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## ARTICLE VIII.

## ✓ TAXATION OF CHICAGO BANKS.

BY Z. SWIFT HOLBROOK.

THE Act of Congress creating national banks is explicit as to how such banks shall be taxed in their respective states. This is its language: "The Legislature of each state may determine and direct the manner and place of taxing all the shares of national banking associations located within the state, subject only to two restrictions, that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individuals citizens of such state, and that the shares of any national banking association owned by non-residents of any state shall be taxed in the city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt the real property of associations from either state, county, or municipal taxes, to the same extent, according to its value, as other real property is taxed."<sup>1</sup>

The statutes of the state of Illinois echo the federal statute, for they expressly provide: "The taxation of such shares [of bank stock] shall not be at a greater rate than is assessed upon any other moneyed capital in the hands of individual citizens of the state, in the county, town, district, village, or city where such bank is located."<sup>2</sup> Chicago's largest banks are in what is known as the South

<sup>1</sup> National Banks, Sec. 5219. Of Act of June 3, 1864, as amended Feb. 10, 1868.

<sup>2</sup> Starr and Curtiss' Annotated Statutes Revenue, ch. 120, p. 35.

Town, and the assessor elected for this town in 1897 was one who, before he was elected assessor, had been twice under indictment for alleged offenses,—once for illegal voting, and once for running a bucket shop.

No sooner had he been elected, than a large number of middlemen, or go-betweens so-called, began soliciting merchants, banks, and business men to have their taxes reduced by paying bribes. Many large and reputable firms and corporations acted in accordance with their usual practice, and bought justice with injustice, thinking such an exchange no robbery. Many bribed their assessments down to a point far below justice, some not being found on the tax list at all, while thousands yielded for the first time to temptation, being afraid of the assessor and his almost unlimited power to destroy. Some refused to bend the knee to this uncrowned king, and suffered for their temerity. Among these were some of the largest and most honorable banks in Chicago. The assessment of the banks was as follows:—

NATIONAL AND STATE BANKS—COMPARATIVE TABLE OF ASSESSMENTS.

NATIONAL BANKS.

	Total Value.	Assessment.	Per Cent.
First National.....	\$4,652,274	\$770,400	16.5
Fort Dearborn.....	584,635	87,900	15.
National Bank of the Republic	1,082,649	160,000	14.7
Commercial.....	2,059,604	300,000	14.5
Northwestern.....	1,506,073	215,000	14.2
American.....	1,231,359	175,000	14.2
Hide and Leather.....	374,701	50,000	13.3
Union.....	2,030,203	270,000	13.2
Merchants.....	2,369,882	300,000	12.6
Continental.....	2,413,495	300,000	12.4
Globe.....	1,073,863	130,000	12.1
Chicago.....	1,100,688	130,000	11.8
Home.....	346,744	40,500	11.6
Bankers.....	1,102,169	120,000	10.8
Metropolitan.....	3,081,450	325,000	10.5
American Exchange.....	1,231,760	115,000	9.3
Drovers.....	382,661	31,248	8.1
Live Stock.....	1,833,602	150,000	8.1
First Englewood.....	111,129	5,000	4.4
Lincoln.....	204,825	8,000	3.9
Total.....	\$28,773,766	\$3,583,046	12.452

STATE BANKS.			
	Total Value.	Assessment.	Per Cent.
Illinois Trust and Savings....	\$4,569,353	\$458,000	10.
Royal.....	676,870	67,700	10.
Prairie State.....	263,771	25,000	9.4
State Bank of Chicago.....	746,495	60,000	8.
Bank of Commerce.....	504,986	40,000	7.9
Northern Trust.....	1,682,257	120,000	7.1
Garden City.....	567,142	40,000	7.
American Trust and Savings..	1,102,660	75,000	6.8
Commercial Loan and Trust...	593,514	40,000	6.7
Corn Exchange.....	2,144,095	145,000	6.7
Hibernian.....	464,834	30,000	6.4
Merchants Loan and Trust....	3,439,657	200,000	5.8
Western State.....	231,882	10,000	4.3
International.....	745,468	30,000	4.
Forman.....	1,022,012	35,000	3.4
Union Trust.....	1,447,298	50,000	3.4
Milwaukee Avenue.....	289,602	10,000	3.4
Chicago City.....	180,260	6,000	3.3
West Side.....	52,763	0,000	0.0
Total.....	\$20,724,919	\$1,441,700	6.956

10.151 per cent of assessment on all Banks.

