

"The following is an extended text of an address given before the Thirty-Second Annual Convention of the Union of Nova Scotia Municipalities at Sydney, Nova Scotia, August 24, 25, 26, 1937."

## Local Taxation and Municipal Finance

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Few things are more curiously wrapped up in the peculiar history of municipal affairs in Canada than the uniformity with which all its Provinces have adopted attitudes toward municipal institutions diverging in principle from those which had worked and are working in the Mother Country and elsewhere in the British Empire. The characteristic features of those attitudes seem to have been induced by the example of the various states of the American union. They bear the hall-mark of the sublime faith in the wisdom of small bodies of men and their capacity in the administration of affairs, great and small, which characterised Thomas Jefferson and his disciples in the long, and sometimes disastrous, struggle to assert state rights against the national government.<sup>1</sup> That is a struggle still going on in the United States. It is a struggle in which, as it seems to me, some of the more important elements of sound practice in taxation have been overlooked. It is a struggle in which the failure of men to recognise that as civilisation increases in complexity the problems of collective life become more and more the concern of larger units of government, and local autonomy in matters concerning the national well-being can only lead toward chaos.

If you will bear with me for a while I shall indulge myself in a short and very sketchy narrative of the stages by which our present system of municipal taxation has grown away from its English prototype. It may well be that in the narrative we shall find food for thought as to the meaning and causes of our current problems. Because the history of municipal institutions in Ontario is typical and is better known to me than that of Nova Scotia, I may perhaps be pardoned for following that history.

We start with the Poor Relief Act of 1601,<sup>2</sup> by which all persons occupying lands are to be rated on the annual rental value of the properties occupied by them, the purpose being to provide for the support of paupers. The characteristic features

1. See *The Bulwark of the Constitution*, by Eurton J. Hendrick, 1937, for a brilliant description of the whole struggle.

2. 43 Eliz. c. 2.

of the system, which have been preserved to this day in regard to all local taxation in England,<sup>1</sup> were that the occupant was the person to be assessed, the tax rested upon him personally and it was in no sense such a tax on land as North American land taxes are. If the land were unoccupied, it was and is subject to no tax. If it were occupied, the acid test of the extent of its liability to be rated was and remains the theoretical or actual net annual rental value. There was and is no capital value to assess, and to destroy by taxation. From the economic point of view the landowner is the ultimate bearer of that tax. For his tenant, before agreeing upon a rent, will of necessity deduct from what he would otherwise pay the amount of the taxes which he must bear. Even an owner will not occupy his own land if the tax burden makes its occupation too costly. Only indirectly can an owner find his land forfeited for unpaid taxes. That is in the case where, as occupant, he is assessed and neglects to pay. In that event his property may be taken to satisfy the unpaid debt of taxes.

In that system, for all that there are still anomalies of discriminatory valuations and inequality of burden which are the subject of complaint, it is clear that excessive taxes produce a speedy corrective by driving land out of occupation and thereby off the tax roll. So that there is at once in operation a force which tends to restore more sensible valuations. No such corrective exists in our system, whereby also not infrequently lands are driven out of use by onerous taxation and in addition forfeited as a warning to the community and a costly sacrifice to the owner.

Elsewhere in the Empire, for example in the State of Victoria, in Australia, the net annual rental value after payment of taxes is the basis of assessment,<sup>2</sup> the occupant is the assessable person<sup>3</sup>, and there is no lien upon the land enforceable by sale. The tax rate is limited to 15% of the net annual value<sup>4</sup>. In New South Wales both the unimproved capital value<sup>5</sup>, and the annual value are assessable for different types of rates<sup>6</sup>,

1 For example, in regard to borough rates, highway repair rates, private improvement, lighting and sewer rates and drainage rates and rating: 24 Halsbury, Laws of England, 1st ed.

2. Local Government Act, 1928, No. 3720, S. 252 (2).

3. Ibid., S 252 (3).

4. Ibid., S.272.

5. Local Government Act, 1919, No. 41, S.134, S.144, making the owner assessable.

6. Ibid., Sched. 3 items 3, 4 and 24.

but the aggregate of rates is strictly limited<sup>1</sup>, and although there is a lien<sup>2</sup> there is apparently no special system of tax sales<sup>3</sup>.

