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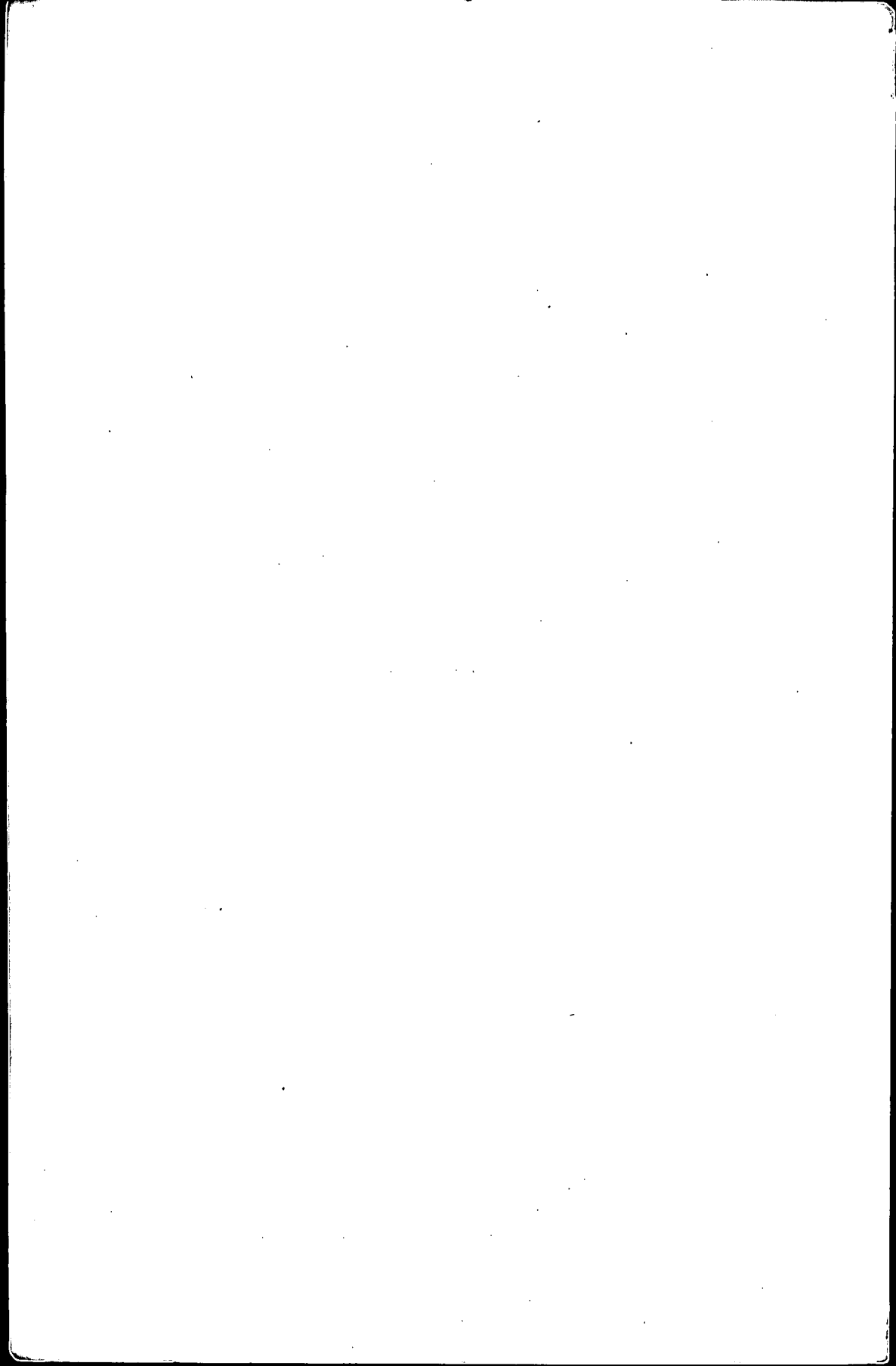


REPORT

of the

Maryland Tax Survey Commission of 1949

March, 1951



REPORT

of the

Maryland Tax Survey Commission of 1949

Appointed by
Honorable Wm. Preston Lane, Jr.,
Governor of Maryland

Under Joint Resolutions Nos. 11, 13 and 14
of the
General Assembly of 1949

RICHARD W. CASE, *Chairman*

E. DALE ADKINS, JR.*	CHARLES S. GARLAND
J. KEMP BARTLETT, JR.	OWEN E. HITCHINS
FREDERICK W. BRUNE	WILLIAM J. MCWILLIAMS
HARRY COHEN	JOHN MCC. MOWBRAY
H. VERNON ENEY	WILLIAM B. SOMERVILLE**
HENRY C. EVANS	J. MILLARD TAWES
JOHN B. FUNK	ALBERT W. WARD
C. B. WINDSOR	

CROMBIE J. D. GARRETT, Reporter

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HENRY J. REHRMANN, Secretary

March, 1951

* Resigned, December 2, 1950.

** Appointed, December 8, 1950.

SUB-COMMITTEES

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ALBERT W. WARD

C. B. WINDSOR

Death Taxes:

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J. KEMP BARTLETT, JR.

WILLIAM J. McWILLIAMS

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HARRY COHEN

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OWEN E. HITCHINS

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JOHN McC. MOWBRAY

WILLIAM J. McWILLIAMS

ALBERT W. WARD

Tax Administration and Procedure:

JOHN B. FUNK, *Chairman*

RICHARD W. CASE

J. MILLARD TAWES

ALBERT W. WARD

Taxation of Financial Institutions:

JOHN McC. MOWBRAY, *Chairman*

JOHN B. FUNK

WILLIAM B. SOMERVILLE

OWEN E. HITCHINS

ALBERT W. WARD

* Resigned, December 2, 1950.

INTERIM REPORT
of the
MARYLAND TAX SURVEY COMMISSION OF 1949

February 3, 1950

To His Excellency,
Wm. Preston Lane, Jr.
Governor of Maryland.

To the Honorable,
The General Assembly of Maryland.

An Interim Report of the Maryland Tax Survey Commission of 1949 is respectfully transmitted herewith. This Report covers revenue and regulatory licenses now imposed in this State.

The Commission is engaged in making additional studies on the Maryland gross receipts tax, tax inequities inherent in the Maryland fiscal system and related matters. When these studies are completed they will be forwarded in due course.

Respectfully submitted,

RICHARD W. CASE,
Chairman

SECOND
INTERIM REPORT

of the

MARYLAND TAX SURVEY COMMISSION OF 1949

July 7, 1950

To His Excellency,
Wm. Preston Lane, Jr.
Governor of Maryland.

To the Honorable,
The General Assembly of Maryland.

The Second Interim Report of the Maryland Tax Survey Commission of 1949 is respectfully transmitted herewith. This Report covers (1) the important subject of tax administration and procedure and (2) taxes imposed by the State and several of its political subdivisions upon the manufacture, distribution and sale of alcoholic beverages.

The Commission is continuing its studies of the Maryland gross receipts tax, tax inequities inherent in the Maryland tax structure and related matters. As these studies are completed they will be forwarded in due course.

Respectfully submitted,

RICHARD W. CASE,
Chairman

**THIRD
INTERIM REPORT**

of the

MARYLAND TAX SURVEY COMMISSION OF 1949

December 14, 1950

To His Excellency,
Wm. Preston Lane, Jr.,
Governor of Maryland.

To the Honorable,
The General Assembly of Maryland.

The Third Interim Report of the Maryland Tax Survey Commission of 1949 is respectfully transmitted herewith. This Report covers (1) Gross Receipts Taxes and Highway Use Taxes; (2) Income Taxes; and (3) Real Property Assessments.

The Commission is continuing its studies of inequities inherent in the Maryland tax structure. When these studies are completed they will be forwarded in due course.

Respectfully submitted,

RICHARD W. CASE,
Chairman

FOURTH REPORT
of the
MARYLAND TAX SURVEY COMMISSION OF 1949

March 14, 1951

To His Excellency,
Theodore R. McKeldin,
Governor of Maryland.

To the Honorable,
The General Assembly of Maryland.

The Fourth Report of the Maryland Tax Survey Commission of 1949 is respectfully transmitted herewith. This Report covers (1) Taxation of savings banks and competitive institutions and (2) Death Taxes.

Respectfully submitted,

RICHARD W. CASE,
Chairman.

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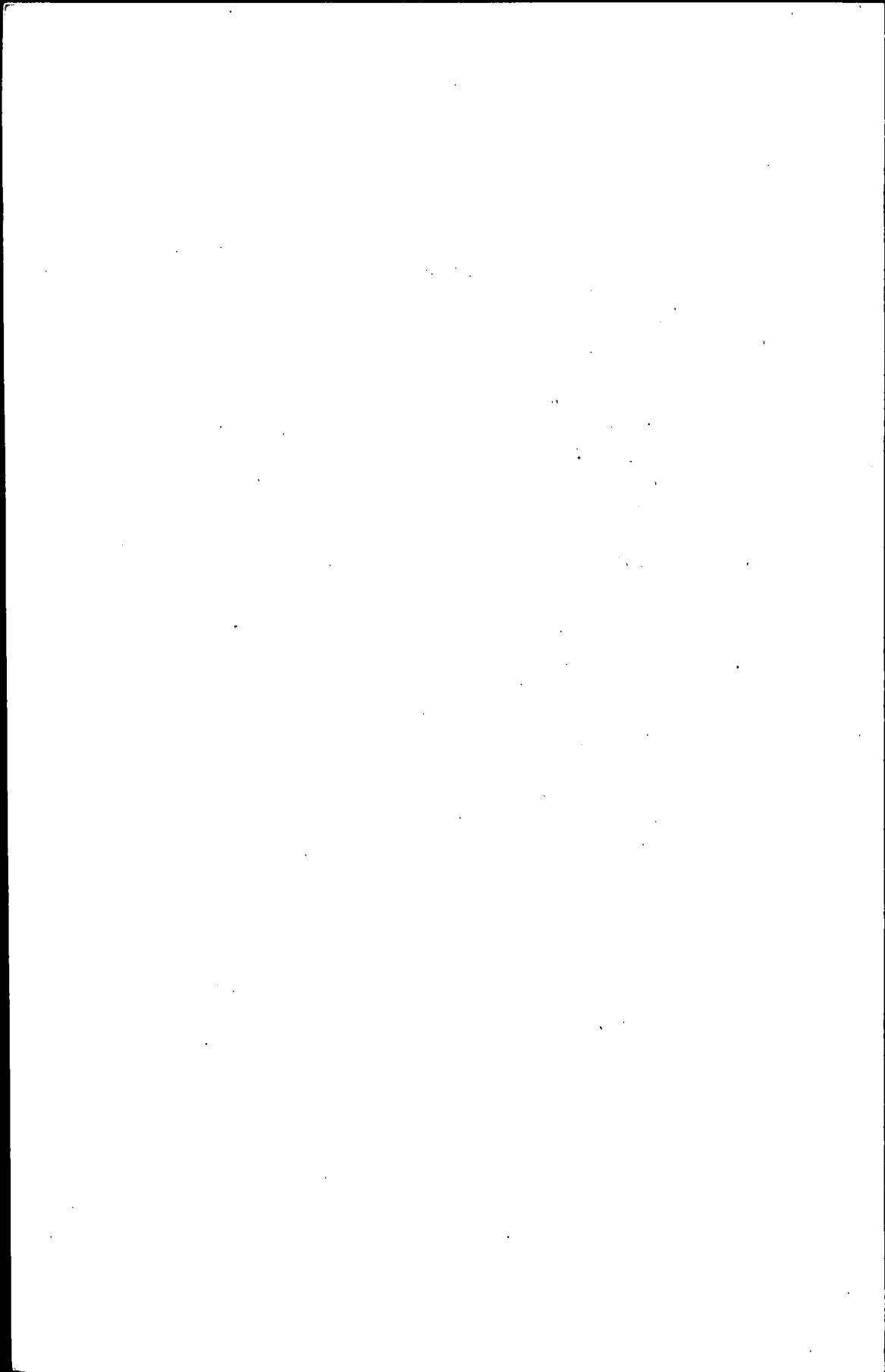
PREFACE

The Maryland Tax Survey Commission of 1949, during the twenty months of its investigations of the Maryland laws relating to taxation, issued four interim reports. Each of these reports embodied the Commission's findings and recommendations with respect to one or more Maryland taxes or related matters. This volume is essentially a consolidation of those reports, lightly edited and paged chronologically for the convenience of those who may in the future find the printed record of the Commission's activities of interest and possibly of guidance.

Without the assistance of the many governmental agencies, federal, state and local, which gave generously of their time, experience and advice, it would have been difficult if not impossible for the Commission to have accomplished its task. A special debt is owed to the many individuals and organizations too numerous to mention here who contributed unsparingly to the end that a more equitable system of taxation might be realized in Maryland.

In addition, the Commission acknowledges the services of its Reporter, Crombie J. D. Garrett, whose valuable assistance and untiring efforts contributed immeasurably to the publication of this report.

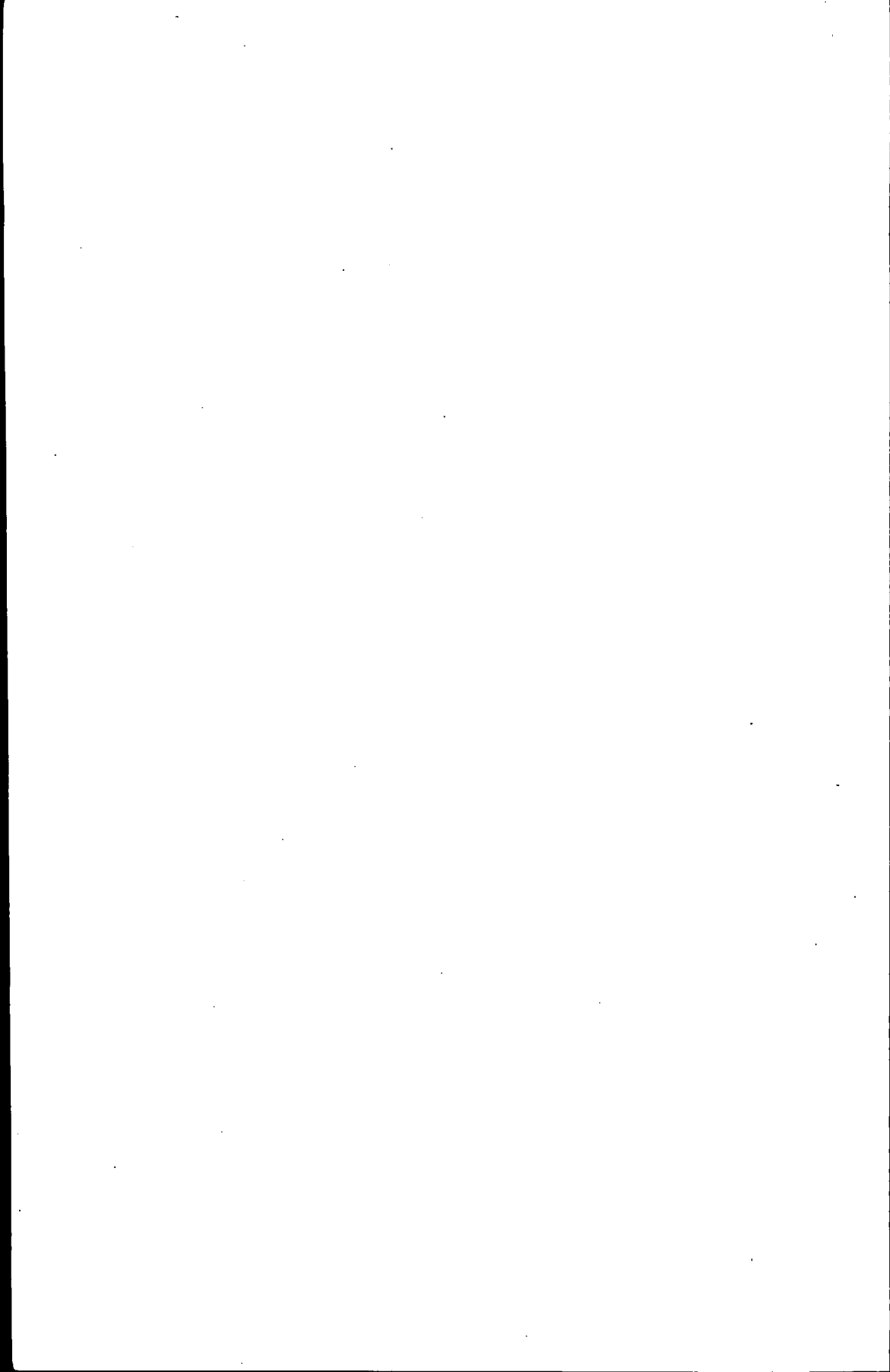
RICHARD W. CASE,
Chairman



REPORT

on

LICENSES



ORIGIN OF COMMISSION

The Maryland Tax Survey Commission of 1949 was appointed on June 16, 1949¹, by Governor Wm. Preston Lane, Jr., under the authority of three joint resolutions² of the General Assembly of 1949. By Resolution No. 11 the Commission was directed to investigate the system of regulatory licensing under which practitioners of several trades and occupations are required to submit to licensure by more than one unit of government as a condition precedent to practicing their respective trades or occupations throughout the State. Resolution No. 13 required the Commission to make a study of the Maryland gross receipts tax; and by Resolution No. 14 the Commission was directed to study the laws imposing various taxes and licenses and especially to study the question of inequalities which might exist in these taxes.