The tax was 8.922 per cent on the assessment after the state board of equalization had added 24 per cent to personal property, 21 per cent to lots, and 29 per cent to lands. Six of the national banks that were over-assessed retained the Taxpayers' Defense League to resist the tax on such a basis. The League secured indictments of the assessor for soliciting bribes, for conspiracy, and for malfeasance in office. It secured a mandamus from Judge John Barton Payne ordering the assessor to meet with the Board of Review as the law requires to revise and correct assessments. This he appealed, and thus temporarily escaped its mandate. The appeal has been heard by the Appellate court and the appeal dismissed, which leaves the mandate operative.

The next step in the legal procedure, as the law provides, was to petition the county commissioners to revise and equalize assessments. But so great was the number of applications before this board, and so onerous were its regular duties, that it adjourned without taking action, claim-

ing want of time and, in cases where assessments were to be raised, want of jurisdiction.

The next appeal was to the court, with preliminary injunctions, and two of the fairest judges on the bench, whose integrity is unquestioned, heard the complaint, but sustained a demurrer to the bill, on the ground that the county board should have been mandamused to do its duty when it complained that it had not sufficient time. In other words, it should have been compelled to take more time than the revolution of the earth on its axis provided for. A court of equity is supposed to be broader in its vision than a court of legality, for it follows the common law, which is common sense. The injunction being dissolved, the collector of taxes, accompanied by some associates who resembled in no particular college graduates or doctors of divinity, went to each protesting bank in turn and, upon threat of closing the doors of the bank, collected the illegal tax under protest. The levy was illegal, for the Illinois statute clearly provides how taxes on bank shares of stock shall be collected. It provides:—

1. A list of stockholders shall be kept by each bank and the number of shares owned by each.

2. The county clerk shall ascertain and report to the assessor a correct list of such names and their residences and the number of shares of stock owned by each.

3. The assessor shall assess the valuation of such shares in the tax lists in the names of the respective owners, and the county clerk shall extend the tax on the same.

4. The collector of taxes may sell such shares of stock, upon which the tax is not paid, and the tax shall remain a lien upon such shares till the payment of said tax.

5. Officers of banks must retain dividends on such shares of stocks, upon which tax has not been paid, and the bank is liable only for dividends paid contrary to this act.

6. The collector of taxes shall sell said shares of stock

to pay taxes thereon like other personal property. Stock cannot then be transferred until such tax is paid.

The amount of money illegally extorted from the banks was as follows, estimating one-tenth as a fair basis of assessment, which is what the new law, operative in 1899, provides.

Name of Bank.	Subject to Assessment.	Assessed.	Collected by Ernst.	Excess of Tax.
First National.....	\$4,652,274	\$770,400	\$85,274 87	
Should have been assessed.....		465,227		
Taxes should have been.....			51,454 10	
				\$33,820 77
Fort Dearborn National..	584,635	87,900	9,726 39	
Should have been assessed.....		58,463		
Taxes should have been.....			6,466 00	
				3,260 39
Northwestern National...	1,506,073	215,000	24,429 13	
Should have been assessed.....		150,607		
Taxes should have been.....			16,657 13	
				7,772 00
National Bank of America	1,231,359	175,000	18,949 31	
Should have been assessed.....		123,135		
Taxes should have been.....			13,618 73	
				5,330 58
Globe National Bank.....	1,073,863	130,000	14,390 14	
Should have been assessed.....		107,386		
Taxes should have been.....			11,876 89	
				2,513 25
Bankers National Bank..	1,102,169	120,000	13,151 48	
Should have been assessed.....		110,216		
Taxes should have been.....			12,189 88	
				961 60
Total excess.....				\$53,758 59

The final step in this legal medley is now a suit on the collector's bondsmen or sureties for damages resulting from his actions in extorting money under threat of violence, and the measure of damages is the amount in excess of what both the federal and state statutes provide was a lawful tax.