In Canada we began quite easy to envisage, not income, but the more elusive thing capital as the basis of our system of local finance. In Ontario it was first of all in regard to rural lands that the capital value began to be singled out. We started in the old days of administration of local affairs by the Justices of the Peace assembled in Quarter Sessions in 1793<sup>4</sup> with a flat rate of tax on each owner of real and personal property varying according to the classification of his assessment from 2s.6d. up to 20s., the maximum assessment imposable being £400. We turned in 1811<sup>5</sup> to a flat rate assessment of so much for each acre of arable and meadow land, for each horse and cow and so forth. Distress remained the only method of collection. In urban communities real property continued to be assessable at its rack rental value, or theoretical earning capacity, until 1866.<sup>6</sup> Only on the eve of Confederation did we finally depart from the idea of revenue production as the fundamental basis of land taxation.

As it seems to me, the seeds of the present day discrepancy, visible in many areas, between the actual value of property and the amount of its assessment were sown when in 1825<sup>7</sup> we in Ontario adopted the American practice of enforcing tax levies by the sale of lands for arrears of a specified period, which has dwindled with us in progressive stages from eight years to five years, and then to three, and now in certain defaulting municipalities to two years<sup>8</sup>. From the point of view of penalties as a stimulus to tax payment I notice two comparable features under

1. *Ibid.*, S.129, the rate on capital value being restricted to 2d. in the £ and on annual value to 18d. in the £ or 1/120 of capital value and 3/40 of annual value.
2. *Ibid.*, S.152; the gross annual tax per ratepayer in all municipalities in New South Wales, including the metropolitan area of Sydney (pop. 1,200,000) does not exceed £6 per ratepayer: J. M. Garland *Economic Aspects of Australian Land Taxation*, Chap. 2, S.IV.
3. *Ibid.*, S.588.
4. 33 Geo. III, c.3.
5. 51 Geo. III, c.8.
6. 29-30 Vict. c.53, S.30.
7. 6 Geo. IV, c.7.
8. The history is summarised in greater detail in Manning, *Assessment and Rating* (2nd ed.), p. 4.

your Nova Scotia law. They are that lands may be sold when taxes thereon are in arrears for one year,<sup>1</sup> and that you have still preserved a system of arrest for non-payment of taxes.<sup>2</sup>

Now despite the severity of the penalty for non-payment, the amount of municipal taxes in arrears continues—particularly in years of depression—to increase and to be a matter of grave anxiety to municipal Councils. The total for Nova Scotia at the end of last year was nearly \$5,000,000.<sup>3</sup> In Ontario at least we have experienced an alarming series of municipal defaults. I refuse to believe those defaults are occasioned by dishonesty or incompetence of the ratepayer. Indeed I marvel at his inarticulate submissiveness. And I am tempted to ask whether if any other form of tax—say the income tax—were secured by a lien on the future earning power of the taxpayer, enforceable by the sale for the arrears of two or three years' taxes, of all the future earning capacity of the taxpayer, we should accept such a method of collection. Certainly we should hear much about the inalienable rights of the citizen, and there would be none of that puzzled and unresisting anxiety which is today displayed by landowners throughout Canada. We should undoubtedly fight desperately against any method of tax enforcement which made us in such fashion the bond slaves of the state. We suffer our lands to be taken from us forever by unwilling municipalities with but little protest, because, as I think, we have never really thought about the problem at all—and we stand in awe of the twin ghosts of Henry George and Karl Marx.

Now I do not mean or wish to be merely a negative critic of municipal institutions, nor, because I happen to be an anxious landowner, to say that there is no health in us. But I suggest to you as food for earnest and not too conventional thought that perhaps we have lost sight of some fundamental economic

1. Assessment Act, R.S.N.S. 1923, c.86, ss.131, 135, 141, 142 ff.

2. *Ibid.*, ss.83 (1), 88 A (4), 88 B (1), 93 (3), 98 (1).

