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THE TAX LAWS OF THE STATE OF KENTUCKY

N. B. HAYS.*

No system of taxation has yet been devised which is free from faults or secures equality of burdens. It is a fundamental principle that every person should be required to contribute to the support of government, in proportion to his ability.

Under the present revenue laws of this state, the converse might be said to be true. We are just now in the midst of a state campaign, and pre-election pledges are being made by the candidates to reduce taxes. Taxes cannot be reduced unless there is a reduction in the cost of government. The cost of government can be reduced only in one of two ways: First, by subjecting property to taxation which is now wholly or only partially taxed; Second, by putting state, county and city business on a sound economic basis. Candidates for office have promised the people at every election for the past twenty years to abolish useless and unnecessary offices, deputies, and assistants; but, when elected, this promise has too often been complied with and kept by the creation of new offices for their political friends, so, it would seem there is no hope of relief for the taxpayer by any reform and retrenchment here.

What property is it which is not taxed, or is only partially taxed, that may be put on the tax books, or raised in order to reduce our present taxes? Our present system of taxation is the most unjust, unfair, and unequal in its burdens. This was made possible by the amendment to section 171 of our State Constitution.

This amendment provides: First, that all bonds of the state, county, city, and districts shall be exempt from taxation; Second, that the Legislature shall have power to classify property for the purpose of taxation; Third, that taxation shall be uniform upon all property of the same class subject to taxation; Fourth, that the Legislature shall have power to determine and say what property shall be subject to local taxation.

Let me briefly point out some provisions of our present tax law, enacted under this amendment to section 171 of the Constitution.

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First: By Act of May 2, 1917 (now Kentucky Statutes, section 4019a-1-2), it is provided that money on deposit in any bank or trust company shall pay a tax of ten cents on one hundred dollars for state purposes; and it is exempt from all county, city, school, and road taxes; while real estate and tangible personal property, other than live stock, are required to pay forty cents on the hundred dollars for state purposes, and are subject to county, city, school, and road taxes. How can anyone justify this discrimination?

Second: The Act of May 2, 1917 (now Kentucky Statutes, sections 4019a-6 and 7), provides that building and loan associations shall pay taxes on their capital, surplus, and undivided profits at the rate of ten cents on the hundred dollars in value for state purposes, and are exempt from county, city, school, and road taxes; while real estate and tangible personal property, other than live stock, are required to pay forty cents on the hundred dollars in value for state purposes, and are required to pay county, city, school, and road taxes.

Section 3 of the Bill of Rights provides that no man or set of men shall enjoy any special privilege except in consideration of public service rendered. What is the public service rendered by the building and loan associations to entitle them to this discrimination in their favor? The Auditor's reports show that more than forty million dollars are invested by these corporations. The Court of Appeals has more than once outlawed these corporations, because of the exorbitant and unreasonable rate of interest they were charging their borrowing members.

Mortgage Tax: The Act of May 2, 1917, (Kentucky Statutes, section 4019a-9), provides that all indebtedness secured by mortgage which does not mature *within* five years, shall pay a tax of twenty cents on each one hundred dollars of such debt. The loan shark does not loan money longer than four years, eleven months, twenty-nine days, and hence pays no mortgage tax. It is the poor man that has to have more than five years to meet his obligation, who is required to pay this tax. Every man knows this law was not made for the banks and loan companies; that they do not pay it, nor was the law intended for them. They loan for thirty to sixty and one hundred twenty days, and may require a mortgage to secure their loans. They pay no mortgage tax. Will the sober and impartial judgment of any

man affirm this as a fair, just law? If this law was intended to produce revenue, why not make it apply to all mortgages without regard to time?

The whole Act of May 2, 1917 (now Kentucky Statutes, sections 4019, 4019a-1-2, 4019a-5, 4019a-6, and 7, etc.), as amended, is a travesty upon an equal and uniform system of taxation and should be repealed and a new law enacted that will require all property subject to taxation to be placed on the tax-rolls at a uniform valuation and at the same rate. The Act of May 2, 1917, is a compromise with wrong. It was a surrender of the constitutional right of the people of this state to have all property, not exempt under the Constitution, placed on the tax book at a uniform valuation and at the same rate.

In the face of section 170 of the Constitution which says: "All laws exempting or commuting property from taxation other than the property above mentioned shall be void," the Act of May 2, 1917, not only commutes the taxes on money on deposit and the property of building and loan associations thirty cents on the one hundred dollars in value; but, by Kentucky Statutes, section 4019a-12, the Legislature agreed with tax evaders that, if they would come in and assess, at least, a part of their property, which they had been concealing from the assessor and tax collector for many years, they should not be sued or required to pay any of their back taxes; and, if they would only list some of it on or before September 1, 1917, for future taxation, they should be exempt from any suit for such back taxes. This compromise is clearly unconstitutional and should have been so construed before now.

The amendment to section 171 of Constitution was adopted in 1915 in the midst of a world war and was not understood by the people.

Tax laws conflict with the Constitution for the Constitution requires equal and uniform taxation for state purposes, of all property not exempt from assessment by section 170. No other property, under section 3 of the Bill of Rights, can be exempted from taxation except in consideration of public service rendered the state. Section 172 of the Constitution requires all property not exempt to be assessed at its fair cash value, at what it would bring at a fair voluntary sale. And section 174 of the Consti-

tution provides that all property, whether owned by natural persons or by corporations, not exempt, shall be taxed in proportion to its value and shall pay the same rate of taxation.

If the Act of May 2, 1917, is constitutional, then the people have tried in vain to restrain, by constitutional limits, the powers of those whom experience has taught them not to trust. The Act of May 2, 1917, recalls to the writer the statement of Justice Miller of the Supreme Court of the United States, in his criticisms of like legislation, when he said:

“The result of such legislation under the growing tendency to special and partial legislation, will be to exempt the rich from taxation, and to cast all the burden of the support of government and the payments of its debts on those who are too poor or too honest to purchase such immunity from unfaithful public servants.”

Exemptions of Intangibles: While bonds, stocks, mortgages, money accounts, and other intangible property are entitled to the same protection under the law as the poor man's cottage, they ought and must be required to bear their share of the burden of taxation. This property constitutes more than half of the wealth of the State; and, although under the Act of May 2, 1917, it does not pay any county, city, school, or district tax, as I am informed, it is assessed for not more than five per cent of its value by the State Tax Commissioner.

The Legislature provided by sections 4114i, 13 and 15, that schedules of intangible property *are not public records*; and a fine of five hundred dollars is imposed on the County Commissioner and the members of the State Tax Commission for disclosing such schedules to the inspection of anyone; and no revenue agent can file any suit against a tax evader without written authority from the State Tax Commissioner.

The people of Kentucky are plainly at the mercy of the tax dodgers, and are without any relief, unless they elect members to the State Legislature who will enact an equitable tax law.