A determination of the activities and direction of studies of the Commission was made at its first meeting. As interpreted by the members, the three resolutions which serve as a mandate to the Commission require an investigation of all laws of this State concerned with taxation and the elimination, insofar as possible, of any inequities disclosed by such investigation. As a result of this interpretation, the Commission has sought ways and means of equalizing taxes and removing existing discriminations. It has not considered itself a budgetary body and consequently has sought to maintain the general level of revenues, except in those situations in which the removal of a discrimination or inequity might incidentally result in a slight revenue increase or decrease.³

¹As originally constituted the Commission consisted of twelve members. Subsequently two additional members were appointed on July 6, 1949, and one additional member was appointed on July 13, 1949. Subsequently, one member resigned on December 2, 1950, and an additional member was appointed on December 8, 1950.

²The full text of these resolutions is set forth in Appendix I.

³In one instance, the Commission has deviated from this policy. Governor Lane informed the Commission that general fund revenues could be diminished by \$1,000,000 to \$1,250,000 and requested that the Commission recommend a tax reduction program, within the indicated limits, which would give the broadest possible relief to the taxpayers of Maryland. Following a general canvass of methods which would produce tax reduction, the Commission in a letter to the Governor, dated January 12, 1950, recommended several changes

To facilitate its investigation of the tax laws of the State, the Commission adopted a sub-committee form of organization. Sub-committees were appointed to study and make reports on the following subjects: alcoholic beverage taxes; death taxes; gross receipts taxes; income taxes; revenue and regulatory licenses; property taxes; tax administration and procedure; and taxes imposed on financial institutions. In addition, other taxes were considered and recommendations concerning them were made. These taxes include the sales tax, the use tax, the titling tax, the tax on racing and the tax on insurance premiums. The reports that follow consist chiefly of the various interim reports which have been submitted by the Commission to the Governor and to the General Assembly of Maryland.

REPORT ON LICENSES

Scope of Report

By Resolutions Nos. 11 and 14 the Commission has been called upon to investigate two distinct and, in most instances, mutually exclusive fields of licensing. Resolution No. 11 involves a large number of licenses which regulate and govern the marketing or performance of certain personal services. These licenses are designed to insure minimal standards of proficiency and character on the part of those seeking to engage in certain trades, occupations and professions which directly affect public health, safety and welfare. As, for the most part, fees payable pursuant to these licensing requirements are dedicated to the support of the several examining boards and other supervisory agencies of the State directly concerned with the policing of the several regulated trades, occupations and professions, these license requirements bear little or no relationship to the revenues of the State or its political subdivisions.

Resolution No. 14, on the other hand, deals exclusively with a group of privilege taxes usually termed business or

in the Income Tax Law, and further recommended that the bond annuity account be studied for the purpose of effecting possible reductions in the State property tax. The text of this letter is set forth in Appendix II.

revenue licenses enacted for the production of revenue. This group of twenty-nine impositions, which is found in Article 56 of the Annotated Code of Maryland, contains little if any element of regulation or control and differs widely from the regulatory licenses mentioned above both because of the absence of regulatory characteristics and because of the fact that it produces relatively substantial revenues.

In addition to the two fields of licensing before the Commission, the Code contains many other license provisions which affect many of us in our daily lives. Among these provisions are measures relating to conservation, motor vehicles, marriage, health, dogs, and solid fuels. Taxation of horse-racing, gasoline and outdoor advertising contains elements of licensure. There is also a broad field of regulatory licensing of many types of business and manufacturing operations designed to regulate the character or quality of commodities and services, other than personal services, before they may be marketed commercially. In view of the scope of Resolutions Nos. 11 and 14, however, these matters will not be considered in this report.

PART I

REVENUE LICENSES

Privilege taxes are among the most venerable of the many taxes imposed by the State of Maryland. The tax imposed regarding billiard tables was first enacted in 1780,⁴ and that imposed on hawkers and peddlers was enacted four years later.⁵ The number of activities licensed by the State became so great that one author, writing at the turn of the century, listed Maryland as among the few states having a system of license taxation so extensive as to amount to a "complete or nearly complete excise system".⁶ Indeed, the significance of license taxation was such that a previous Commission⁷ in part attributed to it the slow development of the property

⁴ Chapter 8, Acts of 1780.

⁵ Chapter 7, Acts of 1784.

⁶ Plehn, "Taxation and Revenue Systems", U. S. Census Publication, "Wealth, Debt and Taxation" (1907), p. 638.

⁷ Commission for the Revision of Taxation, License Report (1913), p. 1.

tax for State purposes. This same Commission, in 1913, was able to state that "License receipts embrace a considerable portion of the total revenue of Maryland . . .".⁸ The high water mark of this method of revenue raising was reached in 1916. At that time, faced with a substantial deficit, the General Assembly imposed a series of privilege taxes on twenty-three business activities.⁹

With the development of more modern forms of taxation, the importance of the privilege taxes dwindled, both in terms of number of activities licensed and proportion of revenues derived therefrom. These State impositions have been increasingly thought of as nuisance taxes and to a considerable extent have fallen into disfavor in this and other States.

After an intensive study of the problems involved in license taxation, the Maryland Tax Revision Commission of 1939 recommended that the State concentrate on the ten most productive privilege taxes¹⁰ and that thirty-one such State measures be repealed. The General Assembly of 1941 repealed nineteen of these measures. Subsequently, in 1949, a bill sought the repeal of eight of the remaining State imposed business licenses.¹¹ This bill was passed by the General Assembly but was vetoed because of a technical difficulty.

Maryland Business License Structure

The Commission has, in most instances, concentrated on State, rather than local, taxation. Yet, in the field of license taxation, it is only in relation to locally imposed licenses that the fairness or desirability of the State system of license taxation can be appreciated and evaluated. In Maryland a peculiar fiscal relationship exists between revenue licenses imposed by the State and the economic welfare of the local units of government. This situation, about which more will be said subsequently, was brought about by the adoption by the General Assembly in 1947 of the recommendations of

⁸ Ibid, p. 1.

⁹ Chapter 704, Acts of 1916.

¹⁰ Report of the Maryland Tax Revision Commission of 1939, p. 95.

¹¹ House Bill No. 397, General Assembly of 1949.

the Maryland Commission on the Distribution of Tax Revenues.¹²

The structure of business licensing in Maryland is varied and complex. As may be seen in Table I the State revenue license system consists of a series of licenses imposed with respect to twenty-nine business activities. The revenues from seven of these licenses are allocable to the State. For the fiscal year 1949, such revenues amounted to \$58,857.¹³ The revenues from twenty-two of these licenses are allocable to the incorporated town or city from which such license fees are derived; or, if not derived from any incorporated town or city, to the county of origin. For the fiscal year 1949 net license revenues distributed to the local units of government amounted to \$1,509,732.

In addition to the twenty-nine State revenue licenses, many of the counties and Baltimore City are authorized by statute to impose a number of business licenses. In many areas these licenses conflict or overlap with those imposed by the State. In the cases of fourteen of the twenty-nine State licenses, one or more of the counties or Baltimore City is authorized to duplicate the State license. In addition to these local revenue measures, a considerable number of activities not licensed by the State have been subjected by public local law to licensing by the local units of government. As a result of emergency grants of taxing power to Baltimore City and Baltimore County, these two subdivisions have legislative authority to duplicate any of the State licenses.

The existing practice of sharing with the localities receipts from many State licenses frequently creates an undesirable situation. In circumstances in which a person engages in an activity that is licensed by both the State and a political subdivision, and in which the State license fee is distributed to

¹² Chap. 487, Acts of 1947.

¹³ An additional sum of \$48,771 was paid to the general fund, such sum representing the 3% commission assessed against locally shared licenses for the services of the State License Bureau.

TABLE I
STATE REVENUE LICENSES OF GENERAL APPLICATION

Name of License	Exclusive License Y (Yes) N (No)	No. of Counties in Which Licenses Were Issued in 1949	No. of Counties in Which Authority to Issue Existed in 1949	Receipts of Major Beneficiary S=State, L=Local Units ¹			
				Fiscal Year 1946	Fiscal Year 1947	Fiscal Year 1948	Fiscal Year 1949
1. Billiard Table	N	24	24	\$ 6,346 S	\$ 6,497 S	\$ 7,144 L	\$ 7,689 L
2. Bowling Saloon	N	18	24	14,126 S	14,459 S	13,324 L	12,907 L
3. Carnival	N	4	24	970 S	487 S	840 L	372 L
4. Chain Store	Y	24	24	61,933 S	59,179 S	55,869 L	50,260 L
5. Cigarette	Y	24	24	327,251 S	344,903 S	352,463 L	355,689 L
6. Circus	N	5	23	337 S	293 S	468 L	519 L
7. Cleaning, Dyeing, Pressing.....	Y	22	24	6,984 S	7,458 S	8,656 L	7,814 L
8. Comm'l., etc. Protective Agency.....	Y	1	24	99 S	99 S	99 S	99 S
9. Construction Firm	Y	24	24	2,095 S	2,550 S	29,202 L	22,652 L
10. Detective Agencies and Agents.....	N	7	24	2,455 S	2,642 S	2,722 S	2,515 S
11. Garage	N	18	24	10,802 S	10,824 S	9,850 L	10,173 L
12. Hawker and Peddler.....	N	9	21	1,756 S	2,159 S	6,748 L	62,676 L ²
13. Horse and Jack.....	Y	1	23	148 S	90 S	78 L	18 L
14. Laundry	Y	21	24	7,118 S	7,292 S	7,173 L	7,543 L
15. Motion Picture Machine.....	N	2	24	316 S	121 S	276 L	504 L

16. Moving Picture Show.....	N	24	24	39,793 S	42,112 S	40,252 L	42,078 L
17. Music Box	N	24	24	42,582 S	45,879 S	40,514 S	38,944 S
18. Non-Res. Wholesale Tobacco Dealer	Y	0	24	00	10 S	00	00 S
19. Pinball Machine ^a	N	0	3				00 L
20. Plumbers and Gasfitters.....	N	16	24	5,999 S	6,337 S	7,446 L	6,567 L
21. Restaurant	Y	24	24	78,280 S	84,958 S	82,994 L	82,705 L
22. Show	N	12	24	179 S	246 S	106 L	928 L
23. Soda Water Fountain.....	Y	24	24	32,421 S	35,412 S	36,104 L	35,973 L
24. Storage Warehouse	Y	20	24	6,943 S	8,856 S	8,562 S	8,248 S
25. Theater ^a	N	1	1	842 S	330 S	519 L	368 L
26. Traders	Y	24	24	552,819 S	622,715 S	732,722 L	802,045 L
27. Trading Stamp Co.....	Y	1	24	545 S	545 S	561 S	1,497 S
28. Vending Machine	N	20	24	3,994 S	3,576 S	5,785 S	7,554 S
29. Wholesale Dealer Farm Machinery..	Y	1	24	227 S	198 S	192 L	192 L
Total State				\$1,207,360	\$1,310,227	\$ 58,243	\$ 58,857
Total Local .....				.....	.....	1,392,426	1,509,732
Grand Total				\$1,207,360	\$1,310,227	\$1,450,669	\$1,568,589

¹The receipts indicated in this table are of net character and do not reveal total income from licenses listed. Excluded are: (a) 5% and 1% fee retained respectively by issuing clerks of Circuit Courts of the counties and the Clerk of the Court of Common Pleas of Baltimore City; (b) 3% fee paid on all locally shared licenses to the general fund for the services of the State License Bureau; and (c) penalties collected for late payment of fees.

²The abnormally large receipts from the hawkler and peddler licenses for the fiscal year 1949 is the result of payment in settlement of State claims by a large ice cream vendor.

³The pinball machine and theater licenses are included because they are established by public general law despite the fact they have very limited applicability.

(Figures obtained from Exhibit "F" and Statement "B-10", Comptroller's Report for Fiscal Year ended 6-30-49.)

the locality of origin, the result is the payment of receipts from two license taxes on the same activity to a single unit of government.

In addition to certain minor difficulties observed in specific licenses, the Maryland business licensing structure contains two fundamental weaknesses:

1. It permits the political subdivisions to spend tax revenues produced from activities which are purely local in scope, without incurring any responsibility for raising such revenues.
2. The weakness inherent in State administration of a basically local license system which results in undue administrative difficulties in securing equitable application to all business within the scope of the license throughout the State.

Distribution of License Revenues

In 1945 the Governor of Maryland appointed the Maryland Commission on the Distribution of Tax Revenues,¹⁴ to which Commission was entrusted the obligation of determining proper State and local relationships with specific reference to the division of revenues. The underlying reason for the appointment of this Commission was and is familiar to most citizens of Maryland. Specifically, the Commission was required to recommend sources of revenue to meet the greatly increased financial needs of the local units of government, and in some measure, through indicating these additional sources of revenue, to give a measure of tax relief to the owners of real property.

Among the recommendations of the Sherbow Commission was that there should be allocated to the local units of government receipts from all but seven of the State business licenses. In recommending this allocation the Commission's report stated:

"... it is the local political sub-division which supplies the necessary governmental protection making possible

¹⁴ Popularly known as the "Sherbow Commission".

the orderly pursuit of the licensee's business. His establishment is protected from thieves by the local police force, from fire by the local fire department; he receives water and sewerage from the local municipality, and his clientele come and go to his establishment over streets which have been built and are maintained by his local political sub-division."¹⁵

This statement was made with specific reference to the trader's license, but it could have been made with equal accuracy regarding any of the business licenses.

The familiar "benefit theory" served as a basis for the Sherbow Commission's recommendation. The recommendation was sound, not only because of financial distress of the subdivisions, but because the subdivisions are truly the source of large and unique benefits to any business activity conducted within any community. However, the system which now obtains casts upon the State the burden of collecting and paying to the political subdivisions taxes which are purely local in theory, scope and economic benefit. The recommendations that follow are directed to alleviate this condition.

CONCLUSIONS AND RECOMMENDATIONS

Repeal of Certain State Licenses and Enactment of Local Enabling Legislation

It is recommended that the license or privilege taxes imposed by Public General Law on the activities set forth below be repealed and that enabling legislation be enacted to permit each incorporated town and city in the State, by ordinance or resolution, to impose a license or privilege tax for revenue purposes on such of the activities set forth below as are located, maintained or operated within the limits of the several incorporated towns and cities. If such activities are located, maintained or operated outside the limits of the several incorporated towns and cities of the State, the county commissioners should be permitted, by ordinance or resolu-

¹⁵ Report of the Maryland Commission on the Distribution of Tax Revenues, p. 117.

tion, to impose a license or privilege tax upon such activities as are located, maintained or operated within the unincorporated areas of the county:

Billiard Table	Moving Picture Show
Bowling Saloon	Music Box
Carnival	Pinball Machine
Circus	Plumbers and Gasfitters¹⁶
Cleaning, Dyeing and Pressing	Show
Construction Firm	Soda Water Fountain
Garage	Storage Warehouse
Horse and Jack	Theater
Laundry	Trading Stamp Company
Motion Picture Machine	Vending Machine
	Wholesale Dealers in Farm Machinery

The political subdivisions of the State are the proper beneficiaries of revenues derived within their borders from the licenses listed above. The practice of the State collecting and paying license revenues to be spent by the local political subdivisions does not commend itself to the Commission, however, if the character of the business which is licensed is local in scope and if the local unit of government has the facilities to license that business and collect the tax.