3. The total for Nova Scotia at the end of 1936 was:

|                          |                |
|--------------------------|----------------|
| Cities . . . . .         | \$1,263,560.34 |
| Towns . . . . .          | 1,939,358.80   |
| Municipalities . . . . . | 1,740,360.73   |
|                          | <hr/>          |
|                          | \$4,943,279.87 |

See Statistics of Incorporated Cities, Towns and Municipalities of Nova Scotia, 1936, pp. 8, 17 and 25.

truths, that those truths have overtaken us, and that sometimes, misled by past experience of the buoyancy of land values during the rapid expansion of our immigration days, we direct our resentments at the wrong object—the man who cannot pay taxes without ruining himself, and who is relatively grossly over-taxed, instead of the system, which has broken down or is breaking. And we have perhaps, comforted ourselves unduly with the reflection that in the past increases of taxation have, roughly speaking, marched side by side with increases in rent and sales prices, and therefore have been the causes of such increases. So that in very truth the landowner has been properly made to disgorge and in very truth the tenant pays. Increasing tax arrears, declining rents, drastically reduced sales prices, a dozen other manifestations of depression ought to be convincing answers to intelligent persons.

There has in the past few years been a formidable movement in some parts of the United States toward tax limitation—the fixing of a legal maximum rate on the dollar of assessment which may not be exceeded. In British Columbia, in Manitoba and in Quebec, and to some extent in Ontario similar demands have been put forth. If the spending necessities of the municipal giant exceed the size of his bed, lop off his head and feet! Never mind his creditors! There has in other states been legislation permitting the redemption of lands forfeited to the municipality within the past half dozen years for arrears of taxes at as little as sixty per cent of their accumulated amount, the justification being that, however great may be the discrimination against those who have paid their taxes, the community is nevertheless better off if the forfeited lands are once more a badge of tax liability to private citizens. The cat and mouse game is more profitable than the partial communism of tax sales. Such a statute was this year enacted in Minnesota.<sup>1</sup> The Ontario law respecting defaulting municipalities permits in somewhat similar manner the compromise of tax claims and redemption below par of forfeited lands.<sup>2</sup> There is legislation authorizing compromise in other parts of Canada.<sup>3</sup> One scarcely needs to mention the tax strikes of cities like Detroit and Chicago. Taxpayers' associations in Canada have flirted with similar ideas.

1. St. Paul Dispatch, June 22, 1937.

2. Department of Municipal Affairs Act, 1935, c.16, S.48 (2).

3. See Manning, *Assessment and Rating* (2nd ed.) pp. 267, 410.

Alarming conditions exist in Canada. The Jacoby Commission in Saskatchewan has drawn attention to the striking fact that more than 2400 acres of the total area of 8000 acres in Saskatoon have been forfeited to the municipality for tax arrears.<sup>1</sup> In Winnipeg buildings are steadily being demolished to enable the owners to minimise the continuous exhaustion of their resources. In Windsor, Ontario, there has been a wholesale compulsory reduction of municipal indebtedness following serious default of the constituent municipalities, and current realisable values are still substantially less than the amount of assessments. In Toronto in the downtown business block distinguished by the heaviest rates per front foot of assessment, there are daily visible fresh evidences of the destruction of buildings which are a burden to their owners in order that some pittance may be earned from the use of the land as car parking space. One can count from one's office window in that single block, properties owned by six different owners on which the buildings either have been demolished or are in process of reduction, and there are two valuable properties which have remained untenanted for years. Significantly six new and impressive buildings have since 1928 been erected in the block next to the west, where assessments are at a substantially lower rate.

It is significant also that of all the industries in Canada the building trades have benefitted least in the recovery now under way and have been amongst the heaviest contributors to the demand for unemployment relief. Pathetic also that the efforts to revive those trades have been directed to the encouragement of borrowing under home improvement plans and sum clearance programmes at the expense largely of the municipal taxpayer, rather than to the root cause of the trouble—the impossibility of developing the building industry on the certainty that losses await the investor in building improvements.

It is pathetic that in the face of such a situation the base of municipal finance should be contracted by the taking away of the income tax levy, or expanded by the imposition of such nuisance taxes as the turnover tax.