The assessor who was the original sinner in this iniquitous proceeding was the joint product of the machine and the primary; he kept about him for legal advisers men whose whole study was to devise ways and means to defeat the law. This man was clothed by the statutes with a dig-

nity and power, the right to estimate values of others' property, that belongs to no autocrat or king on earth. The law says he shall estimate property at a *fair* cash value, which may mean at *full* cash value; in which case it means confiscation, for the percentum of tax was nearly nine per cent. Such a revenue system as Illinois has had would compel merchants to become bribers, tax-dodgers, or bankrupts; for no man can remain in business and pay taxes on his personal property at a rate nine times that of his competitors.

The decisions of the Supreme court of Illinois have usually sustained assessors, and have been founded on the monstrous falsehood, that assessors are usually honest, and taxpayers usually dishonest. The assessor told the writer, when asked to adjust an assessment on a fair basis: "I am here for what there is in it."

After these unfair and illegal assessments on the banks had left the assessor's hands, not an officer of the law could be found to stay the injustice. The county commissioners were too busy. The county attorney did not stop to ask "what is right and just for these banks to pay compared with others," which is just what the statute provides. He was hired to contest. Not justice, but a fight was what he wanted. He secured the assistance of a well-known quibbler, and the judges listened with patience, and a solemnity that was humorous, if it were not so serious, to the legal aspects of an attempt at highway robbery. Their decision that a court of equity has jurisdiction in matters of revenue only in case of fraud, and that they therefore had no jurisdiction, overlooked the fact that the inequality presented in the percentages of the banks was itself presumptive fraud, and they well knew that the assessor was under several indictments for alleged fraud in other cases.

A peculiar fact must here be recorded. It is usual for judges to notify the attorneys in a case when they are to

render a formal decision. But in these bank cases, involving nearly \$200,000, the judges simply told the clerk of the court to enter their decision, and then to notify the attorneys in the case. The clerk proceeded to do so with rare skill and fidelity. He found the attorney for the town collector waiting in the hallway and at once told him of the decision, but he claims that the attorneys for the League were not notified because their telephone was busy. The collector, therefore, was given full opportunity to make his illegal levy before amended bills could be filed alleging actual fraud. Possession is nine points of the law. Not a protest has appeared from judge, clerk, attorney, commissioner, collector, assessor, or any other official for this raid upon the banks. Thus it is proved that the machinery for taxing is so sacred that there are evils which a court of equity cannot remedy; that in triumphant democracy a corrupt assessor may resemble Charles I., who said, "I am the state," and that when an assessor wants favors from a bank it is folly to refuse him.

The political science of the founders of this republic was simple, but it has been the admiration of students for two hundred years. It acknowledged the rights of the individual to life, liberty, property, and reputation; it made the state simply the conservator of these individual rights, because each man, no matter how humble, is the equal of every other man in the eyes of the law, and is entitled to the protection of the state, whether a taxpayer or not. Here come the unique notions of equality that are the bulwark of American institutions and have been our pride.

But this is the ideal; the practical is the reverse. A dishonest assessor can defeat the best laws; an honest assessor can utilize the most defective laws for the good of the taxpayer and the good of the state. The laws recognize no difference between the two. As Thomas Jefferson said: "*The art of good government is the art of being honest.*"



A few illustrations of the manner in which the revenue laws may be utilized for selfish ends by corrupt politicians are in evidence in the office of the Taxpayers' Defense League, and a few may here be given. A poor printer on Fifth Avenue, with personal property of not to exceed \$300 in actual value, did not heed the invitation to "see" the assessor. His taxes are over \$500, or on a basis of \$60,000, but he is informed by the collector's agent that for \$25 his tax will be returned "delinquent." He says the difficulty with him is that he has not even the \$25. A poor tailor on Monroe Street, with personal property valued at not to exceed \$100, is taxed on a basis of \$6,000, or over \$50, and is ready to testify that the collector's chief clerk told him that if he would make a suit of clothes for him he would return his tax "delinquent." That "delinquent" list is the mantle that, like charity, is made to cover a multitude of sins. The collector, too, has his turn with the assessor. The same man that assisted the West-Side assessor and demanded a bribe from a well-known business man, is in the collector's office; the same men that hung around the South-Town assessor's office now aid the collector. The gang is one, and in their depredations have practically been upheld by all the servants and officers of the state, from the lowest to the highest.