Indeed, few practices are more conducive to encouraging officials of local government to ignore economy in use of public funds. We believe that local units of government should assume the responsibility for imposing, levying, collecting and enforcing some portion of the revenue licenses from which they derive major benefits. The form of these licenses, the rates to be imposed and their collection should be primarily the responsibility of the local authorities. The enforcement of any licenses thus imposed should be the primary responsibility of local law enforcement officials. It is believed that such enabling legislation should permit the local units

¹⁶ This license affects plumbing and gasfitting contractors, and not plumbers or gasfitters in the conventional sense.

of government to modify and repeal such licenses as may be imposed, and that those units of government should be authorized specifically to grant exemptions and to modify or repeal any existing or future exemptions.¹⁷

The granting to local units of government the authority to impose taxes on the twenty-one activities set forth above is not so extensive a breach with the past as might first appear. These taxes for the fiscal year 1949 accounted for less than 20% of the total business license revenues. In order to exercise a high degree of caution in this transition, the Commission recommends the continuation of State licenses imposed upon traders, chain stores (a variant of the trader's license and applicable only if a trader has more than one fixed place of business), the restaurant license, and the cigarette license. The licenses we have recommended for local administration lend themselves to more successful administration and enforcement by the local authorities. The trader's, chain store, restaurant and cigarette licenses, however, lend themselves to more successful enforcement by the State License Bureau.

These recommendations are designed to eliminate the two basic weaknesses of the existing license structure mentioned above. In addition, it is believed that an incidental result of the adoption of these recommendations will be the freeing of the General Assembly to devote more of its time to other matters.

Repeal of Miscellaneous State Licenses

It is recommended that the license or privilege taxes imposed by Public General Law on the following activities be repealed: Commercial, Mercantile and Mutual Protective Agencies; Detective Agencies and Agents; Gypsies; and Non-Resident Wholesale Tobacco Dealers.

¹⁷ Many States have developed tax patterns which permit the local units of government to license activities purely local in character. For example, in 1944, the State of Mississippi completely withdrew from the field of license taxation and enacted legislation to permit the local units of government to tap this source for revenue purposes. The Tax Revision Commission of the State of Tennessee, which reported to the Governor of that State in November of 1948, recommended the repeal of substantially all business privilege taxes, and also recommended that the local units of government be enabled to impose such taxes.

The licenses imposed on commercial, mercantile and mutual protective agencies and non-resident wholesale tobacco dealers have yielded little or no revenues during the past several years. A change in this situation is not to be expected. Enabling the localities to tax these two activities would be nugatory.

The present license requirement relating to detective agencies and agents contains no element of regulation. It has been brought to the attention of the Commission by several responsible State officials that private detectives for hire should be subjected to regulatory licensing. The Commission recommends legislation to this effect below.¹⁸ As it is against the policy of this State to subject persons engaged in the several trades, occupations and professions regulated by law to licensing for revenue purposes, it is recommended that this license be repealed.

The license required of gypsies is of prohibitive nature and not designed to produce revenue. This is the only license imposed by the State upon a social or racial group. We, therefore, recommend the repeal of this measure.

Traders Act

It is recommended that the Traders Act be amended to eliminate the provisions:

1. Exempting vendors of cider, beer and cakes produced by the vendor from licensing requirements;
2. Exempting shad and herring fishermen from licensing requirements relative to sales of excess salt;
3. Requiring married women and persons below the age of twenty-one to secure a special court order before obtaining a traders license; and
4. Permitting single women to obtain a traders license at a reduced rate.

¹⁸ See page 23.

It is recommended further that the General Assembly by joint resolution direct the clerks of the circuit courts of the counties and the Clerk of the Court of Common Pleas of Baltimore City to maintain a record of the number of traders licenses issued at each rate level for the license year beginning May 1, 1950, and that such records be delivered to the Commission in time to permit recommendations to be made to the 1951 Session of the General Assembly.

The Traders Act is among the oldest of the State license impositions, having been first enacted in 1831. This license is also the most successful revenue producer of all the revenue licenses. It has consistently produced in excess of 50% of total business license revenues, and for the fiscal year 1949 yielded in excess of \$800,000, which is allocable to the local units of government.

This license has been criticized as engendering two inequities. It is said that the effective rate of the license is more oppressive on those businesses having a low inventory turnover than on those with high inventory turnover. It is also said that this license is more oppressive during times of depression than during times of business prosperity because of the inability of merchants to dispose of stock during depression periods.

We believe that the existence of these defects is largely conjectural. Moreover, assuming these defects exist, they, in all probability, could be alleviated only by the repeal of the Traders Act in its entirety and the imposition of a radically new and different type of tax. Because of these facts and because of the long standing fiscal importance of this license, the Commission believes that no radical departure from the basis of the imposition of the trader's license should be made at this time.

Another, and possibly more serious, inequity in this license may well exist because of the highly regressive character of the rates imposed by the license. As may be seen from Table II, the rates imposed upon small businesses are dis-

TABLE II

RELATIONSHIP OF TRADERS' LICENSE FEES TO VALUE OF INVENTORY
A. Value and Rate Provided by Statute

Minimum Value—Maximum Value	Tax	Percentage Levy on Value
1. — to \$ 1,000.....	\$ 15	— to 1.500
2. Over \$ 1,000 to 1,500.....	18	1.798 to 1.200
3. Over 1,500 to 2,500.....	20	1.332 to 0.800
4. Over 2,500 to 4,000.....	25	0.999 to 0.625
5. Over 4,000 to 6,000.....	30	0.750 to 0.500
6. Over 6,000 to 8,000.....	40	0.667 to 0.500
7. Over 8,000 to 10,000.....	50	0.625 to 0.500
8. Over 10,000 to 15,000.....	65	0.650 to 0.433
9. Over 15,000 to 20,000.....	80	0.533 to 0.400
10. Over 20,000 to 30,000.....	100	0.500 to 0.333
11. Over 30,000 to 40,000.....	125	0.416 to 0.313
12. Over 40,000 to 50,000.....	150	0.375 to 0.300
13. Over 50,000 to 75,000.....	200	0.400 to 0.267
14. Over 75,000 to 100,000.....	250	0.333 to 0.250
15. Over 100,000 to 150,000.....	300	0.300 to 0.200
16. Over 150,000 to 200,000.....	350	0.233 to 0.175
17. Over 200,000 to 300,000.....	400	0.200 to 0.133
18. Over 300,000 to 400,000.....	500	0.167 to 0.125
19. Over 400,000 to 500,000.....	600	0.150 to 0.120
20. Over 500,000 to 750,000.....	750	0.150 to 0.100
21. Over 750,000	800	0.107 to —

*B. Hypothetical Larger Inventories Illustrating Effect of the \$800 Ceiling
Established by Statute*

Inventory Value	Tax	Percentage Levy on Value
22. \$1,000,000	\$800	0.080
23. 2,000,000	800	0.040
24. 3,000,000	800	0.027
25. 4,000,000	800	0.020
26. 5,000,000	800	0.0160

proportionately larger in relation to value of inventory than than those imposed upon businesses maintaining very large inventories. It is possible that a change in rates applicable to inventories at the several levels should be made. However, there is no information available to the Commission at the present time that reveals the number of traders' licenses (and hence the revenue received) issued in the various tax brackets. Until such information is made available by the

issuing clerks of courts, it is believed unwise to recommend any change in the rates chargeable under this Act.

Several minor provisions of the Act should be eliminated. The provision exempting vendors of cider, beer and cake produced by such vendor is adequately covered by the manufacturer's exemption. The exemption of shad and herring fishermen from licensing requirements relative to sales of excess salt is unnecessary.

Before any married woman or person below the age of twenty-one may obtain a trader's license for the sale of alcoholic beverages, a special order of court is required. This provision is adequately covered by other provisions of the Code. The "widow's license" provision, which permits single women to obtain a trader's license at a reduced rate, no longer serves the purpose for which it was intended. The officials responsible for the enforcement of the Traders Act state that this provision has been gravely abused. We therefore believe that these provisions should be eliminated from the Traders Act.

Hawkers and Peddlers

It is recommended that the General Assembly enact a permissive Hawkers and Peddlers Act which may be adopted by the county commissioners of any county or by the Mayor and City Council of Baltimore City by ordinance or resolution, and which shall provide substantially as follows:

1. That enforcement shall be continued by the State License Bureau and that local law enforcement officials be directed to join in the enforcement of the Act;
2. That the license should apply to the vehicles, if any, employed in the conduct of business of the hawker and peddler and not to the individual peddler as heretofore;
3. That the tax or license fee to be paid on such vehicles should be as follows:
 - (i) Vehicles, other than motor vehicles, \$10 annually,

- (ii) Two and three wheel motor vehicles, \$100 annually,
- (iii) Motor vehicles, other than two or three wheel vehicles, \$300 annually;
- 4. Hawkers and peddlers who transport merchandise by vehicle but solicit on foot to be classified under 3 (i), 3 (ii) or 3 (iii), above, as appropriate;
- 5. Foot peddlers, regulation by local authorities, with no fee charged;
- 6. A metal tag or license should be issued for each vehicle and should be required to be conspicuously displayed on such vehicles; and
- 7. The license should apply to corporations as well as individuals, and should apply to manufacturers, although persons selling their own farm produce should be exempt.

It is further recommended that all existing legislation relating to hawkers and peddlers be repealed.

Hawkers and peddlers are subject to licensing by the State and also by several of the local units of government. The purpose of these licenses is to protect from unlicensed competition those who have made large capital investments and who are licensed as traders. The fees charged for the State license are large, and as the State license has in many instances served as a model for local measures, the fees charged for local licenses are also high.

This license is oppressive for several reasons. A State license must be obtained in each county in which the hawker and peddler operates. In many instances, the localities require an additional license. It is also impossible for a corporation to purchase a license, the license being issuable only to individuals. Similarly, vehicles may not be licensed.

An examination of the revenues derived from this license during the past several years indicates that the hawkers and peddler's license is unsuccessful in the production of revenue, and there is little or no indication that this license serves as a check on competition with established merchants.

The Commission believes that established dealers should be given maximum reasonable protection against competition of the hawker and peddler, but it is equally impressed with the basic unfairness of the existing situation. Because of the nature of the hawker and peddler's business, he must seek his customers where he can find them, a fact which makes it necessary for him to canvass a large number of political subdivisions. While it seems desirable that this activity should be subjected to some measure of control, it is most undesirable that a business undertaking be suppressed through the levy of a series of prohibitive taxes. The Commission therefore recommends that several changes in the rates chargeable be made, that vehicles be subject to licensing, and that corporations as well as individuals be permitted to take out this license.

The suggestions here made are intended to leave unchanged the definition of hawker and peddler given by judicial decisions and by rulings of the attorneys general of Maryland.

Proration of Licenses

It is recommended that legislation be enacted providing that fees for licenses relating to traders, chain stores, restaurants and cigarettes be ratable quarterly.

The fees charged for the licenses relating to traders, chain stores, restaurants, and cigarettes are now ratable monthly over the course of the license year. This situation has resulted in placing an unduly large amount of clerical work on the issuing clerks. In many instances it has resulted in the issuance of licenses upon the payment of a fee which scarcely covers the cost of issuance.

By prorating these licenses quarterly instead of monthly, the burden on the issuing clerks will be greatly lightened and an additional amount of revenues should be collected for the local political subdivisions.

Sheriff's Fees

It is recommended that Section 701, Article 4, Code of Public Local Laws (1930), providing for the payment of fees by the Clerk of the Court of Common Pleas of Baltimore City to the Sheriff of Baltimore City be repealed.

Section 701, Article 4, Code of Public Local Laws (1930) requires the Sheriff of Baltimore City annually to compile an alphabetical list of persons required to secure business licenses in Baltimore City. For each person listed who actually procures a business license, the Clerk of the Court of Common Pleas of Baltimore City is required to pay a fee of fifty cents to the Office of the Sheriff. At one time this practice may have afforded a valuable enforcement service. This is not true today, and the primary enforcement function rests upon the State License Bureau.

Since the enactment of this provision, the financing of the Office of the Sheriff of Baltimore City has been made the responsibility of the Mayor and City Council of Baltimore City, and fees paid to the Sheriff pursuant to Section 701 are now paid by the latter to the City Treasurer.

FISCAL POSITION OF THE STATE

The adoption of the recommendations made herein will occasion some incidental revenue loss to the State. For example, if these recommendations are adopted, the State will no longer receive revenues from the majority of the licenses the yield of which is now paid directly to the State. The Commission has estimated that this revenue loss will be slightly less than \$59,000.

In addition, the State will no longer retain the supervision fees incident to those locally shared licenses which have been recommended for repeal. However, this loss which will be

approximately \$9,600 will be compensated for by permitting certain State personnel, who heretofore have supervised the distribution of license revenues to the localities, to engage in other assignments which will directly benefit the State.

If the recommendations proposed in this report are adopted, the Commission believes that the State will receive additional benefits which are not susceptible to precise calculation in dollars and cents. As stated above, the adoption of these recommendations should permit the General Assembly to devote more time to other matters by freeing it from the necessity of passing numerous acts for the purpose of imposing local licenses. Moreover, the burden now cast upon the State License Bureau will be lightened and more concentrated, thereby enabling that agency to enforce more efficiently the licenses that will remain under State supervision. Finally, the Commission is of the opinion that the incidental revenue loss here involved should neither preclude the elimination of existing inequities inherent in the present system of licensure nor prevent the installation of a more modern and useful license system in substitution for one which has long since been considered archaic by most persons who have given the matter detailed consideration.

Transfer of Licenses

It is recommended that the provisions in Article 56 of the Annotated Code of Maryland relating to the following subjects be transferred to more appropriate articles of the Code: Intelligence Offices and Employment Agencies; Real Estate Brokers; Boxing, Sparring and Wrestling; Motor Vehicle Fuel Law; Public Passenger Motor Vehicles; Public Freight Motor Vehicles; Dog Licenses in the Counties; and Outdoor Advertising.

With the exception of the license requirements set forth above, Article 56 of the Code is comprised largely of revenue licenses. The measures above referred to are in some instances devoid of any element of licensure, and in others are imposed for regulatory purposes. We believe that these measures should be transferred to appropriate articles of the Code.

PART II

REGULATORY LICENSES

By Resolution No. 11 of the General Assembly of 1949, the Commission was directed to investigate the system of regulatory licensing under which practitioners of several trades and occupations are required to submit to licensure by more than one unit of government as a condition precedent to practicing their respective trades or occupations throughout the State.

Multiple Licensing

Of the many trades, occupations and professions regulated by the thirty-one¹⁹ examining boards or other supervisory State agencies, six trades and occupations are licensed on a basis that is less than State-wide. The six vocations are detectives, electricians, horseshoers, moving picture machine operators, plumbers and stationary engineers. At a public hearing on this subject conducted by the Commission, representatives of several of the boards concerned and members of several of the regulated trades and occupations voiced urgent disapproval of the existing system of licensing by more than one unit of government, and, correlatively, licensing on other than a State-wide basis.

The laws regulating the six trades and occupations under consideration have one aspect in common. Each of these fields of endeavor is regulated in Baltimore City. Laws relative to four of these fields are restricted to that city. The remaining two trades or occupations are regulated in Baltimore and in other areas of the State by several supervisory boards. That regulation should be undertaken initially in the largest urban center of the State is understandable; the problems inherent in the trades and occupations in question are such as tend to be initially observable in a metropolitan area, and there first require solution.

¹⁹ A list of these regulatory boards and agencies, and the trades, occupations and professions subject to regulation is set forth in Table III.

TABLE III
EXAMINING BOARDS

Board(s) of Electrical Examiners and Supervisors
Electricians

Board of Examining Engineers
Stationary Engineers

Board of Examiners of Horseshoers
Horseshoers

Board of Examining Moving Picture Machine Operators
Moving Picture Machine Operators

Board of Examiners of Pilots
Pilots

Board of Examiners and Registration of Architects
Architects

Maryland Board of Pharmacy
Pharmacists

Real Estate Commission
Brokers, Salesmen

State Board of Barber Examiners
Barbers

State Board of Chiropody Examiners
Chiropodists

State Board of Chiropractic Examiners
Chiropractors

State Board of Commissioners of Practical Plumbing
Plumbers

State Board of Dental Examiners
Dentists, Dental Hygienists

State Board of Examiners in Optometry
Optometrists

State Board of Examiners of Nurses
Registered Nurses, Practical Nurses

State Board of Examiners of Public Accountants
Public Accountants, Certified Public Accountants

State Board of Funeral Directors and Embalmers
Embalmers, Funeral Directors

State Board of Hairdressers and Beauty Culturists
Beauty Culture, Teachers, Demonstrators, Electrologists,
Managers, Manicurists

State Board of Law Examiners
Lawyers

State Board of Medical Examiners
Physicians

State Board of Medical Examiners—Homeopathic
Physicians

State Board of Physical Therapy Examiners
Physical Therapists

State Board of Registration for Professional Engineers and Land Surveyors
Professional Engineers, Land Surveyors

State Board of Veterinary Medical Examiners
Veterinaries

OTHER LICENSING AGENCIES

Commissioner of Insurance

Insurance: Agents, Brokers, Broker's Solicitors, Solicitors

Fire and Casualty: Agents, Brokers, Broker's Solicitors, Solicitors

Insurance Advisors

Public Adjusters

TABLE III—(Cont'd.)