Now in all this complaint it is useless to repeat credos about unearned increment, land monopoly and the like, or to urge the

1. Report of the Commission of Inquiry into Provincial and Municipal Taxation, 1936, p. 74.

one-sided arithmetic of the single tax enthusiast. It is, in my humble opinion, necessary to remember that you cannot champion the soundness of an old institution, which used to work when it was under no undue strain, merely because it was adequate to the horse and buggy stage of our economy. Because after the previous depressions of our lifetime, land rentals and sales prices did show a tendency to increase more or less contemporaneously with increases of taxation on land, it does not follow that they will continue to do so, or that their past increases were causally corrected with taxation. The economics of value still hold good in a world where the agitator, even in high places, has come to believe in the blessing of high taxes. Taxes and values are in the language of the mathematician inverse variables. It is a commonplace that if the cost of production of an article becomes too high its continued output only produces distress for the manufacturer, a weakened market, unemployment and bankruptcy.

Land taxes, business assessments, every tax imposed upon land, or upon any person with reference to the occupation of land, are costs of production of the services rendered by land to the owner. In the long run they are inevitably borne to a greater degree by the landowner than by others. The scarcity upon which the deductions of Ricardo and Henry George are founded, and without which they lose their dogmatic force has been in considerable measure destroyed by such forces as the motor car, the railroad and changes in the dietary habits of the modern human being. Consequently if you drive the landowner to distress you actually compel him to sacrifice his land for what he can get. You weaken his bargaining position. He must, and demonstrably does, accept a reduction in his gross return, and out of that diminished gross return he has to meet higher expenses.

I would not have you think that in this flight into theory I have forgotten the practical needs of government in a workaday world where people are in the habit of closing their eyes and saying, "Municipal government must go on. How else will you get your money?" Of course government must go on. But does it follow that the creators of our municipal systems have been inspired by infallible wisdom, or have they not tried to fit the garments of infancy to the frame of extravagant adolescence?

And that brings me to the consideration of what I believe to be the root causes of our modern difficulties in the municipal world. They fall naturally into four groups,—the excessive number of local taxing and administrative bodies, the growth of our spending habits made easier by lack of proper organization, the dilution of the municipal franchise by giving the vote to a non-taxable proletariat, and the growth of defects in our assessment law. Their importance is in the order mentioned.

(1) As to the number of taxing authorities, that is a problem confronting this whole North American Continent. It is said that there are in the United States more than 160,000 such bodies to serve a population of say 130 millions. That means one local taxing authority for every 815 people, and they raise by taxation more money every year than is raised by the national and state governments combined.<sup>1</sup> Data are not equally available in respect of all the Provinces. In Saskatchewan, according to the Jacoby Commission,<sup>2</sup> there are, including municipalities of all sorts, school districts, telephone company areas, drainage and hospital districts, more than 7,000 such bodies to dominate a population of 931,000 souls, or one such body for each 137 persons. Ontario is modestly equipped with 938 municipalities<sup>3</sup> and approximately 6,600 administrative units operating schools each dictating to one or more municipalities how much money shall yearly be raised for school operations.<sup>4</sup> There is, therefore, one taxing authority at least for each 450 persons. Actually there are more than this number of authorities. In Nova Scotia you have 69 municipalities<sup>5</sup> and 1,724 administrative units operating schools<sup>6</sup> to serve say 513,000 people, or one taxing authority for every 285 persons.

The effect of the multiplicity of such bodies on the efficiency of government has often been commented upon, sometimes with such despairing observations as that "It would not be practicable attempt an amalgamation of municipalities, even in cases where

1. Philip H. Cornick, *Taxation and Public Policy*, 1937, p. 81.
2. Report of the Commission of Inquiry into Provincial and Municipal Taxation, 1936, p. 59.
3. *Canada Year Book*, 1936, p. 872
4. *Ibid.*, p. 986.
5. *Ibid.*, p. 872.
6. *Ibid.*, p. 985.



it appears obvious that this should be done",<sup>1</sup> though the Report in question infers that there should be a consolidation of schools.<sup>2</sup> It is not amiss to consider what has been done elsewhere to grapple with similar problems. Within the past decade in England the number of local poor law authorities has been reduced from more than 600 to 146.<sup>3</sup> Ought we in Canada in this day of necessity to be deterred from grasping firmly at one of the nettles of our inefficiency?