The new statutes in Illinois are some better; but if practical politics fills all the offices, and the same men, or their kind, are selected to fill the positions of deputy assessors, assessors, and review board, then some business men of Chicago must do one of three things,—bribe the assessor or his deputy; go out of business; or join the Hemp Club, and elect a few men honorary members. This club will yet be a necessity in Chicago, if courts turn deaf ears to the pleas of outraged taxpayers.

An amusing incident occurred. The writer published a statement that a certain livery-stable keeper had fixed the

taxes of a large corporation, and had paid off the mortgage on his stable with the proceeds. The next day a livery-stable keeper in another town, of whom the writer knew nothing, called and in great confidence explained that the bank in question was "fixed" with the assessor by a man in his office, but not by himself. It did not occur to him that more than one livery-stable keeper had "fixed" assessments for reputable men.

A leading legal authority of Chicago, in conversing with the writer, waxed wroth that Ex-President Harrison had made such sweeping statements in his Union League address on the "Obligations of Wealth." But he became ominously silent, when the writer informed him that he himself was a member of a certain honorable committee, some of whose members had dodged their taxes in the year 1897 for a sum aggregating \$150,000. No more need be said of the practical working of the old law which remains in force in 1898. The excitement caused by the publication of the statistics given out by the Taxpayers' Defense League, in coöperation with the newspapers, led to the calling of the special session of the Legislature and to arousing public opinion on the subject. Chicago finds indictments for its honorable citizens who were simply careless (its civil service board), but it is honoring to-day with high praise men who are the enemies of the state because they buy their taxes on the bargain counter, and then are willing to see the banks who refused to do the same thing raided and robbed under the guise of law—and in the name of legality. "A state cannot exist half-taxed and half-free," said Ex-President Harrison in his late Chicago address, and the truth was never more simply or plainly stated. Any system of raising revenue, no matter how perfect, must meet with these obstacles:—

- I. The difficulty of finding men in the walks of politics who are efficient and honest and will accept the position of assessor.

2. The difficulty of discovering intangible assets for purposes of taxation. This is simply impossible in a city like Chicago.

3. The difficulty in estimating cash values of such assets as are discovered. Coal, iron, beef, flour, lumber, and such commodities as are usually called necessities of life, are close to cash; but the luxuries of life, such as jewelry, works of art, etc., have not so well-defined a market value. Hence they are remote from cash.

4. The impossibility of doing the work of the assessor in the time allotted, even with unlimited assistance.

The new law overcomes in a measure the defects in the old one, but there is no law that can make assessors honest; and, if dishonest men are chosen to fill such high positions of trust, the evils that now afflict the people must continue to exist. When to the difficulties of discovering intangible assets and of valuing tangible property properly and equitably, there is added that of unwillingness to know the truth, because the assessor is selfish and dishonest, and is using his position for personal ends, then the problem becomes too complicated for solution. Party politics and lines must be ignored in municipal affairs and civic reform must be the watchword of the day. Popular government will reveal its weakest point in matters of revenue, for revolutions have usually sprung from over-taxation, but there is no appeal from the majority in a democracy except in revolution. When all the machinery of the government is wedded to injustice and the humble taxpayer has no redress because the cost of securing justice is greater than the wrong inflicted, the seeds of anarchy are sown by the very forces that should have the respect and affection of the people. When a whole community is imbued with a contempt for court, it is time for judges to listen with respect. Along with the accomplishments, therefore, which have made Chicago so distinguished as a

center of commercial activity and the home of great libraries, must now be added that of legalized robbery of banks. Everett congratulated Boston, that, though in a commercial decline, she was in the intellectual ascendancy. Chicago may now be congratulated that an ideal political science can be so combined with practical politics that, in the midst of her commercial and intellectual ascendancy, a crowd of hoodlums and ward toughs, headed by a man called a "collector," with a paper in his hand termed a "warrant," can enter in broad daylight the oldest and most honorable banking institutions in Chicago and, under the pretense of legal procedure and by threat of closing their doors, proceed to demand and take by force thousands of dollars that did not belong to him, nor to the city, county, or state which he misrepresented. Bank robbery in triumphant democracy has thus, in Chicago at least, come to be a fine art, and, inasmuch as it reveals the wide gulf that is fixed between ideal and practical politics, it is worthy of recording as a tribute to Aristotle's definition of mobocracy.