<i>Commission of State Forests and Parks</i>
Tree Experts
<i>Department of Geology, Mines and Water Resources</i>
Mining Employees, Well Drillers
<i>State Athletic Commission</i>
Contestants, Managers, Referees, Seconds
<i>State Aviation Commission</i>
Aeronautics Instructors
<i>State Board of Health</i>
Midwives
<i>University of Maryland</i>
Milk and Cream: Sampler, Testers, Weighers

The theory underlying regulatory licensing is that no person should be permitted to practice a trade, occupation or profession in which the public has an interest until he has first demonstrated adequate ability. In the case of each of the trades and occupations under consideration, the General Assembly has determined that the public health, safety and welfare require the practitioner to be possessed of a minimal degree of skill and proficiency. If a field of endeavor is of such importance as to require regulation at all, it is the conviction of this Commission that the particular field of endeavor merits regulation on a State-wide basis. The health and welfare of citizens of one subdivision of the State surely do not take precedence over the health and welfare of those living in another. Many reasons compel us to this conclusion; no reason or fact has been advanced which compels us otherwise. Fundamental among the factors guiding our views are the following:

First, the efficacy of the supervisory activities of each of the boards or agencies is based upon the existence of sufficient funds to send their representatives throughout the breadth of the State. Where several important areas of the State are excluded from the jurisdiction of a regulatory board, the board's economic base is narrowed, and in consequence its activities are rendered less effective.

Second, it is important that rules and regulations governing a trade or occupation be uniform and uniformly enforced.

This is possible only if there is a single supervisory agency and if the jurisdiction of such agency is State-wide.

Third, and to us most compelling, is the necessity of assuring every citizen of this State engaging in any of the trades, professions or occupations regulated by law, the opportunity to carry on his calling unhampered by unnecessary barriers and restrictions established for the several political subdivisions. It is not sufficient that local authorities may, in their discretion, permit a non-resident practitioner to pursue his calling in a particular locality through exempting him from examination requirements, license fees or the obligation to post a bond with local authorities.

CONCLUSIONS AND RECOMMENDATIONS

Detectives

It is recommended that legislation be enacted providing for uniform standards of licensing of private detectives for hire throughout the State, and providing further that persons seeking to engage in the business of private detective for hire in Baltimore City be required to obtain an annual license for such purpose from the Police Commissioner of Baltimore City; and that persons seeking to engage in such business in other areas of the State be required to secure a license from the Department of State Police. It is recommended that existing legislation requiring private detectives for hire in Baltimore City to obtain a license from the Police Commissioner be repealed.

The activities of private detectives for hire bear an important relationship to the orderly administration of justice. Such activities are therefore of great concern to every citizen and especially to the law enforcement agencies of the State. State enforcement officials have suggested that private detectives throughout the State be subjected to regulatory supervision. The Commission is in accord with this suggestion.

It is desirable that the supervision of this activity and the laws relating thereto be uniform throughout the State. The establishment of a State-wide supervisory board or other regulatory agency has been considered. Because of the nature of the work of private detectives, however, it is believed necessary to vest established police agencies with responsibility for licensing and supervision. As there is in existence no one police agency of the State with effective State-wide jurisdiction, it is believed that, under a law establishing uniform standards of licensing throughout the State, the Police Commissioner of Baltimore City should be entrusted with the supervision of private detectives for hire engaging in business in that city, and that the Department of State Police should be made responsible for supervision of private detectives engaged in business elsewhere in the State.

In Baltimore City private detectives have been required for many years to obtain annually a regulatory license from the Police Commissioner. The public local law under which this practice has been conducted does not merit extension throughout the State, and the Commission therefore recommends its repeal.

Electricians

It is recommended that the jurisdiction of the Board of Electrical Examiners and Supervisors now established in Baltimore City be extended throughout the State and that membership of the Board be made representative of the several major areas of the State. It is recommended that all other public local laws relating to the licensing and supervision of electricians be repealed.

Independent regulatory boards for examining and licensing electricians are now established in Baltimore City and in Anne Arundel, Baltimore; Calvert, Cecil, Harford, Prince George's and St. Mary's Counties. No regulatory license is required in the remaining sixteen counties of the State. A bill establishing a Board of Electrical Examiners for Charles

County was enacted by the General Assembly of 1949 but was vetoed.²⁰

Each of the seven regulatory boards now established in the counties is closely patterned after the older Board of Electrical Examiners and Supervisors operating in Baltimore City. The organic law under which each of the boards functions requires, generally, that no person may engage in the electrical business without first being licensed as a master electrician. License fees vary from \$15 to \$35 annually. In Cecil County the license fee for a resident master electrician is \$15, that required of a non-resident, \$35. The statutes establishing the electrical boards in most instances do not require or otherwise make specific provision for the reciprocal recognition of licenses issued by such boards. Each of the organic laws requires the posting of a bond with the local board conditioned on faithful performance. In one instance, in the discretion of the board, it is not necessary for a non-resident electrician licensed by another board to post a bond.

The Board of Electrical Examiners and Supervisors in Baltimore City is the model for all the local boards and has been entrusted with the supervision of large numbers of electricians. It is accordingly believed that the Acts under which this agency functions with slight modifications can be made effective for the supervision of the electrical trades throughout the State. Membership of this board should be made representative of the several major areas of the State.

Any legislation extending the jurisdiction of this board and repealing the public local laws establishing county electrical boards should make special provision for the licensing of persons currently engaged in the electrical trades. It is believed that this problem may be met successfully by permitting any person licensed by any of the local boards to continue to practice anywhere in the State under a local license in

²⁰ The veto message indicates that the Act was rejected by the Governor in part because it did not contain reciprocity provisions. See Laws of Maryland (1949), p. 1931.

force on the effective date of the proposed legislation until such license would ordinarily terminate. At this time, renewal of the license should be made upon payment of the renewal fee required by the State-wide board, without examination, provided such renewal is made within six months after the terminal date of the local license. Electricians in those counties which do not presently require regulatory licensing, who are not currently licensed by one of the local boards and who have been regularly engaged in the electrical business on a full-time basis for the three years next preceding the effective date of the proposed legislation, should be permitted to take out a license upon payment of the license fee, without examination, provided application is made within six months of the effective date.

In Montgomery County an annual license is required of electricians doing internal wiring. A fee is charged for this license, although no examination is required. Our recommendation that public local laws related to the licensing of electricians be repealed includes this measure.

Electric Elevator Contractors

It is recommended that there be added to the Board of Electrical Examiners and Supervisors a person skilled in the practice and theory of installation, maintenance and repair of electric elevators, dumbwaiters and moving stairways, such person to participate only in the examination of and issuance of license to persons seeking licenses as master electricians to engage in the work set forth above.

During the course of the public hearing on regulatory licensing, it was brought to the Commission's attention that one group of specialized technicians was peculiarly situated with respect to the operation of the organic law of the Board of Electrical Examiners and Supervisors.

In Baltimore City and in one or two of the other political subdivisions, there are several contractors whose work consists exclusively of the installation, maintenance and repair

of electric elevators, dumbwaiters and moving stairways. These contractors are all employees or agents of several elevator companies, and all their employees have had intensive factory training. It was explained that these contractors do only such electrical work as pertains to their specific field and that none of these persons poses as a "general electrician."

By the terms of the law in question, these persons are subject to licensing by the Board of Electrical Examiners and Supervisors. For reasons not adequately explained to the Commission, none of these contractors or their employees has submitted to licensing by the Board.

It was stated that these persons have no objection to regulatory licensing, but that, because of the highly specialized nature of their work, the Board of Electrical Examiners and Supervisors, as presently constituted, is not properly composed to administer examinations in this field. It was also stated that, because of the limited nature of the "electrical work" done by these persons, any examination should cover only subject matter germane to their work. It was suggested that a special regulatory board be established to supervise this occupation.

It is the opinion of the Commission that installation, maintenance and repair of the conveyances in question is of utmost importance to public safety, and therefore should be carefully supervised by a qualified agency. The creation of an independent board to supervise this activity, especially in view of the limited number of persons involved, does not appear justifiable. To avoid a multiplication of regulatory agencies, we believe the facilities of an existing agency should be utilized. A person qualified in this field should be appointed to the Board of Electrical Examiners and Supervisors. This member should participate only in examining applicants for an annual master electrician's license in this restricted field, such examination to be limited to the subject matter of the installation, maintenance and repair of electric elevators, dumbwaiters and moving stairways. The annual license

issued to these persons should be limited by its terms to the field covered by examination.

Legislation enacted to effectuate this recommendation should permit any person who has been engaged in this work in this State continuously for the three years next preceding the effective date of such legislation to obtain a license upon payment of the license fee without examination.

Horseshoers

It is recommended that all laws relating to the Board of Examiners of Horseshoers be repealed.

The Board of Examiners of Horseshoers was established in 1898, and jurisdiction over Baltimore City and the Twelfth Election District of Baltimore County was conferred upon the Board. The Board's jurisdiction over the last-mentioned area was abolished in 1945. The activities of horseshoers are today regulated in Baltimore City alone.

For several years prior to 1929 this Board was inactive. Since that time, however, it has been in operation. The total receipts for the Board for the fiscal year 1946-1947 amounted to \$30, such sum resulting from receipts for six licenses issued for \$5 each. The fee prescribed by law for this license is \$2.

The Commission believes this Board should be abolished. Should it for some reason be determined in the future that horseshoeing requires regulation, the State Board of Veterinary Medical Examiners is available for such purpose.

Moving Picture Machine Operators

It is recommended that the jurisdiction of the Board of Examining Moving Picture Machine Operators be extended throughout the State and that the membership of the Board be made representative of the several major areas of the State.

The Board of Examining Moving Picture Machine Operators was created in 1910. Its jurisdiction was and is limited to Baltimore City. No similar agency supervises the activities of projectionists in the several counties.

The skill required to operate a modern motion picture projector is considerable, and the experience necessary to insure the public safety against the fire hazards inherent in this activity is acquired only through time and careful training. The risk of fire and associated accidents incident to the operation of moving picture machines extends to any area where such machines are operated.

The Commission believes that legislation extending the jurisdiction of this Board should make provision for membership representation of the major areas of the State. Provision should also be made to permit the holder of a license issued by the present Board and subsisting at the effective date of the proposed legislation to conduct his business throughout the State until such license expires. At such time, the licensee should be permitted to renew his license with the State-wide Board upon payment of the license fee, and without examination, provided such renewal is made within six months after the termination of the local license. Projectionists in the counties who do not hold a subsisting license from the present Board, and who have been regularly engaged in this vocation on a full-time basis for the three years next preceding the proposed legislation should be permitted to obtain a license upon payment of the license fee, and without examination, provided application is made within six months after the effective date of such legislation.

Plumbers

It is recommended that the jurisdiction of the State Board of Commissioners of Practical Plumbing be extended throughout the State and that all other laws related to the licensing of plumbers be repealed.

Until 1929 all plumbers in the State were under the jurisdiction of the State Board of Commissioners of Practical Plumbing. In that year, Montgomery and Prince George's Counties were excepted from the general law, and the powers previously exercised by the State Board in those counties were conferred upon the Washington Suburban Sanitary

Commission. In 1945 the Baltimore County Plumbing Board was established and given exclusive jurisdiction over all plumbers engaged in business in Baltimore County. The laws relating to each of these agencies contains no provision for reciprocity. Consequently, each board may require examination of any plumber seeking to work in the subdivisions for which the specific boards are responsible.

Anne Arundel County is under the jurisdiction of the State Board. Yet the Plumbing Commission for Anne Arundel County requires every master and journeyman plumber to take out a license and pay a fee therefor before engaging in his occupation. Each master plumber is required to post a bond in the sum of \$1,000 conditioned upon faithful performance. No examination is required. This local provision is merely in addition to the requirements of the State Board and is regulatory largely in a formal sense.

Any legislation extending the jurisdiction of the State Board and abolishing the other licensing agencies should permit all persons holding subsisting licenses of the State Board, Washington Suburban Sanitary Commission, or Baltimore County Plumbing Board on the effective date of the proposed legislation to practice throughout the State until the date of termination of such license, but the renewal of the license should be obtained from the State Board, and without examination, providing application is made within six months from the effective date of such legislation.

Stationary Engineers

It is recommended that the jurisdiction of the Board of Examining Engineers be extended throughout the State.

The Board of Examining Engineers was established to minimize as far as possible the danger to life and property caused by the carelessness and incompetency of engineers in the operation of stationary steam engines and boilers. This Act was intended for State-wide application and was enacted by the General Assembly as a Public General Law. By a

clause appended to the last sentence of the Act, its provisions were limited to Baltimore City. The Commission believes this limitation should be deleted. The dangers to life and property incident to the operation of steam engines and boilers exist wherever such installations are operated.

Legislation extending the jurisdiction of the Board should make due allowance for the rights of engineers who would be affected by such legislation. It is therefore recommended that any engineer holding a subsisting license issued by the present Board at the effective date of the proposed legislation be permitted to work throughout the State under such license until its expiration. At such time renewal of the license should be made upon payment of such renewal fee as is required by law, without examination unless otherwise required for the purpose of changing classification of the license.

The present Act afforded "grandfather" rights in certain instances to engineers engaged as such at the time of the adoption of the Act. Identical rights should be accorded engineers working in the counties not holding a subsisting license issued by the present Board at the effective date of the proposed legislation.

Central License Office

It is recommended that a Central License Office be created in Baltimore City to perform all clerical work and provide office facilities for the following regulatory agencies: Board of Electrical Examiners and Supervisors; Board of Examining Engineers; Board of Examining Moving Picture Machine Operators; State Board of Barber Examiners; and the State Board of Commissioners of Practical Plumbing.

There is no single agency or office in Maryland to which the public may turn for information concerning the above regulatory boards and agencies; nor is there any central office where practitioners of these regulated trades and occupations may conduct the many transactions necessarily

related to their licensing. Each board or agency maintains its own separate and distinct office. These boards operate on revenues so limited as to preclude the maintenance of established offices. The activities of these boards are conducted at the homes or offices of the personnel of the boards. Consequently regular office hours are impossible. Changes of Board personnel necessarily involve changes in office location. It is unnecessary to analyze the economic waste inherent in such a system.

The recommendation concerning a Central License Office includes the State Board of Barber Examiners which has not been considered elsewhere in this report. However, this board is presently operating under great economic hardships and will benefit from participating in a Central License Office. A representative of the State Board of Barber Examiners, as well as representatives of the other boards covered by this recommendation, have expressed willingness to participate in this arrangement. In addition, it may be found desirable at a later date for other boards to become affiliated with the Central License Office, and it should not be understood that the Commission's recommendation precludes that possibility.

Adoption of the recommendations previously made extending the jurisdiction of four of these boards will necessarily involve an increase in duties and operating expenses without, for the first several months of operation, a corresponding increase in revenues. For this reason it is recommended that the State make available funds sufficient to cover the costs of the initial operations of the Central License Office. For the long term future it is recommended that the expense of maintaining and equipping this office be prorated among the participants.

Regional Examinations

It is recommended that legislation be adopted requiring the Board of Electrical Examiners and Supervisors, Board of Examining Engineers, Board of Examining Moving Picture Machine Operators, State Board of Barber Examiners, and the State Board of Commissioners of Practical Plumbing to conduct examinations at least once annually in each of the several major areas of the State.

Applicants for licenses throughout the State are generally required to submit to examination in the City of Baltimore. The expenses involved in trips from many localities in the State are not insignificant, especially in relation to a person seeking a license to practice the trades regulated by the boards set forth above. At the public hearing on regulatory licenses, representatives of these trades expressed dissatisfaction with this situation.

The organic law of the State Board of Barber Examiners makes provision for administering examinations throughout the State. Such provisions, however, do not appear mandatory. The organic laws of the other boards mentioned above do not require the conduct of examinations other than in Baltimore City. The operations of three of these agencies have, of course, been limited to Baltimore City. The Commission believes that each of these boards should conduct at least one examination annually in each of the principal areas of the State.

Remedy From Board or Agency Action

It is recommended that legislation be enacted providing that in any matter relating to licensing of any person seeking to engage in or engaged in any trade, occupation or profession regulated by law, the examining board or other agency be required to give notice to the applicant or licensee of intended board or agency action, and that such applicant or licensee be given an opportunity to be heard, to be represented by counsel, and to produce witnesses in his behalf; and, further,

that in any matter relating to a license, an applicant or licensee be given a right of appeal from board or agency action to the Common Law Courts of the State (i.e., Courts having jurisdiction over the place in which the appellant regularly conducts his business or the Baltimore City Court). The appeal should be taken upon the record of proceedings before the board, and board action should be taken as *prima facie* correct, provided that either party to the cause should have the right to introduce such other or additional evidence as may be desirable.