(2) As to the growth of our spending habits, in Ontario the municipality has been the work horse upon which every new burden was thrust. There is the sacrosanct Hydro-Electric scheme. It nearly involved us fifteen years ago in an untimely extension of rural electric railways. It has left Toronto with a heritage of debt for two extra suburban railways whose tracks have been torn up. There have been the provision of old age pensions, mothers' allowances and children's aid, hospitalisation of the indigent sick and one-half the cost of direct unemployment relief not provided by the Dominion. Now in my native city we have the prospect of an airport costing a million and the insistent demand for a slum clearance plan costing \$6 $\frac{3}{4}$  millions, mostly at the expense of the landowner. A very large share of the cost of primary and secondary education falls upon him.<sup>4</sup> Schemes for burdening metropolitan areas with part of the cost of suburban roads have found favour with our provincial legislature. The restrictions that used to exist in the way of votes on money by-laws, where the franchise was restricted to rate-payers, and the limitations on the incurring of municipal debts, often concealed under the guise of local improvement and other specially assessed taxes, have been steadily removed until the scandal became so great that in 1935 the consent of the Ontario Municipal Board was made a condition precedent to the incurring of all funded debt.<sup>5</sup>

So onerous has local taxation become that in Toronto in the thirty years since 1906 the per capita burden has become about

1. Royal Commission Provincial Economic Inquiry, 1934, Appendices, p. 122.

2. *Ibid.*, p. 126.

3. Report of the Royal Commission on Unemployment, 1932, p. 40.

4. 88% (deduced from Canada Year Book, 1936, p. 985). In Nova Scotia according to the same authority 83.6% of the cost is provided by local rates.

5. Ontario Municipal Board Act, ss.89 and 90 enacted 1935, c.51, S.4. am. 1936, c.45, S.2.

4-2/5 times as great as it was at the beginning of the period.<sup>1</sup> Only recently the municipal right and duty to levy an income tax has been removed. The moderate provincial subsidy which has been substituted is less in larger centres than the amount of lost revenue and the number of taxable persons has been reduced. In 1937 the municipal tax bill of Toronto is close to \$60 per capita. There are about 59,000 persons who occupy homes owned by them<sup>2</sup> and the number of individual landowners probably does not exceed 70,000 persons. That means annual taxes per individual voting ratepayer of about \$550. There is a strange contrast in these figures with figures recently supplied to me by the Secretary of a leading Australian bank. The average general levy in municipalities in New South Wales, including the metropolitan area of Sydney (a community of about 1-1/5 millions), is £6 per annum per ratepayer,<sup>3</sup> or about one eighteenth of the annual levy in Toronto calculated on the above basis.

The figures of your taxation for local purposes, if I interpret them correctly, are less alarming, but heavier than those for New South Wales. It is perhaps unfair to compare the City of Toronto with the Province of Nova Scotia because there seems to be a sort of rough arithmetical progression in tax rates as urban communities increase in size. Your total population in Nova Scotia is about five sixths of that of Toronto.<sup>4</sup> After eliminating from the reported revenues of your municipalities rates for water and other public utilities, which are not included in the Toronto figures, I compute your total for 1936 at about \$7,135,000, which is at a per capita rate of \$13.85. The total number of your municipal ratepayers on real and personal property and poll taxes amounts to 183,310 persons.<sup>5</sup> I do not

1. Deduced from Report of the Assessment Commissioner, 1936, pp. 8 and 20.

2. Report of the Assessment Commissioner, 1936, p. 14.

3. J. M. Garland, M.A., *Economic Aspects of Australian Land Taxation*, Ch. 2, Sec. IV.

4. Population of Toronto, 645, 462: Report of the Assessment Commissioner, 1936, p. 20. Population of Nova Scotia, Census of 1931, 512,846; *Canada Year Book*, 1936, p. 101.

