

# Problems of Assessment in Nova Scotia

By C. P. BETHUNE\*

IN setting forth some of the problems and difficulties which are met in assessing property it is hoped that any opinions expressed will not be regarded as being given in a dogmatic manner, but rather in a manner which will provoke some discussion which may result in the letting in of some light upon the matters involved.

From the taxpayer's point of view, the assessment forms the basis of the levy which is exacted from him by the municipality in the form of taxes. As a rule, the taxpayer feels that the higher the assessment, the higher the tax he will be called upon to pay. This is of course quite true in the case of any one individual taxpayer, but since the total assessment directly affects the tax-rate imposed, any general increase or reduction in all assessments lowers or raises the tax-rate in inverse ratio thereto—assuming the requirements of the municipality as expressed in its annual estimates is constant.

From the point of view of the municipality, however, the assessment roll is keenly watched in the hope that an increase will be shown therein, which would justify the municipality in increasing its estimate of expenditures without increasing the tax-rate or, if all its needs are being provided for in a sufficient manner, in reducing the tax-rate and if the increased assessment is derived from new assessments or from substantial increases in a few cases, the burden eased upon the majority of taxpayers.

It is to be regretted, however, that the second case is often very difficult to realize. With so many demands upon municipalities, in these days, for increased services and local improvements, such as paved streets and sidewalks, and that extra burden of the depression—Direct Relief—most of our municipalities have difficulty in preventing any increase in the tax-rate.

Assessment therefore, it seems, is the basis of municipal finance. It is consequently of great importance to determine the basis upon which the assessment is made.

The assessor of a municipality is regarded as having a difficult task in carrying out his duties, and attempting to please or satisfy, upon the one hand, the municipality, which employs him, and on the other hand the taxpayer, or the person who, through taxes, pays his salary.

A municipal assessor, in the exercise of his duties, fulfils a judicial or quasi-judicial function. He is not to be influenced by nor to receive instructions from the municipal council, or from any other person or body. He must personally execute his duties with the fullest independence, to the best of his judgment and according to his conscience.

In appeals from assessments, the courts must interfere with caution. They are not to judge the competency of the assessors or to substitute their personal opinion for that of the assessor, whose valuation is presumed to be correct and reasonable, so long as the parties concerned have not shown any real injustice or an important deviation from proper principles or that the assessment is so erroneous that an honest and competent man could not have made it or that a substantial injustice has been committed.

The courts in Quebec have found that a "substantial injustice" occurs in "the case where there is lack of uniformity, discrimination, prejudice, collusion, fraud, capriciousness, or the want of the exercise of an honest judgment or the adoption of a wrong principle by the assessors in their valuation of property for assessment purposes".

Considerable discussion has taken place over the amount at which an assessor should value a particular property. The usual provisions of assessment acts describe the amount at which the assessor should value a property as "the actual value", "the actual cash value", "real value", "true cash value", "full fair cash value", "true value in money", "fair cash value", "cash or market price", "fair actual value".

In some acts the words used are defined. In the Assessment Act of Nova Scotia (R.S.N.S. 1923, Ch. 86, S. 17, rule 2) "actual cash value" is defined as meaning:

"the amount which in the opinion of the assessor, it (i.e. the property) would realize in cash if offered at auction after reasonable notice, but in forming such opinion the assessor shall have regard to the assessment of other properties of the like class in the town or municipality."

The Charter of the City of Sydney (Chapter 174, of the Acts of 1903, S. 109, as amended, contains provisions identical with the Assessment Act.

The expression "actual value" as used in the City Charter of the City of Halifax is not defined therein, but numerous decisions are available defining these words. A Quebec Case (LaCroix

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vs *Cité de Montreal*,—54 S.C.R. 130, defines "actual value" as meaning "saleable value, i.e. what the owner could obtain for his property from a buyer who, not being obliged to do it, wished to acquire it".

The test, as Mr. H. E. Manning in his work on Assessment and Rating says, is not to be found in what is known by economists as "value in use", but in the more definite thing "value in exchange".

One element to be considered is that of sales made by persons owning the properties in question and who find purchasers who buy at the price set by the vendor or at the price on which both vendor and purchaser agree. But this element should not be considered exclusively, and all factors available which indicate the reasonable value should be taken into consideration.

The work of an assessor, who performs his duties honestly, intelligently, conscientiously and impartially and with an adequate knowledge of his work is, in the opinion of the writer, indeed a science. Admittedly he has available many decisions of courts which lay down definitions and rules for his guidance, but the application of these definitions and rules to any particular property is often a most difficult undertaking. He has available, if he has taken the trouble to do some research work, several "systems" in use by other assessors and he may attach himself to one of these and arbitrarily apply the same to the valuations made by him. If he falls into this error he is laying down a foundation of trouble not only for himself, but for the taxpayer and the municipality.

It has been said that the amount of assessment is immaterial as long as every person is assessed on the same basis. A certain sum must be raised, and the individual assessments are for the purpose of apportioning the shares of this amount. I hope to show later, however, that where a statute prescribes the amount of the assessment as "actual value", "actual cash value", etc., that the "actual value" or the "actual cash value" alone is the amount and not another amount either higher or lower.