The old and vulgar way of robbing a bank was to enter it stealthily at midnight, blow open its vaults and pick the locks. Like the Machiavellian code of ethics in political science that Spain yet adheres to, this method of procedure is highly dishonorable in a civilized community. It is out of date. It has few sympathizers in a city as modern, ingenious, and enterprising as Chicago.

A more popular plan of robbing a bank had its run for a season. It was unique and high-toned. It was simply to become the President or Cashier, invite the confidence of stockholders, directors, and depositors; then have a little side-issue like a wire into the stock exchange or a pretty stenographer with extravagant notions of dress, jewels, and apartments. When all the aforesaid people of simplicity and credulity were lulled into repose and confi-

dence, then it was an easy task to carry off the bank in broad daylight, and congratulate the stockholders that the building and fixtures were left intact where neither moth nor rust doth corrupt, nor thieves break through and steal. This is precisely the plan adopted by a distinguished gentleman who has quite recently changed his place of residence from Chicago to the state penitentiary. It was practiced largely in Indiana a few years ago. With the activity of grand juries and courts of justice this plan is becoming unpopular. Judges are educated to look with disfavor on this plan for raising revenue.

The honor belongs to Chicago of discovering the latest and most approved method of robbing a bank; one that will excite the admiration of all old convicts, and bring tears of humiliation and the blush of shame to their cheeks for their stupidity in not discovering the way to become suddenly wealthy and keep out of the penitentiary. The plan is simple, and founded on a few propositions so axiomatic that none but a dullard could dispute them. The first proposition is, that the supreme fact in the existence of the state is its right to tax. It is not necessary to quote Plato, Aristotle, Pericles, Cæsar, Cicero, and even Machiavelli in this fundamental assumption.

This conception belongs to all forms of government, paternal or democratic, and the modern student of political science must admit it as a self-evident truth. Here then is the starting-point. The practical politician has this for a firm foundation under his feet. He feels the solid rock beneath him. The state must exist, or anarchism will reign; in order to exist the state must have funds for its legislative, its executive, and judicial branches. From time immemorial the plan of raising revenue has been in some form of tax. It has never been supposed that the state could exist by passing the hat! After a few thousand years, the children of men ought to have arrived at

some scientific method of taxation that would distribute with certainty, equality, economy, and convenience the expenses of government. The schools and colleges should have had the people educated by this time, in a civilization as Christian as ours, to a view of government as a necessary good, not a necessary evil, and to taxation and civic duties as a yoke that is easy and a burden that is light. Authorities are well-nigh agreed on the best way to raise revenues for the state so as to have the burden equitably distributed when each shall bear his just part. But practical politics protrudes its hydra head into the tent of the student of political science, catches up a few of the more superficial conclusions, and proceeds to put upon the statute-books some laws that will raise revenue for the assessors first, and incidentally some for the state. There is a scramble of property-owners to get under cover, and stand in with the assessor, for he has the power of financial life and death, and can give the Czar points on how to become an autocrat:

"He is monarch of all he surveys,  
The lord of the fowl and the brute;  
From the center all round to the sea,  
His right there is none to dispute."

"The statesman," said Colonel Ingersoll, "thinks that he should do something for his country; the politician thinks that his country should do something for him." Ideal politics produces statesmen, practical politics produces politicians. The one is a fine admixture of faith in the final supremacy of right with practical wisdom in attaining it, and its fruitage was seen in men like Washington, Lincoln, and Gladstone; the latter is founded on expediency, and finds its fruitage in a Machiavelli and Spanish statecraft; in the beautiful specimens of manhood that fill assessors' positions and haunt the assessors' and collectors' offices in our cities. Aristotle's conception of mobocracy, therefore, which is simply degenerate democracy, fulfills

the definition as democracy is seen in its practical operation in our large cities to-day. The remedy for this deplorable condition of affairs is reform at the primaries; the extension of civil service rules to municipal and state offices; rigid educational, moral, and, if need be, property qualifications before the right of franchise is conferred on persons of foreign birth; the divorce of politics from the saloon and the growth of a sense of civic duty on the part of all intelligent and law-abiding citizens.