5. *Statistics of Incorporated Cities, Towns and Municipalities of Nova Scotia*, 1936. The items selected are:

|  |                |
|--|----------------|
| Cities—Town and school taxes               | \$2,688,965.47 |
| Sewers                                     | 174,019.98     |
| Other rates and taxes                      | 80,373.03      |
| Towns—Town, schools and highways taxes     | 698,135.84     |
| Sewers                                     | 25,769.20      |
| Other rates and taxes                      | 61,021.76      |
| Municipalities—Municipal and highway taxes | 1,406,744.28   |

\$7,135,029.56

know to what extent there is a duplication in the figures which makes comparisons illusory, but literally your comparable yearly local taxation per ratepayer is about \$38.80. It is not very far removed from that of New South Wales. On the mere arithmetic of things you have some reason for congratulation, and even allowing for a wide margin of error in interpretation there is still a substantial balance to your credit. And you may well take warning from our example.

Perhaps the characteristic example of unemployment relief borrowings will suffice to suggest the reason for the difference. To the end of 1935 Toronto's outstanding funded debt for direct unemployment relief was in excess of 5-1/3 millions of dollars.<sup>1</sup> At the end of 1936 the total of your municipal borrowings on the same account was less than \$2 millions.<sup>2</sup> Indeed your total expenditures in Nova Scotia on relief account to the end of 1936 are less than \$7 millions<sup>3</sup> of which prior to 1935 municipalities contributed a third, the proportion being reduced in 1935.<sup>4</sup> In 1937 alone Toronto obtained authority to borrow on that account \$1 $\frac{3}{4}$  millions. One comes to fear such things. We are in very truth sowing the whirlwind. Somewhere and somehow we shall have to come to our senses.

Let us realise that the day is fast approaching when we must have a national solution of our chronic unemployment problem, when we must follow the English precedent of centralising social expenditures for poor relief, that we must envisage larger administrative areas and must cease leaving each community to stew in its own juice. Let us remember that the sectionalism which has riven Canada since the war is due in large measure to the economic problems of taxation and a failure both to observe due economy in our scales of relief and a proper recognition of the limits of the endurance of taxpayers. Failing solution we are headed for stormy times and we shall undoubtedly witness growth in the forces of disintegration, now only too manifestly at work. Let us realise also that social services must be controlled if they are not to run away with our heads and our pockets, and that uniformity and control can only be attained by national and provincial rather than local administration.

1. \$5,357,413.00: Annual Report of the Commissioner of Finance, 1935, 1935, p. 42.
2. \$1,974,735: figures supplied by the Assistant Municipal Commissioner.
3. \$6,836,334.82. See Annual Reports of the Deputy Minister of Labour, etc. for the year ended Nov. 30, 1936, concluding page.
4. Information supplied by Assistant Municipal Commissioner.

(3) As to the municipal franchise and its problems I am perhaps going afield from any immediate concern of Nova Scotia, for more than a third of your entire population would seem to be ratepayers, but you will I hope forgive me if I point a moral from our Ontario experience. The significance of that moral is that in municipal affairs no person who is not intimately conscious of the burden of taxes should be permitted to vote. In 1921 we had introduced for us a practically unlimited adult franchise. It is now reduced by the elimination of those persons who merely pay income tax to the Province but it comprises non-tax-paying tenants and their wives. When one remembers that in our practice, though the landowner and the tenant are both assessed<sup>1</sup> the owner is the person primarily liable for payment of taxes and the assessment of the tenant is seldom a basis of liability to pay,<sup>2</sup> the political effect is obvious. The result, particularly in some larger centres, is the election of councillors who are indifferent to the complaint of the taxpayer, if they can by extravagance gain elections. Such a system makes for reckless administration of relief, generous employment of municipal servants whose vote is an important factor in elections and a shrewd eye to buying votes with expenditure. In Toronto there are said to be about 250,000 municipal voters. No official can tell you exactly how many. I have had inquiries made without success. There are also only 59,000 persons who reside in their own homes<sup>3</sup> out of 645,000 inhabitants.<sup>4</sup> Roughly about ten per cent of that population or one-fourth of the total number of voters would appear to be taxpayers. There is not with us any effort to levy and collect a poll tax, and if there were, the smallness of its amount in proportion to the levy on other ratepayers would rob it of any real significance.