### Two "Systems" Discussed

But first let us consider briefly two of these so-called "systems"—

- (A.) That based upon the "yield" or "revenue" of the property.
- (B.) That based upon the "cost" of the property, and which might be called "intrinsic value".

(A.) As to the method of valuation based upon the *yield* from or the *revenue* of a property, it appears from a brief investigation that it leaves too much to be desired to be of great assistance. As a system it is defeated at the outset if a building at the moment of valuation be vacant and yields nothing, or if an important portion be vacant or

as is frequently the case, the building is not upon a rental basis. The yield of a property is frequently disproportionate to its actual value, for example, dilapidated tenements, of which alas, there are too many, and which yield a high gross rental. Frequently it is impossible to obtain tenants for good properties, at any amount or to sell the same at any price. In any event, as this system is viewed by the writer, it is not such as should be adopted by an assessor to the exclusion of all others. Perhaps the following paragraphs may explain more fully the basis of the conclusion:

In the first place the tax imposed upon a valuation arrived at under this system is not a valuation upon the "actual value" of the property. It is not a *property* tax. It has become a personal tax. It may perhaps be in the result an indirect tax and therefore *ultra vires*. It is discriminatory, in that it bears heavily upon built-on property and very lightly, if at all, upon un-built-on property.

It is a complicated type of tax and is not likely to result in a roll which is even slightly stabilized. If as is suggested by the exponents of this system, the various types of properties are to be assorted or classified, (i.e. as workers' dwellings, apartment houses, private houses, business properties, etc.) and the average revenue from each class be ascertained, the accomplishment of this objective in an average city seems impossible of attainment, for the reason that very few buildings are comparable to one another because of the type of construction, size, location, etc. It would be necessary to fix an average rental for each building. Such valuation would vary from year to year. How under this system would properties having no rental value, such as factories, and other industrial plants, and public utility companies be dealt with? It should also be considered that gross rental used as a basis would in many cases be unfair, due to varying costs of upkeep, depreciation, obsolescence, etc. As another instance illustrating the fallibility of this system regard the case of a property held for speculative purposes of resale when the rental is merely nominal or based merely to cover fixed charges. In fact the yield of a building generally depends on the administrative ability of the owner rather than on the building itself.

As was said in *Bishop of Victoria vs City of Victoria* (1933)—4 D.L.R. 524,—it is improper for assessment purposes, to mentally convert it (i.e. the property) so to speak, into a revenue-producing commercial structure, and value it accordingly."

(B.) As stated above the cost or intrinsic value system looks to the cost of construction. Its supporters, in its defence, claim that this system avoids fluctuations in value, caused by supply and demand or by economic depressions such as we have recently experienced and results in a

stabilization of property valuations. If this were true, this system should be universally adopted as the "*sine qua non*" of assessment.

Upon being analysed, however, this system shows itself so full of inconsistencies as to be, by itself, practically worthless. For the first it fails to adapt itself to the case of vacant lots and land which is being exploited, such as mines, gravel-pits or quarries. It further fails to adapt itself equally to all properties. For example to arrive at the cost—at the moment of assessment—it is necessary to estimate the depreciation at a certain rate, and add to that what is known as "obsolescence"—the falling out of date of the building. Thus we see our values gradually declining. It is hardly a stabilization of the assessment roll—a thing much sought after. Where does the assessors "Judicial Act" enter into this picture when the "actual value" is merely calculated according to a rigid arithmetical formula and always in a downward direction?

This system clearly fails to consider appreciation which may arise through favourable changes in the neighboring surroundings, through the use to which the building may be put or to the fact that costs of construction vary widely from time to time. It penalizes the person who builds when costs are high and favours him who builds when costs are low.

This system of valuation could not render justice and would become unuseable because of insufficient flexibility.

In order to avoid clear injustice, it is essential, if this system were to be adopted, to fix unit rates upon an extremely low scale, resulting in the total roll being much below what it should be and like Mahomet's coffin, suspended in space with nothing to support it—neither cost price, current value, nor yield.

Finally this system is not based upon the proper viewpoint. It is rather viewed from the eye of a builder than from that of an assessor. The assessor should view the property with the eye of a potential purchaser and too frequently the idea of value of a builder does not agree with that of a potential purchaser.

Again the above system should not be adopted exclusively.

#### Another "System"

Reference might here be made to another system which its supporters follow, although not admitting its true legality. Under this system the value of the lot of land is first ascertained—at the current value. Then the value of the building is ascertained and this value added to that of the lot for the total value. Unit prices are obtained and the value then based upon the cubic foot or square foot measurement of the building to be assessed. The result to be sure is the securing of uniformity

or equalization of valuation without regard however, for current value or of any of its component elements. It has the one advantage of levelling the values in an almost absolute manner. It has been said that it is a "perfect, ideal parity for taxation purposes". But it prevents an assessor from using his own judgment. Once the building is rated in its proper class the assessor has only to figure the cost according to the measurement and the unit price already determined for this type of construction.