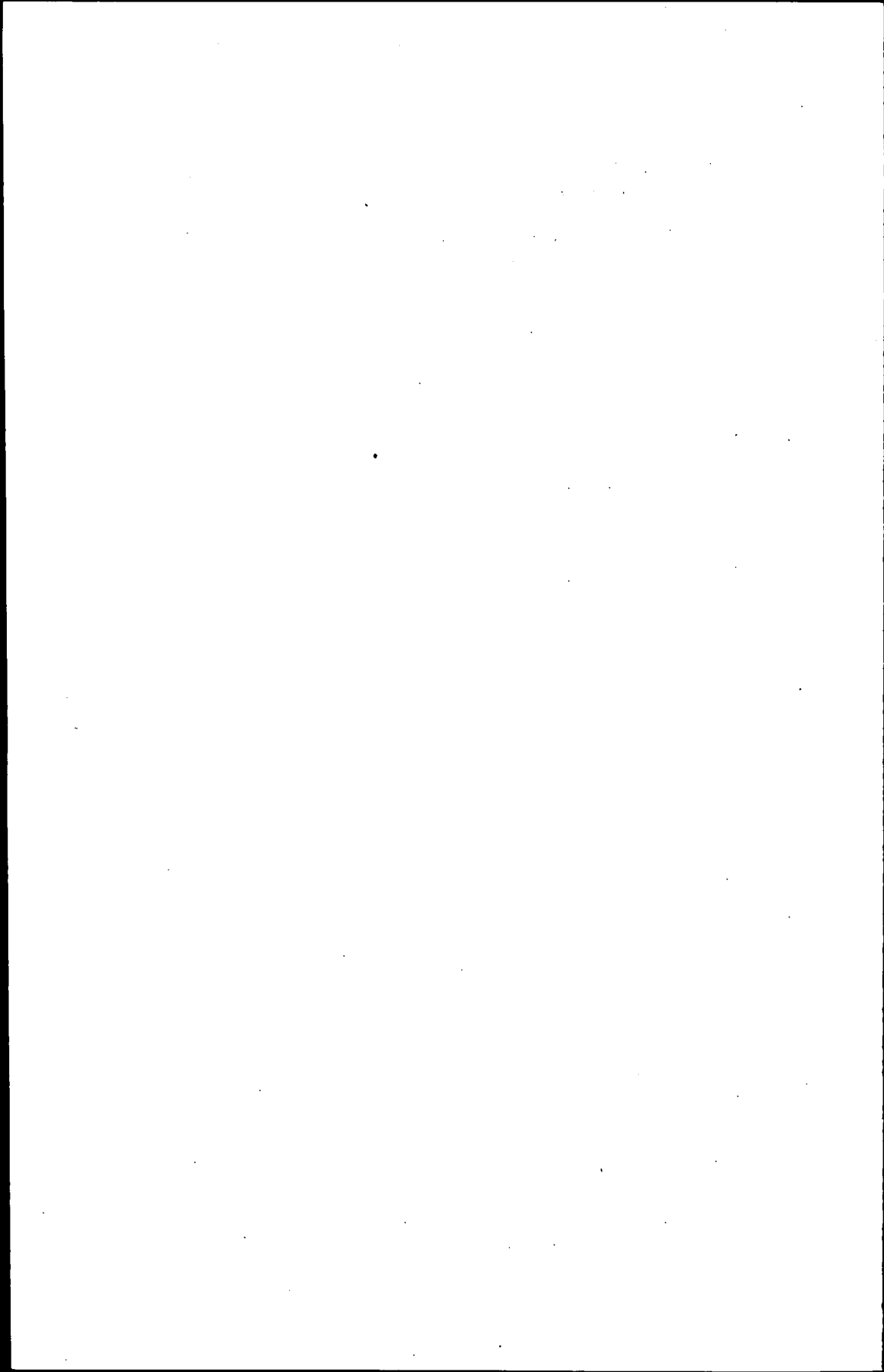
An examination of the statutes regulating the activities of those engaged in the several regulated trades, occupations and professions reveals a great disparity in rights of appeal from board or agency action in matters relating to licenses. In addition to certain criminal sanctions available for violation of laws, rules or regulations concerning the conduct of the regulated trades, professions and occupations, there are generally four other actions a board may take relating to a license. These are refusal to issue, refusal to renew, suspension and revocation of a license.

Usually an appeal to a court of law may be taken from any of these actions. At times a further right of appeal to the Court of Appeals is granted. In several instances, however, there is no provision for appeal to a court of law. In two cases, while no appeal to a court of law is provided, it is possible to take an appeal to a "Board of Arbiters" consisting of one person selected by the examining board, one person selected by the applicant, and a third person selected by the previous two. While in a constitutional sense there is probably no requirement that an applicant or licensee be granted a right of appeal to a court of law, the Commission believes that an applicant or licensee should be afforded a right of appeal from any board action relating to a license, and it so recommends.

In some instances there are at present provisions for appeal which are more extensive than those set forth in our recommendation. It is not our intention that such greater

rights be constricted, but only that the rights set forth above should be minimum rights.

The statutes governing several of the regulatory bodies contain no specific requirements that the board conduct a hearing after due notice to the applicant or licensee in matters relating to a license. Such a situation, if in fact no hearing after notice is conducted, is objectionable to the most basic sense of fair play and is no less objectionable in a constitutional sense. We accordingly recommend that, in any matter relating to licensing, board action must be preceded by a hearing on the subject after due notice to the applicant or licensee, and that such applicant or licensee be given an opportunity to be heard, to be represented by counsel, and to produce witnesses in his behalf.



REPORT

on

**TAX ADMINISTRATION
AND PROCEDURE**

ALCOHOLIC BEVERAGE TAXES

TAX ADMINISTRATION AND PROCEDURE

PRELIMINARY STATEMENT

All systems of taxation can be divided into two broad subdivisions. The first deals generally with the operative acts which occasion tax liability. The second deals generally with the methods by which taxes are collected. For convenience, the second of these two subdivisions will be identified in this report as "Tax Administration and Procedure."

Effective tax administration and procedure are absolutely essential to any satisfactory system of taxation. Without adequate collection methods no appreciable amount of revenue would be produced by the finest laws defining tax liability. In addition, it is the administrative and procedural aspects of all tax systems which brings the government into tax contact with its citizens. For these reasons not only are appropriate tax laws necessary but also tax administration and procedure must be both adequate to meet the needs of government and equitable to all taxpayers who are required to contribute their fair share in support of those needs.

In past Maryland studies of taxation, emphasis usually has been placed upon the question of determining adequate and fair bases upon which to place tax liability. Excepting the report of the *Maryland Tax Revision Commission of 1939*, there has been no official study of the problems occasioned by tax administration and procedure in this State.¹ This

¹ Ten special state commissions have been appointed in the past to investigate the Maryland tax structure. The earliest of these investigative bodies was the *Maryland Tax Commission*, or "Poe Commission", appointed pursuant to Md. Laws 1886, c. 488. In recent years tax study commissions have been appointed approximately at five year intervals. Depending on the reasons for their appointment, these commissions have sought variously to eliminate inequities and discriminations in Maryland taxes, to recommend methods of raising revenues to support State activities, to revise, clarify and recodify laws imposing taxes, to eliminate obsolete tax laws, to provide for the sharing of State revenues with the localities and to study the problems occasioned by tax administration and procedure. Of the several bodies, the *Maryland Tax Revision Commission of 1939* alone has made a comprehensive study of the matter under consideration in this report. The *Commission for the Revision of the Taxation System of the State of Maryland and the City of Baltimore* (1913), known as the "Baker Commission", also dealt with the problem to some extent.

Commission believes, however, that tax inequities may be created and perpetuated through an outmoded system of administration as effectively as by means of inequitable laws defining tax liability.

At the outset, the Commission desires to define the scope of this section of its report. Under the heading, "Tax Administration", the problem of assessment is considered. The term "assessment" here is used in a broad sense and means the finding of tax liability by the governmental agency assigned to such work.² Under the heading "Tax Procedure", the question of tax litigation is considered. By "tax litigation" is meant the method by which taxpayers may have their "assessments" tested by a fair and impartial tribunal. This definition includes the right of appeal. Finally, this section of the Commission's report relates only to taxes imposed for revenue purposes and therefore is not concerned with either licenses (the subject of the Commission's first interim report),³ or with other imposts levied for health or regulatory reasons.

TAX ADMINISTRATION IN MARYLAND

Recommendations

1. A new state agency, to be known as the State Department of Revenue, should be created. This department would have the following functions:

- (a) The assessment of all taxes now assessed by the State Comptroller.**
- (b) The assessment of all taxes now assessed by the State Tax Commission.**

² In a more restricted sense, "assessment" denotes the listing and valuation of property for the purpose of apportioning a tax upon it, either according to value alone or in proportion to benefit received. It should be borne in mind, moreover, that this report does not deal with the question of the method by which real and personal property are assessed in this State. For a report on this subject, see pages 160 to 191.

³ *Interim Report, Report on Licenses*, MARYLAND TAX SURVEY COMMISSION OF 1949 (February 5, 1950). See p. 1 *et seq.* this Report.

- (c) The supervision of local property assessments which now is conducted by the State Tax Commission.
- (d) The assessment of the Maryland estate tax and the Maryland inheritance tax.
- (e) The performance of various duties now imposed upon the State Tax Commission by the general corporation laws of the State.
- (f) The assessment of the insurance premium tax which now is assessed by the State Insurance Department.

2. The personnel in the offices of the State Comptroller, the State Tax Commission and the State Insurance Department, now performing the functions outlined above, should be placed under jurisdiction of the State Department of Revenue.

3. The State Department of Revenue should be headed by a director who should (a) be appointed by the Governor with the advice of an advisory body consisting of the president of the Maryland State Bar Association, the president of the Maryland Bankers Association and the chairman of the Commission on Governmental Efficiency and Economy, Inc., (b) hold office for a term or terms of nine years, provided that no director shall hold office after reaching the age of seventy years, and (c) be removed from office only for cause after an opportunity for a hearing before the Board of Public Works.

4. The State Department of Revenue should be composed of various bureaus, each bureau to be headed by a merit system employee, and each bureau to perform such functions as may be assigned to it by the director.

5. The director should be authorized to determine assessment methods and practices of all agencies collecting State taxes, and all such agencies should report annually to the director concerning such collections.

Tax administration in Maryland is characterized by wide diffusion of responsibility. No less than 11 boards or agencies

take part in the collection of State revenues. These agencies and the taxes they administer are as follows:

1. *State Roads Commission:*
Outdoor advertising.
2. *Clerks of Circuit Courts of Counties:*
Recordation tax.
3. *Clerk of Superior Court of Baltimore City:*
Recordation Tax.
4. *Commissioner of Motor Vehicles:*
 - (a) Mileage tax (interstate public passenger motor vehicles).
 - (b) Public freight motor vehicles (intra-state).
 - (c) Public passenger motor vehicles (intra-state).
 - (d) Registration fees.
 - (e) Titling tax.
5. *Comptroller:*
 - (a) Admissions and amusements tax.
 - (b) Alcoholic beverages (excise taxes).
 - (c) Gross receipts tax (one railroad only).
 - (d) Income Tax.
 - (e) Motor vehicle fuel tax.
 - (f) Sales tax.
 - (g) Use Tax.
6. *County Commissioners and County Appeal Tax Courts:*
Property taxes (real and personal property except that assessed by State Tax Commission).
7. *Department of Assessments:*
Property taxes in Baltimore City (real and personal property except that assessed by State Tax Commission).
8. *State Insurance Department:*
Insurance premiums tax.

9. *Registers of Wills:*
 - (a) Tax on commissions of Executors and Administrators.
 - (b) Direct and collateral inheritance tax.
 - (c) Maryland estate tax.
10. *State Racing Commission:*
 - (a) Daily license fee.
 - (b) Tax on pari-mutual wagers.
11. *State Tax Commission:*
 - (a) Bonus tax.
 - (b) Share tax.
 - (c) Tax on savings bank deposits.
 - (d) Franchise tax.
 - (e) Gross receipts tax (except one railroad).
 - (f) Property taxes, as follows:
 - (i) Tax on distilled spirits.
 - (ii) Personal property of corporations.
 - (iii) Operating property (except land) of public utilities.
 - (iv) Rolling stock.

The reasons which occasioned the diffusion of tax administration in Maryland are at least as numerous as the agencies to which have been committed the responsibility of tax collection. No useful purpose would be served by discussing such reasons in this report. Suffice it to say that some reasons were based on precedent while others were prompted by political considerations of the moment. However, none of these reasons placed primary emphasis on economy of operation or efficiency of fiscal management.

The antithesis of the present diffused system of tax administration which obtains in Maryland is an integrated system of tax administration organized on a centralized basis.⁴ As stated by the *Maryland Tax Revision Commission*

⁴ For a scholarly statement of the lack of coordination in the administration of Maryland taxes, see Richardson, *License Taxation in the Maryland Revenue System*, 17 TAX MAGAZINE, 210, 284 (1939).

of 1939, however, "... central administration is perhaps undesirable with respect to all State taxes".⁵ As put by that Commission, the issue is "... whether centrally administered taxes should be handled piecemeal or as a unit".⁶ Since the *Maryland Tax Revision Commission of 1939* reported, the issue has been intensified and resolved to some extent in favor of centralization by the advent of centralized administration in such important fields as public utilities taxation, the sales tax and the use tax.⁷

Many states that previously operated under a tax administrative system characterized by wide diffusion of responsibility have today integrated their tax collection activities under a single bureau. Before adoption of centralized and integrated systems of taxation, eight of these states maintained revenue systems not unlike that now prevailing in Maryland.⁸ As a consequence, the present tax administrative organizations of these states are of great interest to the Commission.

The present laws of each of these states make provision for a department of taxation or revenue in which is concentrated responsibility for administering all or substantially all revenue laws of the state.⁹ These departments are headed by a single official designated "director" or "commissioner",

⁵ *Report, MARYLAND TAX REVISION COMMISSION OF 1939*, p. 1.

⁶ *Ibid.*, p. 1.

⁷ A result of a recommendation of the *Maryland Tax Revision Commission of 1939* has been the placing of responsibility for assessment of operating property, except land, of railroads and other public utilities and contract carriers upon the State Tax Commission. Enactment of the Retail Sales Tax Act and the Maryland Use Tax in 1947 has concentrated in the Office of Comptroller the responsibility for administering the most productive of State taxes.

⁸ These states are Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, New Jersey, Ohio and Wisconsin.

⁹ Kentucky, "Department of Revenue", KY. REV. STAT. c. 131 (Baldwin, 1943 and Cum. Supp. 1950); Louisiana, "Department of Revenue", LA. GEN. STAT. §7789.26 *et seq.* (Dart, Cum. Supp. 1949); Massachusetts, "Department of Corporations and Taxation", ANN. LAWS MASS. c. 14, §1 *et seq.* (Michie, 1944 and Cum. Supp. 1949); Michigan, "Department of Revenue", MICH. STAT. ANN. §7.657(1) *et seq.* (Rice, 1950); Minnesota, "Department of Taxation", MINN. STAT. ANN. c. 270 (West, 1947 and Cum. Supp. 1949); New Jersey, "Division of Taxation" in Department of Taxation and Finance, N. J. STAT. ANN. §52:27B-48 *et seq.* (West, Cum. Supp. 1949); Ohio, "Department of Taxation", OHIO GEN. CODE ANN. §1464 *et seq.* (Page, 1946 and Cum. Supp. 1949); and Wisconsin, "Department of Taxation", WIS. STAT. c. 73 (1949).

such official usually being appointed by the governor with the advice and consent of the senate.¹⁰ The tenure of the director or commissioner ranges from three to six years. In New Jersey the appointment is for the duration of the appointing governor's term, while in Michigan this official's term is of indefinite duration. Compensation for these officials, where fixed by statute, varies from \$5,000 per annum in Ohio to \$10,000 per annum in New Jersey.

The director is given broad discretion in the organization of the department. In some of the states, virtually all matters relating to organization are subject to his discretion.¹¹ In other instances, the legislature prescribes the general organizational pattern of the department and vests the director with ample powers to supplement that pattern.¹²

The Commission is of the opinion that strong and compelling reasons exist why State revenue measures which are at present centrally assessed should, in general, be administered by one State agency. These reasons include the following:

(1) Administration by one agency would fix responsibility for collection of State revenues in a single department and thereby eliminate the possibility of uncertainty or shifting of responsibility from one State agency to another.

(2) Administration by one agency would be the final step regarding revenues in completing the already existing policy of the State which places responsibility for the State's fiscal affairs upon the executive.¹³

¹⁰ The Commissioner of Revenue is appointed by the Michigan Civil Service Commission. MICH. STAT. ANN. §7.657(2) (Rice, 1950).

¹¹ See MICH. STAT. ANN. §7.657(6) (Rice, 1950); N. J. STAT. ANN. §52:27B-51 (Cum. Supp. 1949).