The greatest battles of British constitutional history have been fought over the control of taxation. We used to say there should be no taxation without representation. Is it not equally true that there should be no representation without taxation? How else is the voter to carry a responsible habit of mind?

In that respect your Nova Scotia practice is on a sound footing. Your Assessment Act requires that the tenant be the person assessed, if his lease is for one year or more, as if the

1. Assessment Act, R.S.O. 1927, c.238, S.37.

2. In practice no tax bill is sent to the tenant. In consequence he is not liable: *Re Campbell's Hardware Ltd.*, (1935), O.R. 228.

3. Report of the Assessment Commissioner, 1936, p. 14.

4. *Ibid.*, p. 20.

property were his own.<sup>1</sup> Your school legislation makes the payment of taxes a condition precedent of the right to vote.<sup>2</sup> That is as it should be. But it seems to me that in these days of rising taxes the tax to be borne by all persons who enjoy the franchise should be graduated to the annual expenditure of the municipal unit and its payment, if not secured by lien on property of the taxpayer, should be a condition precedent of the right to vote. On any other basis we drift into a tyranny of the proletariat from which must result either ruin to property owners or a political upheaval to re-establish control of the public purse by the taxpayer.

(4) Finally there are the defects in our assessment law. Now complaints about inequality in the administration of the land tax are as universal as the tax itself. Not long since the point was neatly put by an appellate court in England that no man has any legal right to complain that he does not enjoy the incorrectness with which his neighbour is assessed.<sup>3</sup> Resistance to readjustment increases exactly in proportion to the increase in the municipal financial necessity. From the practical point of view of the lawyer concerned with appeals from assessment I can give you my conviction, and I suspect it is shared by many municipal solicitors as I know from the confidence to me of a few of them, that the greatest obstacle in the way of fair and friendly readjustment is the anxiety which exists over declining assessment rolls. So that every application for reduction is likely to be opposed, frequently with success in the face of evidence which to the business man is overwhelming. With us in Ontario that resistance is very much fortified by restriction of the right of appeal to higher courts to questions of law only and by giving to so-called courts, untrained in the law, jurisdiction to pronounce on legal questions. The reason given is of course that otherwise the law courts proper would be overwhelmed with appeals. But is that a good reason? Particularly is it a good reason where assessment appeal courts are permitted to substitute their own judgment for the evidence tendered and where juridical theories of value deliberately ignore present day conditions in order to speculate upon some theory of an ultimate long term value?

1. R.S.N.S. 1923, c.86, S.17, Rule 9 (1).

2. The Education Act, R.S.N.S. 1923, c.60, ss.26 (c), 27 (1), 28 (1), 29, 72 and amendments.

3. *Rex v. Cornwall Valuation Committee* (1936) 3 All E.R. 1012.

Our courts have even gone so far as to say in sweeping terms that the expropriation rule may be applied and that the assessment may and should be made at the amount of the value, taking into account all possible alternative uses of the land and at the highest figure among those alternative uses.<sup>1</sup> In my humble judgment that ignores a fundamental principle of economics expressed in the hackneyed phrase about the law of supply and demand. It ignores the fact that the asked price is not generally the bid price and it confuses the future which is unknown with the present which ought to be known. Fortunately the Supreme Court of Canada has set a salutary limit on such speculations by insisting that the potentialities must be a present source of value.<sup>2</sup>

On all this phase of the problems of assessment you in Nova Scotia have at least set yourselves a more realistic standard in prescribing that value shall be determined on the basis of the price realisable in cash at auction after reasonable notice.<sup>3</sup> Such a standard must be well-nigh impossible of application to large undertakings which are never sold for cash, but it is a safe standard for adherence.

