Journal are appointed by the President of The Indiana State Bar Association with the advice and approval of the Board of Managers. The Indiana State Bar Association founded the Indiana Law Journal and retains full responsibility and control in its publication. The participation of Indiana University School of Law is editorial.

OFFICERS AND BOARD OF DIRECTORS OF THE INDIANA STATE BAR ASSOCIATION

WILLIAM W. MILLER, *President*..... Gary
FRANK N. RICHMAN, *Vice-President*..... Columbus
THOMAS C. BATCHELOR, *Secretary-Treasurer*..... Indianapolis

BOARD OF DIRECTORS

1st District	7th District
Frank H. Hatfield, Evansville	James M. Ogden, Indianapolis
2nd District	8th District
William H. Hill, Vincennes	Alonzo L. Nichols, Winchester
3rd District	9th District
Wilmer T. Fox, Jeffersonville	W. H. Parr, Lebanon
4th District	10th District
Harry Meloy, North Vernon	Joseph Brown, Crown Point
5th District	11th District
John M. Fitzgerald, Terre Haute	Milo N. Feightner, Huntington
6th District	12th District
Wm. A. Yarling, Shelbyville	W. P. Endicott, Auburn
13th District	
Eli F. Seebirt, South Bend	

FOWLER V. HARPER, *Editor*
THOMAS C. BATCHELOR, *Business Manager*

Faculty Board of Editors
PAUL V. McNUTT, *Chairman*

Robert C. Brown	James J. Robinson
Alfred Evens	Walter E. Treanor
Bernard C. Gavit	Hugh E. Willis
Fowler V. Harper	

Student Board of Editors
JOHN S. GRIMES, *Chairman*

Charles F. Brewer	Harold W. Jones
Robert R. David	Earl Mann, Jr.
Paul J. DeVault	Sidney J. Seligman
Jesse B. Ewer	James W. Sutton
Harold N. Fields	

The Indiana State Bar Association does not assume collective responsibility for matter signed or unsigned in this issue.