¹² See KY. REV. STAT. §131.050 *et seq.* (Baldwin, 1943); ANN. LAWS MASS. c. 14 §1 (Michie, 1944).

¹³ The adoption of the Budget Amendment to the Maryland Constitution in 1916 (Art. III, Sec. 52), placed upon the Governor primary responsibility for the financial planning for the State. Section 52, as amended by Md. Laws 1947, c. 497, and ratified by the electorate in 1948, requires the Governor to submit annually to the General Assembly a budget for the next ensuing fiscal year, setting forth in detail an estimate of revenues and proposed expenditures for such year. Items of proposed disbursements may not be increased by the Legislature other than by way of a supplementary appropriation which must carry its special tax.

(3) Administration by one agency would permit free exchange of information between the various tax administrators, thereby closing avenues of tax avoidance available under the present system.¹⁴

(4) Administration of assessments and collection of State revenues by one agency would minimize the possibility of political consideration.¹⁵

(5) Administration by one agency would eliminate duplication of investigation and reporting activities which is currently performed on a multi-agency system in Maryland.¹⁶

(6) Administration by one agency would permit taxpayers to settle all of their State revenue responsibilities in one place rather than on a piecemeal basis at the headquarters of two or more State agencies.¹⁷

¹⁴ For example, adequate administration of the property tax laws requires recourse to information as to inventory, furniture, fixtures and equipment contained in corporate income tax and sales tax returns. To obtain this information the State Tax Commission must turn to the Income Tax Division of the Comptroller's Office. The necessity of obtaining this information through channels, together with the inconvenience of sending personnel for great distances to obtain it at all, does not stimulate utilization of available information. To ascertain whether all corporations liable to the corporate income tax have filed income tax returns requires a search of records maintained by the State Tax Commission. Only through unnecessary inconvenience and effort have several corporate income tax evaders been brought to task by these two agencies.

¹⁵ It is not to be understood from this that the Commission has found as a fact that political assessments have been made. The Commission is emphasizing merely that while responsibility for making assessments in important tax fields rests with elected officials, the possibility of political assessments is present. Accordingly, the Commission believes that removal of the "possibility" is a step in the direction of sound governmental administration.

¹⁶ Whether or not individual investigators are capable of conducting investigations connected with one or more taxes depends largely on their individual qualifications and backgrounds. Despite this fact, however, it is believed many investigators may solicit and obtain valuable information concerning tax liability in fields other than those to which ordinarily assigned. Recent experience in the Sales Tax and Income Tax Divisions of the Comptroller's Office is illustrative of this practice.

¹⁷ Because of the absence of centralized responsibility for administration of taxes, the taxpayer frequently is compelled to negotiate with several agencies, at times with divisions of a single agency located many miles apart, as, for example, the Sales Tax Division of the Comptroller's Office, located in Baltimore City, and the Income Tax Division of the same office, which makes its headquarters in Annapolis. Unified administration would go far to overcome this obvious deficiency. A complete solution to this problem unquestionably requires a single State Office Building wherein the office of the Director of the Department of Revenue and its component bureaus or divisions may be physically located.

(7) Administration by one agency would result in simplification and consolidation of various reports and forms now required from taxpayers by the several responsible State departments.¹⁸

(8) Administration by one agency would produce economy of office operation by making possible the joint use of office personnel and machines, many of which are duplicated at present.¹⁹

(9) Unification would permit more effective revenue planning since it would form a basic element of revenue administration.

The Commission, after canvassing the possibility of assigning to an existing State agency the responsibility of assessing and enforcing certain State revenue measures which currently are administered centrally, decided that the two most nearly qualifying are the Office of the State Comptroller and the State Tax Commission. After careful consideration, however, this Commission decided that responsibility for assessing and enforcing the centrally administered taxes should not be placed under either of these two agencies.

The Comptroller is an elected State official who, together with the State Treasurer, compose the Treasury Department.²⁰ With specific reference to the collection of State

¹⁸ The corporate income tax form contains a schedule from which the corporate franchise tax may be computed. Yet, because the latter tax is administered by the State Tax Commission, the corporate taxpayer must file an income tax return with the Income Tax Division and a franchise tax return with the State Tax Commission. A separate franchise tax return would be unnecessary under the proposed plan. Moreover, a unified system of assessing taxes would facilitate the development of tax return questionnaires that would minimize tax avoidance and evasion.

¹⁹ Assessment and collection of taxes involve intricate accounting procedures efficiently undertaken only through use of expensive machines and skilled personnel. While some machines (and to a limited extent, operating personnel also) are of a single purpose variety and continuously in use within existing agencies, such is not always the case, and both personnel and machines could be used with advantage by other agencies. No logical reason exists why the State Tax Commission should maintain photostatic equipment for use on the average of two to four days a month, while similar apparatus is maintained by the Comptroller's Office for less than full-time use. Nor is there supportable reason why each major tax assessing agency should maintain separate hearing rooms (in one case inadequate) and other office facilities. Numerous other duplications are equally illogical.

²⁰ Md. CONST., Art. VI, Sec. 1.

revenues, the Maryland Constitution provides that it shall be the duty of the Comptroller to superintend generally the fiscal affairs of the State, to prepare and digest plans for the improvement and management of State revenues, to make reports dealing with estimates of State revenues and expenditures, and to enforce the prompt collection of State taxes by adjusting and settling the public accounts of various tax collection agencies and receivers of State revenues.²¹ In addition, the Comptroller is authorized to superintend generally State revenue deposits and to grant under regulations prescribed by law all warrants for monies to be paid out of the State treasury.²²

While the Office of the State Comptroller now administers the most productive State taxes, such duties were not intended for that office by the framers of the Constitution. As originally contemplated, the Comptroller was to be concerned with State revenue *policy* and not with tasks of tax collection and assessment. Moreover, it would seem that the principal duty imposed upon the Comptroller by the Constitution is the handling and disbursing of State revenues after they have been obtained rather than the actual securing of such revenues in the first instance.²³ For these reasons the Commission is of the opinion that the duty of assessing and enforcing centrally administered State revenue measures should not be committed to the State Comptroller.

Unlike the Office of the State Comptroller, the State Tax Commission was created specifically to supervise the details of tax assessments and the collection of revenues.²⁴ Prior

²¹ Md. CONST., Art. VI, Sec. 2.

²² *Ibid.*

²³ An authoritative statement to this effect was recently made by the Maryland Court of Appeals in *Duval v. Lacy*, reported in the *Daily Record*, April 21, 1950. This case involved an unsuccessful mandamus proceeding which sought on constitutional grounds to prevent the removal of the Income Tax Division of the Comptroller's Office from Annapolis to Baltimore.

²⁴ In recommending the creation of the State Tax Commission, the *Commission for the Revision of the Taxation System of the State of Maryland and City of Baltimore* (1913) was concerned primarily with assessment of real estate. A fundamental obligation of the State Tax Commission involved equalization of the "... unscientific and faulty assessments made by unsupervised local assessors. . .". *Report*, p. 10.

to 1914 the agency administering centrally assessed taxes in this State was the Office of the State Tax Commissioner.²⁵ Lack of centralized control under the Office of the State Tax Commissioner, however, prompted the *Commission for the Revision of the Taxation System of the State of Maryland and the City of Baltimore* (the Baker Commission) to observe in 1913 that:

"From our observation and investigation we find the people in all parts of the State united in the opinion that most of the defects in our system of taxation and collection are due to a lack of central control."²⁶

Based upon recommendations of the *Baker Commission*, the General Assembly of Maryland in 1914 enacted legislation creating the State Tax Commission.

Had the authority of the State Tax Commission been limited by Chapter 841 of the Acts of 1914 to the details of assessing and collecting State taxes, the solution to the problems now under discussion would be simple. But such was not the case. The State Tax Commission was established not only as a tax assessing and collecting agency, but also as a judicial agency with power to hear and determine tax appeals.

As indicated above, the State Tax Commission assesses many of the centrally administered taxes. If a taxpayer is dissatisfied with a tentative assessment made by the Commission he is entitled to a hearing.²⁷ But the agency sitting in judgment of the assessment is the very agency which made it originally—the State Tax Commission. Such a system does not commend itself to the members of this Commission.

The undesirable situation of combining within the State Tax Commission the power to assess and the power to judge is magnified when the system of valuing real estate (and

²⁵ Md. Laws 1878, c. 178, created the office of the State Tax Commissioner within the Treasury Department. The Commissioner was clothed with tax assessing duties previously vested in the Comptroller.

²⁶ *Report*, p. 9.

²⁷ ANN. CODE MD., Art. 81, Sec. 24 (1939).

some tangible personal property) is considered. Such properties are, in part, valued by local assessors. The inequitable condition is not readily apparent, therefore, until the relationship between the local assessors and the State Tax Commission is considered and the method of procedure in all real and certain personal property tax cases is understood.

Local tax assessors (the supervisor of assessments and his assessors) are for all practical purposes under control of the State Tax Commission. The Commission fixes general policy to guide the local assessor in the performance of his duties.²⁸ The Commission specifies methods of assessment. It fosters the dissemination of information regarding best assessment practices.²⁹ It participates in the selection of assessing personnel and in the establishment of their compensation.³⁰ It has the power to remove a local assessor for cause.³¹ In many respects, therefore, the assessor looks to the State Tax Commission as his superior, and the State Tax Commission considers the local assessor as the instrumentality by which its State-wide policies are put into effect.

Tax values on real estate and certain tangible personal property are recommended to the original assessing authority by the local assessor. A taxpayer may protest such recommendations made either upon his own or upon his neighbor's

²⁸ ANN. CODE MD., Art. 81, Sec. 175 (Supp. 1947).

²⁹ To assist in this function, the State Tax Commission sponsored *The Maryland Supervisors and Assessors Association, Inc.*, in 1944. This organization, since 1947 the *Maryland Association of Assessing Officers, Inc.*, is a non stock, non profit corporation composed of all supervisors of assessments and local assessors in the State, and has as its primary objective the attainment of equality and uniformity in property assessments throughout the State. The compilation of the Official Manual for Tax Assessors, adopted by the State Tax Commission as of January 1, 1949, as an official assessing guide, is an example of its efforts in this direction.

³⁰ Locally assessable property in each county and Baltimore City is assessed under the supervision of the Supervisor of Assessments of the subdivision. This official is appointed by the State Tax Commission from nominees of the Boards of County Commissioners or Mayor and City Council of Baltimore City. Salaries of these officials are, within limits, fixed by the State Tax Commission, and they are removable by the Commission at any time for cause. Where necessary, assessors are appointed to assist the local supervisors. These persons are examined by the State Tax Commission and are removable by that body after hearing and for cause. ANN. CODE MD., Art. 81, Secs. 176-180 (1939 and Supp. 1947).

³¹ See f.n. 30, *supra*. Filing of certificate of candidacy for political office has been held sufficient grounds for removal. *Rogan v. Cook*, 188 Md. 345 (1947).

property.³² Such protests are heard by the county commissioners (in two counties by the County Appeal Tax Court)³³ or by the Board of Municipal and Zoning Appeals in the City of Baltimore. From the actions of these boards any party in interest may appeal to the State Tax Commission.

A hearing on the assessment originally made by the local authority is given by the State Tax Commission to any person taking an appeal to that body. In such cases, however, the real parties in interest are the taxpayers on the one hand and the local assessor on the other.³⁴ The inevitable result is, therefore, that the State Tax Commission sits in judgment on its own theories, policies and instructions in attempting to decide the issues in the usual property tax assessment case. In addition, one party in the case is, realistically speaking, its own employee.

This Commission believes it is unsound to combine the duty of making assessments or the responsibility of establishing assessment procedure with the duty of hearing and determining cases which are the direct or indirect product of those assessments or assessment procedures. For the reasons stated the Commission recommends that the State Tax Commission be relieved of responsibility for (a) making original assessments, and (b) establishing administrative policy under which assessments are made by others.

The Commission concludes, therefore, that no State agency exists upon which should be placed the responsibility of assessing and collecting centrally administered taxes. The Commission recommends that a new agency, to be known as the State Department of Revenue, be created to perform

³² ANN. CODE MD., Art. 81, Sec. 190 (1939). See also Board of County Commissioners v. Buch, 58 A. 2d 672 (1948).

³³ Md. Laws 1943, c. 717, Secs. 186-186B, codified as ANN. CODE MD., Art. 81, Secs. 186-186B (Supp. 1947), authorized the County Commissioners of Baltimore and Montgomery Counties to establish Appeal Tax Courts in those counties. Creation of these Appeal Tax Courts relieved the County Commissioners of the two counties of tax appeal and assessment duties.

³⁴ The local assessor is, of course, representative of the interests of the political units that will benefit from expenditures made from taxes collected. In most instances the real issues in dispute involve the methods and principles employed in valuing property.

these functions. The assessment duties of this agency should include those presently conducted by (a) the State Comptroller, (b) the State Tax Commission, (c) the Registers of Wills (with the exception of the tax on commissions) and (d) the State Insurance Department. In addition, the State Department of Revenue should (a) perform the various duties now imposed upon the State Tax Commission by the general corporation laws of the State, and (b) supervise all local property assessments and assessment procedures.

The State Department of Revenue should be headed by a director who should be paid a salary comparable to that received by heads of other important State agencies. To assist in the selection of the most qualified person for this position, it has been recommended that the appointment be made by the Governor with the advice of the president of the Maryland State Bar Association, the Chairman of the Commission on Governmental Efficiency and Economy and the president of the Maryland Bankers Association.

The Commission has recommended that the term of office of the director of the State Department of Revenue should be nine years. Before making this recommendation, the Commission considered the possibility of (a) an unlimited term and (b) a term coterminus with that of the Governor. Strong arguments can be advanced for either of these two propositions. However, the Commission believes that a term of nine years not only will insulate, as far as possible, the Director of the State Department of Revenue from outside pressure but also will insure against the possibility of overbearing bureaucracy.

The recommendation concerning the retirement of the Director of the State Department of Revenue is consistent with the State retirement system. The recommendation permitting the Board of Public Works to remove the director after hearing for cause will enable the Board to prevent a continuing abuse of office. By use of the term "for cause",

the Commission means sufficient reason affecting the ability or fitness of the incumbent to perform the duties of his office.

The personnel of the Department should consist primarily of those employees now serving under the State Comptroller, the State Tax Commission and the State Insurance Department whose duties consist of assessing and collecting the various taxes handled by those agencies. The personnel of the Department should be composed also of those persons currently under the jurisdiction of the State Tax Commission who administer the Maryland corporation laws and who direct local property assessments and assessment procedures. Such personnel should be merit system employees, a requirement which would occasion little change since all such personnel are presently within the State merit system.

The Commission recommends that no change be made at this time in the administration of taxes on outdoor advertising, taxes on the commissions of executors and administrators, taxes presently administered by the State Racing Commission, the recordation tax and taxes presently administered by the Commissioner of Motor Vehicles.

The tax on outdoor advertising is primarily a regulatory measure, and its administration should be left with the State Roads Commission. The tax on commissions of executors and administrators is peculiarly adaptable to administration by the registers of wills, and it is recommended that the administration of this tax be continued by the registers. The recordation tax is in essence a local measure, the revenue from which is distributed to the local political subdivisions.³⁵

³⁵ ANN. CODE MD., Art. 81, Secs. 220, 221 (Supp. 1947). This tax is imposed on the recordation of every instrument conveying title to real property or creating liens or encumbrances upon real or personal property. Proceeds from this tax were originally allocated to the State. Md. Laws Spec. Sess. 1937, c. 11, Sec. 214. Because of the highly local character of recordation transactions, the *Maryland Commission on the Distribution of Tax Revenues* (1946), the "Sherbow Commission", recommended that proceeds of the tax imposed on instruments involving property located wholly within a subdivision should be allocated to such subdivision. This allocation was adopted in Md. Laws 1947, c. 484. The reasoning of the "Sherbow Commission" and the simplicity of administering the recordation tax argue against central administration.

No useful purpose would be accomplished by centralizing administration of this tax.

Taxes collected by the State Racing Commission are imposed upon a regulated industry having problems totally different from those of general business organizations.³⁶ The taxes administered by the Commissioner of Motor Vehicles produce funds dedicated by law to be spent on the highways of the State or to service State roads bonds. For the reasons stated the Commission is of the opinion that taxes administered by the State Racing Commission and the Commissioner of Motor Vehicles should continue to be administered by those agencies.