In brief its objection may be summarized:—

1. It is not in accordance with the law requiring the assessment to be "actual" value or "market" value.
2. It is arbitrary and fictitious as "cost" does not equal "current value".
3. It Fixes values too *low*—due to necessarily low unit rates.
4. Values do not correspond to market or actual values.
5. A Roll prepared on this basis has no judicial basis.

It is therefore suggested that it is not possible either reasonable or equitably to apply a rigid, constant and uniform rule for the establishment of the value of property.

It is therefore suggested that if he be worthy of his title, an assessor must have sufficient ability and skill to make the necessary enquiries, gather the necessary information and having done so use his intelligence and experience honestly, independently and sensibly to deduce from his investigations the "actual value", "market value" or the particular type of value prescribed by the law in his case. He cannot, it is submitted, do better than to act in exactly the same manner as if he were a potential and sagacious purchaser of the property in question. Such a purchaser will learn the purchase price, market price, revenue and cost of construction or replacement. These four elements combined realize the value of property for the purposes of municipal valuation. Like the Three Musketeers of fiction "United they stand, divided they fall—all for one and one for all".

#### Other Problems

The following questions have occurred and are set forth herein as a matter of interest and in the hope that some reader may feel inclined to suggest a solution:

(a) How can an assessor arrive at the "actual value" of a dilapidated tenement in a poor district, occupied by many poorly paid persons and from which the gross revenue constitutes a large return, and value the same at such an amount as to require the owner to bear his share of the municipality's expenses, there being no sales of similar buildings to act as a guide?

(b) How can an assessor arrive at the "actual

value" of industrial or commercial properties seriously affected by Governmental competition in the only type of business for which these properties are suitable, the buildings being in the same condition as before the inception of such competition, but the value for business purposes a small fraction of their previous value?

(c) What is the "actual value" of properties which are vacant, and have been vacant for a long time, and which it seems to be impossible to rent or to obtain any return therefrom?

(d) What is the assessor to do in the case of an admittedly valuable property, for which tenants can be obtained only by accepting a rental which is a small fraction of what *should* be paid?

(e) How far should an assessor reduce the value of a property in paragraph (b) above?

(f) How is an assessor to deal with properties which have been allowed to depreciate and to fall into disrepair, such as warehouses, and waterfront properties and wharves, mainly for the reason that government competition has drawn the greater part of the business from such properties and has greatly reduced the income?

(g) How is the value of a property in an urban municipality affected by the fact that it is situated on elevated ground and the facilities of the municipal water department are not sufficient to

provide a supply of water to the property?

(h) How far should an assessor be influenced by the artificial lowering of values of real estate due to the depression?

(i) Should the assessor annually write down the value of all property which is not kept in repair and which is gradually depreciating in value?

(j) Should municipalities grant "fixed assessments" (so-called) to new industries or businesses?

(k) Should exemptions be granted to churches, schools, colleges and to certain corporations carrying on business but exempt under special Acts of the Legislature?

(l) Lastly and decidedly not least, is it at all equitable that the Nova Scotia Provincial Highway tax should be based upon the municipal assessor's valuation in all parts of the province when it is acknowledged that the bases of valuations vary from 100% as low as 50% and perhaps even less? Should not in fairness to those municipalities which are complying strictly to the law, assessing real property at its full value receive some compensation from the Government when it is recognized that they are paying more than their just proportion of Highway Taxes as compared with such taxes paid by those municipalities in which the real property assessment is a fraction of the full value?

## The Municipal Manager Plan in Small Cities<sup>1</sup>

By ORIN NOLTING\*

THE administration of municipal services in a small municipality differs from that in a large city only in the size of the job and the number of services. The problems and the methods of dealing with them do not vary greatly. Both large and small cities, regardless of the form of government, need to have one trained official who can coordinate and direct these services because city government is becoming more and more technical. It is the rapid growth in the technical character of municipal services that has emphasized the need for coordinated management and a trained administrative staff, which both the old mayor-council and commission plans have failed to provide, mainly for the reason that it cannot be expected that the

average candidate running for election as city commissioner can be a good executive as well as a good vote-getter. In fact, the first city to adopt the council-manager plan in U. S. A. was the small city of Staunton, Virginia, where in January, 1908, the mayor and bi-cameral council, worried over the inefficiency of council committees in handling administrative problems, passed an ordinance authorizing the hiring of a "general manager", and delegated to him the direction of all administrative affairs. Now there are 249 municipalities in the United States with less than 10,000 population operating under this form of government. Of these, seven have less than 1,000, 57 have from 1,000 to 2,500, and 184 from 2,500 to 10,000 population. Of the 14 council-manager cities in Canada, eight have less than 10,000 population. Thus of the 460 cities which now operate under the council-manager plan, 55.6 per cent had a population in 1930 of less than 10,000.

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1. The word city in this article means any incorporated municipality.