In relation to equality I have so far glanced at the mere proportional feature of assessments in given communities. The struggle for ratable assessments will always be with us, because values are not static and there are often times when the stagnation of real estate sales over long periods prevents the perception of genuine changes of condition. The test of value as a theoretical capital sum is always open to the objection that it is too remote for accurate measurement, too subject to hypothetical arguments about "corner influence" and the mysterious sympathetic magic which makes property "A" more valuable because property "B" one hundred feet distant has been sold at an enhanced price. It seems to me that the only way in which we can keep our feet solidly planted upon the earth is to make the actuality of revenue production, the current experience of ownership and operation, a dominant and ever present consideration. I know the objection that this is to introduce an element of instability in municipal

1. *Re Ont. & Minn. Power Co. and Fort Frances* (1916) 35 O.L.R. 459, 467; cf. *Ontario Jockey Club v. Toronto* (1932) O.R. 637, affd. (1934) S.C.R. 223.
2. *Montreal Island Power Co. v. Laval des Rapides* (1935) S.C.R. 304.
3. Assessment Act, R.S.N.S., 1923, c.86, S.17, Rule 2.

finance and to weaken corporate credit. But how is that an answer when the alternative is the confiscation of values and the literal impoverishment of the owner of the soil?

There is under the head of equality the great and difficult problem of inter-municipal discrepancies in rates of assessment to realisable values. We have it in Ontario in the constant bickering which goes on within our country organisations, between the urban and the rural municipalities as to which should bear the burden of readjustment. That readjustment is always the subject of ardent municipal politics and faction struggle. It is to a large extent the penalty of attempting to preserve federalism in the municipal area. I cannot help thinking that the root cause of the difficulty has been and is the attempt to preserve an 18th century outlook on local affairs in a 20th century world, and the failure of provincial governments to assume responsibility for administrative services and social objects, which are left to struggle under purely local political control. In the result the burden on the municipal taxpayer has become so great that his representatives become arch "wangers" of discrimination in his avour. Equalisation boards are the subject of political manoeuvres which undermine their honesty. The human factor is too lively a thing to be controlled by the rigid formula of a statute. As it seems to me, while improvement of practice is desirable, and no doubt with greater sincerity and unselfishness attainable in larger measure than we now see it, the ultimate solution, if we are to have a sound solution, must be in the way of making municipalities what they ought to be—business corporations, not instruments for the administration of social policies.

Just as in the war we had to learn painfully the habits of subordination necessary to the proper handling of large armies and to train a general staff with results only too often disappointing, so in peace we have failed to broaden our view and to widen our unit of government in matters which concern the national and provincial rather than the parochial interest. The process of learning is expensive. We blunder and declaim about our rights and grow angry about our wrongs. But above all else we detest change and the theorists who offer us inknown and untried remedies. I for one refuse to be put off by fear of the lable "theorist". In the words of Sir Walter Scott, quoted not

long since with telling effect, "Even a haggis, God bless her, can charge downhill". And in this charge I am but following with good company.

In a word or two my thesis is this. We have reached the limit, and in many areas passed the limit, of economically possible taxation on land. The reasons are that municipal government has been forced into responsibilities unsuited to municipal organisation and that the financial structure is inadequate to bear the strain of our advanced social theories. The solution must be in a rigid economy of effort and in the direction of that centralisation which has been urged with great force in the submission made on behalf of your distinguished Province by Mr. (now the Hon.) Norman Rogers before the Jones Commission.<sup>1</sup> There should be an assumption by the Dominion of full responsibility for Old Age Pensions, Unemployment Insurance, the continuance of Educational Grants, the co-ordination of Agricultural and Health Departments and other concurrent services of the Dominion and its Provinces. To those I would respectfully add that greater control over and responsibility for educational institutions, the construction and maintenance of highways, the provision of facilities for the administration of justice, the maintenance of court houses and gaols, and the provision of hospitals for the sick should be assumed by the Province.

Above all else it is necessary that we should broaden the range of our vision and so far bury our provincial prejudices as to make possible the changes of constitution without which we cannot hope to achieve the improvement of our affairs to which our children if not we ourselves are entitled.

1. A submission on Dominion-Provincial Relations and the Fiscal Dis-abilities of Nova Scotia within the Canadian Federation, pp. 192-3.