Regarding administration of inheritance and estate taxes by the State Department of Revenue, it is recommended that every executor, administrator or other person making distribution of property of a decedent be required to file a return showing the property distributed, its value and the names of recipients. Tax liability then would be determined by the appropriate bureau of the State Department of Revenue which would certify the assessment to the appropriate register of wills for collection. The registers of wills thereby will remain the agents of the State for the collection of the inheritance tax, the only change being that the assessment of the tax will be made by the central bureau.³⁷

The Commission recommends that the insurance premiums tax be assessed by the State Department of Revenue

³⁶ The Racing Commission also administers the "Racing Fund". Each licensee is required to remit one-half of one percentum of the amount wagered during every racing meet to the Commission. To the extent approved by the Commission, each licensee may expend for repairs and improvements to his racing plant such portion of the "Racing Fund" as does not exceed its contribution to the fund. Unspent and unobligated contributions revert to the general funds of the State three years from the last day of the year of collection. ANN. CODE MD., Art. 78B, Sec. 12 (Supp. 1947).

³⁷ For receiving and paying over any inheritance tax due the State the several registers of wills are allowed a commission of 10% of said tax. A fee of 25% upon the tax on executors' and administrators' commissions is also retained by the registers. ANN. CODE MD., Art. 36, Sec. 28 (Supp. 1947). It is contemplated these fees will continue to be deducted by the registers under centralized assessment. No fee or commission is retained by the registers in the case of the Maryland Estate Tax.

rather than by the State Insurance Department. This practice is followed in most progressive states, including the great insurance states. It is believed that such a change will not only strengthen tax administration in Maryland but also permit the State Insurance Department to concentrate on regulation and rating.

Although the Department of Revenue will not be concerned directly with the duties of assessing and collecting all State taxes, the Commission believes the Department should be given some degree of control and supervision over such matters. It is recommended, therefore, that all State agents and agencies collecting State taxes should make annual reports of such collections to the Department of Revenue. In addition, the Department should be given the power to determine the assessment methods and practices of all agencies collecting State taxes. Finally it is recommended that the Department of Revenue should make annual reports to the State Comptroller, in which there should be set forth pertinent information regarding tax assessments and collection practices in this State, together with suggestions for the improvement of those practices.

The recommendations made above do not constitute criticism of the present administration of the Office of the State Comptroller, the State Tax Commission, the State Insurance Department or the Registers of Wills. It is the Maryland structure of tax administration rather than its operation which is the subject of criticism in this report. A system of tax administration essentially weak can never produce a State revenue position entirely strong. For this reason, the Commission believes that the recommendations made in this report should be adopted.

TAX PROCEDURE IN MARYLAND

Recommendations

1. The State Tax Commission should be abolished and its judicial functions transferred to a tribunal to be known as the Maryland Tax Court. The characteristics and functions of the Maryland Tax Court are explained below.

2. Appeals should be allowed to the Maryland Tax Court by any party in interest from property assessments made by either the County Commissioners, the County Appeal Tax Courts, the Board of Municipal and Zoning Appeals or the Department of Revenue. No bond should be required as a prerequisite to taking such appeals.

3. Appeals should be allowed to the Maryland Tax Court by any party in interest from all other tax assessments made by any State agency required by law to enter such assessments. A bond equal to the proposed assessment should be required as a prerequisite to taking such appeals.

4. Appeals should be allowed to the Maryland Tax Court by any party in interest from the action of any State board or agency on a claim for refund filed with such board or agency. The existing provisions of State law should control the filing of claims for refund, and appeals from actions taken on such claims should be taken to the Maryland Tax Court in the same manner as refund appeals currently are taken to the State Tax Commission.

5. Appeals should not be allowed to the Maryland Tax Court unless and until the taxpayer has exhausted his administrative remedies before the board or department which entered the assessment originally.

6. Appeals should be allowed from the Maryland Tax Court to any party in interest directly to the Court of Appeals of Maryland. Such appeals should be taken on the record made before the Maryland Tax Court whose decision

should be affirmed if supported by correct legal principles and substantial evidence.

In general, tax procedure in Maryland revolves around the judicial functions of the State Tax Commission. Much has been said in the first part of this report concerning these activities. Consideration of additional facts concerning the Tax Commission is necessary, however, to bring the recommendations made above into focus.

The State Tax Commission is composed of three members appointed by the Governor for staggered terms of six years. Not more than two members of the Commission may be of the same political party, and one must be a resident of the Western Shore, one of the Eastern Shore and one of Baltimore City.³⁸

The trial of tax cases before the Commission (whether acting in its original or appellate jurisdiction) is usually conducted in an informal manner. Technical rules of evidence are not binding in such cases.³⁹ A stenographic record of proceedings may be obtained only if the taxpayer litigant provides for it, there being no obligation on the part of the Commission to furnish a reporter or court stenographer.⁴⁰ In some instances only one Commissioner may hear a case which later will be the subject of an opinion by other Commissioners who did not hear it.⁴¹ Prayers may be offered by the taxpayer requesting rulings on questions of law and these prayers may be ruled upon by the Commission.⁴² Written

³⁸ ANN. CODE MD., Art. 81, Sec. 167 (1939).

³⁹ ANN. CODE MD., Art. 81, Sec. 192 (1939).

⁴⁰ *Ibid.* That this provision may constitute a pitfall for the unwary, see *Postal Tel. Cable Co. v. Harford Co.*, 131 Md. 96 (1917).

⁴¹ ANN. CODE MD., Art. 81, Sec. 171 (1939). In unusual circumstances this provision may cause difficulty. For example, in a proceeding before the State Tax Commission involving an appeal from deficiency assessments by the Comptroller in an income tax matter the one Commissioner present throughout the hearing resigned before the Commission reached its decision. Without benefit of a stenographic transcript of the proceedings, and upon the basis of very limited attendance of the hearing by another Commissioner, the Commission affirmed the Comptroller's decision. Upon appeal to the Baltimore City Court, the presiding judge offered to return the case to the Commission as "irregularly decided". Although appellant brought this irregularity to the attention of the Court of Appeals, it evoked no comment. See Brief for Appellant and opinion of Court of Appeals in *Fleishmann v. Lacy*, 62 A. 2d 561 (1948).

⁴² ANN. CODE MD., Art. 81, Sec. 193(b) (1939).

opinions are frequently filed by the Commission, although not in all cases.⁴³

Various methods may be used to bring a tax case before the State Tax Commission. The methods discussed in the first part of this report are (1) appeals to the Commission from an assessment entered by the Boards of County Commissioners, the County Appeal Tax Courts, or the Board of Municipal and Zoning Appeals, and (2) protests entered to proposed assessments made by the Commission itself. In addition, appeals to the State Tax Commission may be taken from income tax assessments made by the State Comptroller.⁴⁴

No appeal can be taken to the State Tax Commission from tax assessments based on the great majority of State revenue acts. Under existing law no appeal can be taken to the State Tax Commission from the assessment of the following taxes:

1. Recordation tax.
2. Mileage tax (interstate passenger motor vehicles).
3. Public freight motor vehicles tax (intra-state).
4. Public passenger motor vehicles tax (intra-state).
5. Motor vehicles registration fees.
6. Motor vehicles titling tax.
7. Admissions and amusement tax.
8. Alcoholic beverages excise taxes.
9. Motor vehicles fuel tax.
10. Sales tax.
11. Use tax.
12. Tax on commissions of Executors and Administrators.
13. Maryland Estate Tax.

⁴³ There is no statutory provision requiring the filing of written opinions by the State Tax Commission. When a taxpayer is aggrieved by and appeals from a decision of the Commission in the exercise of its original jurisdiction, however, the Commission must certify to the Court a statement of all facts considered by it in rendering its decision. ANN. CODE MD., Art. 81, Sec. 194(b) (Supp. 1947), as amended by Md. Laws 1949, c. 412. Written opinions are invariably filed in matters relating to assessment of public service corporations and in proceedings involving a claim for exemption from a tax or taxes. In other cases, written opinions usually are filed only when a question of law is involved.

⁴⁴ ANN. CODE MD., Art. 81, Sec. 247 (1939).

14. Direct and collateral inheritance taxes.
15. Daily license fee (racing).
16. Tax on pari-mutual wagering.
17. Outdoor advertising tax.

Taxpayers who have paid taxes based upon assessments entered against them may bring their case before the State Tax Commission by filing a claim for refund. This procedure is extremely limited if the question involves a direct tax imposed on real or personal property.⁴⁵ For other taxes the procedure is more flexible. In such cases, a claim for refund may be filed with the agency which collected the tax on the ground that it was erroneously or mistakenly paid.⁴⁶ From action of the agency with which the refund claim was filed, appeals may be taken to the State Tax Commission by either the taxpayer or the State Comptroller.⁴⁷

A party aggrieved by any action of the State Tax Commission may appeal to the lower State courts and ultimately to the Court of Appeals. The procedure to be followed in such appeals depends, however, upon the type of case which was heard by the Commission. If the case before the Commission was an appeal from an assessment made by another agency, appeals from the Commission are upon questions of law only and the Commission's findings of fact are conclusive upon the courts.⁴⁸ On the other hand, if the case before the State Tax Commission was a protest to a tentative assessment made by the Commission itself, appeals may be taken to the courts on questions of both law and fact and the privilege is afforded

⁴⁵ ANN. CODE MD., Art. 81, Sec. 161 (Supp. 1947). See *Wasena Housing Corp. v. Levay*, 188 Md. 383 (1947).

⁴⁶ ANN. CODE MD., Art. 81, Sec. 162A (Supp. 1947).

⁴⁷ ANN. CODE MD., Art. 81, Sec. 162C (Supp. 1947). This provision is inapplicable to the Retail Sales Tax and the Maryland Use Tax for which exclusive remedies are provided. Claims for refund of these taxes must be filed with the Comptroller. A taxpayer dissatisfied with the final determination of that official may take an appeal directly to the Circuit Court of the County where its business is conducted or to the Baltimore City Court if it conducts its business in Baltimore. Such appeal is limited to questions of law. Further appeal may be taken to the Court of Appeals by a party in interest. ANN. CODE MD., Art. 81, Secs. 283-288, 335 (Supp. 1947).

⁴⁸ ANN. CODE MD., Art. 81, Sec. 194(a) (Supp. 1947), as amended by Md. Laws 1949, c. 413.

to place additional evidence in the record before the lower court.⁴⁹

If the case before the Commission is an appeal based upon a rejected claim for refund, the law states that interested parties "... may appeal to the Courts in the same manner as appeals are permitted from any other action of the State Tax Commission."⁵⁰ Since there are two distinct types of appeals from actions of the State Tax Commission, it is not clear what procedure should be followed in refund cases.

The procedural aspects of Maryland tax law are totally devoid of a uniform pattern or a systematic approach. As stated in the first section of this report, procedure before the State Tax Commission has suffered immeasurably by reason of improper combination of judicial and administrative functions in that Commission. The methods of bringing tax matters before the Commission may vary with types of taxes involved and with types of cases presented. A somewhat similar situation prevails regarding methods by which a taxpayer may appeal from a decision of the Commission to lower courts and ultimately to the Court of Appeals.

In many of the more progressive states, tax procedure and practice have been standardized and simplified by establishment of tax courts or boards of tax appeal.⁵¹ The leg-

⁴⁹ ANN. CODE MD., ART. 81, SEC. 194(b) (Supp. 1947), as amended by Md. Laws 1949, c. 413. While the language of this provision is extremely broad its scope has been narrowed, as interpreted by the Court of Appeals. In *State Tax Commission v. Chesapeake & Potomac Tel. Co.*, 66 A. 2d 477 (1949), and *Seaboard Commercial Corporation v. State Tax Commission*, 181 Md. 234 (1942), both involving questions of the weight to be given certain factors required to be considered by the State Tax Commission in assessing property of corporations, the Court of Appeals held that a court reviewing a decision of the Commission under section 194(b) must limit its review to whether the required factors were in fact considered by the Commission; that the weight given individual factors was not subject to review.

⁵⁰ ANN. CODE MD., ART. 81, SEC. 162C (Supp. 1947).

⁵¹ Eight states and the District of Columbia now maintain tax appeal boards. States having such boards are as follows: Kentucky, "Kentucky Tax Commission", KY. REV. STAT. c. 131 (Baldwin, 1943 and Cum. Supp. 1950); Louisiana, "Board of Tax Appeals", LA. GEN. STAT. §8506.11 *et seq.* (Dart, Cum. Supp. 1949); Massachusetts, "Appellate Tax Board", ANN. LAWS MASS. c. 58A, §1 *et seq.* (Michie, 1945 and Cum. Supp. 1949); Michigan, "Board of Tax Appeals", MICH. STAT. ANN. §7.657(7) *et seq.* (Rice, 1950); Minnesota, "Board of Tax Appeals", MINN. STAT. ANN. c. 271 (West, 1947); New Jersey, "Division of Tax

islatures creating these agencies have sought to provide fair and expeditious handling of appeals in tax matters through agencies composed of disinterested experts. To ensure independence for both boards and board personnel, these *quasi* judicial bodies have been constituted either as an independent division of the department of revenue or, more frequently, as an independent agency in the executive branch of the government.⁵² On most of these state boards, no more than a bare majority of members may be affiliated with the same political party. The laws of several states require that one or more board members be lawyers; Louisiana and New Jersey make provision for membership of a certified public accountant. Only in Kentucky does an appellate tax body have assessment functions.

The size of membership on the several boards of tax appeals ranges from one in the District of Columbia to seven in New Jersey. Appointments to the boards are made by the governors. Compensation for board members varies from \$4,500 per annum in Kentucky to \$8,000 per annum in Massachusetts and New Jersey, the chairman or president of the board usually receiving additional remuneration. Tenure of office is from four to six years.

States maintaining departments of taxation or revenue have vested in such departments responsibility for administering all or substantially all state tax laws. As a correlative measure, these states (and the District of Columbia) have vested in their boards of tax appeal jurisdiction to review all final determinations of the department as to assessments, valuations and other final orders, and to affirm, reverse or modify such orders and determinations. In addition, these

Appeals" in Department of Taxation and Finance, N. J. STAT. ANN. §52:27B-52 *et seq.* (West, Cum. Supp. 1949); Ohio, "Board of Tax Appeals", OHIO GEN. CODE ANN. §1464 *et seq.* (Page, 1946 and Cum. Supp. 1949); and Wisconsin, "Board of Tax Appeals", WIS. STAT. c. 73 (1949). Provision for the Board of Tax Appeals of the District of Columbia is found in D. C. CODE, tit. 47, §2401 *et seq.* (1940).

⁵² The single exception to this practice is found in Kentucky, where the Commissioner of Revenue is *ex officio* executive head of the Kentucky Tax Commission. KY. REV. STAT. §131.020 (Baldwin, 1943).

boards in each instance have been given jurisdiction to review local assessments and valuations. While in a few instances alternative provision is made for court review of departmental determination, the trend appears established that no alternative procedure be permitted.⁵³

Proceedings before the boards are either *de novo* or upon the record made before the department as supplemented by testimony before the board. With limited exceptions, hearings before the boards are of formal character and based upon formal pleadings. Upon reaching a decision, the boards in each instance are required to file written findings of fact and conclusions of law. The boards are without exception vested with appropriate rule-making and inquisitorial powers.

In the jurisdictions under consideration, decisions of appeal tax boards are conclusive only to the extent that further appeal to a court (or other appropriate action) is not taken within the time limits specified. In several states, appeal may be taken to a lower court of the state, with right of further appeal to the highest court. In Massachusetts, Minnesota, Ohio, the District of Columbia, and Wisconsin, appeal is taken from the board directly to the highest court of the state.⁵⁴

The Commission recommends that a Maryland Tax Court be substituted for the State Tax Commission. The functions and characteristics of this court should be as follows:⁵⁵

1. The Court should be composed of not less than three nor more than five members appointed by the Governor for

⁵³ For example, see MINN. STAT. ANN. §271.09 (West, 1947).

⁵⁴ Appeals from the Board of Tax Appeals of the District of Columbia are taken directly to the United States Court of Appeals for the District of Columbia which is the highest "appellate" court for that jurisdiction. Further review may be had only by the granting of a writ of certiorari by the United States Supreme Court.

⁵⁵ The "characteristics" of the Maryland Tax Court contained in the text do not include a recommendation concerning the salaries which should be paid to the members of the Court. The Commission believes this to be a matter which should be left solely to the Executive and to the General Assembly. It should be observed, however, that while the payment of adequate salary does not always ensure against incompetency in office, the payment of inadequate compensation often leads to incompetency.

the tenure now provided for the members of the State Tax Commission.

2. Not more than a bare majority of the members of the Court should be members of the same political party.

3. At least two members of the Court should be members of the Maryland Bar.

4. The Court should provide reporting services at all hearings, and copies of the record should be furnished to the parties in the same manner and upon the same conditions that records are furnished in proceedings in the State law or equity courts.

5. The Court should maintain dockets and pleadings files. Pleadings before the Court should consist of a petition to be filed by the moving party stating the nature of the case and the question or questions to be reviewed by the Court. The responding party should be required to file such pleadings as the Court may direct by rule.

6. Proceedings before the Court should be *de novo* and should be conducted in a manner similar to that in State equity courts. The Court should be empowered to adopt and promulgate rules of procedure in matters for the determination by the Court.

7. The Court should file written findings of fact and conclusions of law in all cases.

8. Persons of the following classes should be admitted to practice before the Court:

- (a) Any person appearing and acting for himself, or for a partnership of which he is a member, or for a corporation of which he is an officer.
- (b) Attorneys at law who are admitted to practice before the Court of Appeals of Maryland.
- (c) Certified public accountants who are duly qualified under the laws of Maryland.

9. The principal office of the Court should be in the City of Baltimore, but the Court should schedule as many cases as possible in the county seats for convenience of litigants before it.

10. A majority of the Court should constitute a quorum.

11. The Court should be permitted, at the request of any party in interest, to submit to a court of law issues of fact to be tried before a jury. This procedure should be limited strictly and under no circumstances should it be made applicable to questions of valuation of real or personal property for ordinary tax purposes.

In addition to the recommendations made above, the Commission suggests that the present members of the State Tax Commission be continued as members of the Maryland Tax Court until the expiration of their terms. The Commission has no reason to believe the work load of the proposed Tax Court will greatly exceed that now carried by the State Tax Commission. As a consequence, it is doubted that service on the Court will involve the full time of members. Whether the Court should consist of three or five members primarily involves a problem of local representation which we believe should be resolved by the General Assembly.⁵⁶

As stated above, the Commission recommends that the Maryland Tax Court should hear appeals involving all property assessment cases made either by local assessors or by the Department of Revenue. Since assessment in such cases constitutes a lien against the property, no bond should be required from a taxpayer as a prerequisite to an appeal to the Tax Court.⁵⁷ A bond should be required, however, as a pre-

⁵⁶ Should a three member Court be established, we believe the geographical representation of the State Tax Commission should be followed. See ANN. CODE MD., Art. 81, Sec. 167 (1939). If the General Assembly determines broader representation more desirable, the Commission believes that provided for the Court of Appeals sound and adequate. See MD. CONST., Art. IV, Sec. 14, as amended by Md. Laws 1943, c. 772 and ratified at November election, 1944.

⁵⁷ ANN. CODE MD., Art. 81, Sec. 71A (Supp. 1947). The United States Supreme Court has indicated the lien may attach on the date of finality. *Magruder v. Supplee*, 316 U. S. 394 (1942).

requisite to an appeal from assessments made for other State taxes.

In cases other than those involving real or personal property, the State might be placed at a disadvantage unless it collected a major portion of its revenues when due. Past experience has shown, for example, that income taxes may be difficult to collect even after a Court of Appeals decision sustaining an assessment. The possible uncollectibility of taxes which do not directly involve property undoubtedly explains the lack of provisions for permitting appeal to the State Tax Commission from assessment of such taxes, and the requirement that taxpayers should sue for refunds in such cases.⁵⁸

The danger of uncollectibility in permitting appeals from assessment of taxes not levied against property can largely be removed by the requirement that the taxpayer wishing to appeal file a bond equal in amount to the proposed assessment. The Commission recommends, therefore, that appeals from assessment of taxes other than those levied against property should be accompanied by the filing of a bond equal in amount to the asserted deficiency.

The Commission recommends that no taxpayer be allowed to appeal to the Maryland Tax Court until he has exhausted his administrative remedies before the board or agency which entered the original assessment. Without such a requirement a taxpayer might completely bypass the agency which entered the original assessment and take his case directly to the Tax Court. This procedure would not be in keeping with sound administrative practice and would, moreover, preclude the opportunity of adjusting or settling tax matters with the assessing authority. Practice has demon-

⁵⁸ Doubtless this situation prompted the legislature to include lien provisions in the Retail Sales Tax Act and the Maryland Use Tax. By ANN. CODE MD., Art. 81, Sec. 278(b) (Supp. 1947), as amended by Md. Laws 1949, c. 465, the Sales Tax, and all increases, interests and penalties thereon constitute a lien upon the property of any person liable to pay the tax after notice has been given that tax has become due and payable. The Maryland Use Tax contains an identical provision. ANN. CODE MD., Art. 81, Sec. 329(b) (Supp. 1947), as amended by Md. Laws 1949, c. 594.

strated that much may be accomplished in disposing of tax cases through conferences held with tax assessors.⁵⁹ The Commission believes this practice should not be abandoned.

Jury trials are seldom, if ever, had in tax cases. It is extremely doubtful that such trials are required by any constitutional provision. Moreover, the function of assessing property for the purposes of ordinary taxation is essentially not a judicial function and cannot be made such by being imposed upon the courts.⁶⁰

In a limited number of tax cases, however, it may be that the parties will desire issues of fact to be tried by a jury. Examples of such cases include questions relating to transfers made in contemplation of death (for inheritance tax purposes) and problems involving the maintenance of a place of abode (for income tax purposes). For this reason, the Commission has recommended that the Maryland Tax Court be permitted at the request of any party in interest to submit to a court of law issues of fact to be tried by a jury. This recommendation should be effectuated by a statute which limits strictly the right to submit issues of fact in tax cases to courts of law and under no circumstances should the procedure be made applicable to questions of valuation of real or personal property for ordinary tax purposes.

While the Commission's recommendation that appeals from the Maryland Tax Court should be allowed directly to the Court of Appeals is new in Maryland tax practice, the Commission believes it is necessary under the circumstances. As stated above, it is recommended that the Maryland Tax Court be conducted as equity courts are conducted in this State. If such a procedure is followed by the Tax Court, it would be a needless expenditure of time and money to require interested parties to take their cases to an intermediate appellate court before being given the privilege of being

⁵⁹ Administrative conferences have proved useful to both taxpayer and assessing authority. In many instances, conference discussion has spared all parties time, money and needless litigation.

⁶⁰ *Baltimore City v. Bonaparte*, 93 Md. 156 (1901).

heard by the Court of Appeals. Under the procedure recommended by the Commission, moreover, the rights of all interested parties can be completely and promptly protected by the Court of Appeals. Since no useful purpose would be served by permitting appeals from the Maryland Tax Court to the lower State courts, the Commission recommends that direct appeals be permitted in tax cases to the Court of Appeals.⁶¹

⁶¹ In making this recommendation the Commission is not unmindful of the fact that some additional work may be required of the Court of Appeals. However, the recommendation made above should be effectuated by a carefully worded statute which would insulate the Court of Appeals against frivolous and unwarranted appeals in tax cases. For example, decisions of the Maryland Tax Court on questions of valuation should be binding on appeal unless erroneous legal principles were employed. In addition, the Court of Appeals should be permitted to affirm decisions of the Maryland Tax Court if it finds that those decisions were based upon substantial evidence. This is a familiar test and has been adopted by the United States Supreme Court in *Consolidated Edison Co. v. National Labor Relations Board*, 305 U. S. 197 (1938) and embodied in the Federal Administrative Procedure Act, 5 U.S.C.A., §§1001-1011, particularly §1009(e). See *Administrative Procedure Act, Legislative History*, SEN. Doc. No. 248, 79th Cong., 2d Sess., p. 370. See also ATT'Y. GEN. MAN. AD PROC. ACT 107 *et seq.* (1947).

ALCOHOLIC BEVERAGES TAXES

STATE TAXATION OF ALCOHOLIC BEVERAGES

Alcoholic beverages taxes are levied for the benefit of both the State and its localities.¹ Approximately five per cent of the net tax receipts of the State for the fiscal year 1949 was derived from alcoholic beverages taxes. Principally responsible for these substantial revenues amounting to \$5,797,483 are the excises imposed upon beer, wine and distilled spirits and other alcoholic beverages sold for consumption in Maryland. The rates of these taxes are respectively, three cents per gallon, twenty cents per gallon and \$1.25 per gallon.

In addition to the administration of these excise taxes, the Comptroller is charged with responsibility for issuance and supervision of several licenses.² Manufacturers³ and wholesalers⁴ of alcoholic beverages in this State are required to obtain annual licenses before engaging in business. State-wide Class E and F licenses authorizing retail sales of alcoholic beverages aboard steamboats and trains are also issued by the Comptroller.⁵

For the fiscal year 1949, net receipts from excise taxes accounted for 97.96%⁶ of the net receipts of the State from alcoholic beverages taxes; net receipts from license and permit fees amounted to 2.01% of such receipts.⁷ All revenues are paid into the general funds of the State. Net revenues from these taxes for the last three fiscal years are as follows:

¹ In addition to taxes imposed by Public General Laws, Baltimore City and Baltimore County, under authority of Md. Laws Spec. Sess. 1947, c. 1, and Md. Laws 1949, c. 765, respectively, now impose excises on distilled spirits in the amount of fifty cents per gallon. Authority for the Baltimore City measure expires in 1951.

² The Comptroller administers several permits that also relate to alcoholic beverages. ANN. CODE MD., Art. 2B, Sec. 3 (Supp. 1947).

³ ANN. CODE MD., Art. 2B, Sec. 4 (Supp. 1947).

⁴ ANN. CODE MD., Art. 2B, Sec. 5 (Supp. 1947).

⁵ ANN. CODE MD., Art. 2B, Secs. 10, 15, 20, 21 and 43 (Supp. 1947).

⁶ 1949 Report, ALCOHOLIC BEVERAGES DIVISION, p. 7.

⁷ *Ibid.*

<i>Year</i>	<i>Net Revenues</i>
1949	\$5,797,483.
1948	5,877,971.
1947	6,621,585.

Collection of Excise Taxes

Section 114 of Article 2B levies a tax on wine at the rate of twenty cents per gallon, and on distilled spirits and other alcoholic beverages at the rate of \$1.25 per gallon.⁸ A further provision of this section requires that these taxes be paid to the Comptroller, by the manufacturer, wholesaler or dispensary before such beverages are removed from the place of business or warehouse of the taxpayer for delivery to any retail dealer in the State (except Classes E and F).

Payment of wine and liquor taxes is evidenced by excise stamps purchased from the Comptroller and required by statute and regulation to be affixed to wine and liquor containers before delivery to retail dealers in Maryland. To avoid labor costs incident to the opening of cases on the premises of the wholesaler and to minimize breakage and pilferage which frequently accompany such an operation, it has become usual practice for the wholesaler to forward stamps to the distilleries or wineries to be affixed during bottling operations. This practice requires the purchase in advance of tax liability of sufficient stamps to cover inventory on hand, stamps in transit and those awaiting bottling operations at distillery or winery, and involves an average prepayment of taxes estimated to be approximately \$800,000.⁹ The taxpayers subjected to this tax complain that the method of collection works undue hardship upon the industry and is discriminatory and unfair, in that it requires payment of taxes long before they are due. The Commission agrees that an inequity exists in the operation of the tax.

⁸ ANN. CODE MD., Art. 2B, Sec. 117 (Supp. 1947), makes provision for payment of taxes on fractional gallon containers.

⁹ For the fiscal year 1949 the average figure was \$881,956. The average for the first nine months of fiscal 1950 was \$777,199.

The prepayment provisions of Sections 114 and 117 were designed to prevent tax evasion. Procedures for minimizing tax evasion were undeveloped and untried when such provisions were enacted in 1933.¹⁰ Now officials responsible for administering these taxes have discovered that no difficulty is encountered in collecting the tax from Class E and F licensees who are not required to pay the tax until twenty-five days after the close of the tax period, which is each calendar month. Also, they have had no difficulty in collecting the three cents per gallon tax on beer¹¹ from manufacturers selling beer for consumption in this State. Local breweries are required to file a statement under oath by the tenth day of the calendar month following sale for local consumption. The tax is payable at that time.

Based on the experience cited above, we believe that a method of collection which defers liability for wine and liquor taxes until after sale to the retailer should be adopted. Satisfactory collection of such taxes could be ensured through issuance of stamps on a credit basis, payment for which should be deferred until after sale of beverages taxed. The Alcoholic Beverages Division has informed the Commission that this change in the method of collection is entirely feasible, and that, while such a change would require a few additional hours on each audit, present personnel of the Division could perform the work required.

Recommendation

We recommend that Sections 114 and 117 of Article 2B be amended to defer time for payment of taxes on wine and liquor until the tenth day of the calendar month following sale of such beverages. Payment should be accompanied by a statement under oath on forms prescribed by the Comptroller listing all wine and liquor sold or delivered to retail dealers in Maryland during the month. This legislation should require affixing of excise stamps evidencing payment

¹⁰ Md. Laws Spec. Sess. 1933, c. 2, sec. 37.

¹¹ ANN. CODE MD., Art. 2B, Sec. 115 (Supp. 1947).

of taxes to containers before removal from place of business or warehouse of manufacturer, wholesaler or dispensary for delivery to a retail dealer in Maryland, and the Comptroller should be authorized to issue excise stamps on a credit basis.

To ensure payment for excise stamps, we recommend that Section 121(c) of Article 2B be amended to require every manufacturer or wholesaler selling or delivering wine and liquor to retail dealers in Maryland to file with the Comptroller a bond in the minimum penalty of \$5,000, provided that should excise stamps in excess of such sum be issued on credit to a manufacturer or wholesaler, the manufacturer or wholesaler may be required by the Comptroller to file an additional bond in an amount not less than the difference between \$5,000 and the maximum value of excise stamps issued on credit to the manufacturer or wholesaler.

Adoption of these recommendations will not involve revenue loss for the State, but will result in deferral of payment of the taxes. Since the wine and liquor industries presumably have on hand approximately a three-months' supply of excise stamps and the proposed legislation would involve an average twenty-five day deferral period, budgetary estimates for the year of adoption must be accommodated to an artificial and temporary revenue loss of approximately one million dollars. This artificial loss will, of course, be encountered only during the year of adoption.

Beer and Wine Security Bonds

Subsections (a) and (b) of Section 121 of Article 2B require every manufacturer or wholesaler engaged in selling or delivering beer or wine to retail dealers in Maryland to file with the Comptroller a bond in the minimum penalty of \$1,000 conditioned on, *inter alia*, prompt payment of taxes. If the beer tax paid in any one month by a manufacturer or wholesaler should exceed the amount of the bond, the Comptroller is authorized to require the filing of an additional bond in an amount not less than such excess, provided that

the total amount of bond required of any manufacturer or wholesaler shall not exceed the sum of \$20,000.

The monthly taxes paid by each of two large breweries in this State are substantially in excess of \$20,000. As a consequence, State revenues are, in these instances, not afforded adequate protection. When these provisions were enacted, a bond in the sum of \$20,000 probably afforded sufficient, albeit inflexible, protection to the State. Such is no longer the case.

Recommendation

We recommend that Subsection (b) of Section 121 of Article 2B be amended to authorize the Comptroller to require any manufacturer or wholesaler of beer or wine selling or delivering such beverages to retail dealers in Maryland and paying in excess of \$1,000 in beer or wine taxes in any one month to file an additional bond in an amount not less than the full amount of such excess.

Manufacturer's and Wholesaler's Licenses

The manufacturer's and wholesaler's license provisions¹² have presented two difficulties to the Commission. *First*, they do not fulfill the function intended by the General Assembly. *Second*, the holder of such a license is charged the same annual fee regardless of whether he exercises one or many of the valuable privileges conferred by such license.

Fees from licenses and permits are not intended to augment the revenues of the State. Such fees are intended primarily to defray the expenses incurred by the Comptroller and the State Appeal Board in discharge of duties imposed by the alcoholic beverages laws.¹³ Initially, such fees were adequate to cover these expenses, but now the costs of administering the alcoholic beverages laws exceed the fees derived from licenses and permits, as indicated below:

¹² ANN. CODE MD., Art. 2B, Secs. 4 and 5 (Supp. 1947).

¹³ Md. Laws Spec. Sess. 1933, c. 2, sec. 14. This Section is now codified as ANN. CODE MD., Art. 2B, Sec. 51 (v) (Supp. 1947).

<i>Year</i>	<i>Fees (Net)</i>	<i>Expenses</i>	<i>Deficit</i>
1950	\$120,000 (Est.)	\$159,381 (Est.)	\$39,381 (Est.)
1949	119,157	150,255	31,098
1948	126,836	137,199	10,363
1947	140,821	122,555	18,266 (Surplus)

Many privileges are conferred by the manufacturer's license, but the fee charged for such license remains the same regardless of the number of privileges actually exercised by the licensee. The annual fee for this license is \$1,000.¹⁴

Any holder of a license is entitled to establish and operate in Maryland a plant for distilling, rectifying, blending, brewing, fermenting or bottling of alcoholic beverages. In addition to these substantial privileges, a licensee may import and conduct a wholesale business in alcoholic beverages. No holder of the general manufacturer's license, however, actually exercises all of the privileges conferred by such license, and many exercise only two or three. We believe it to be unfair and discriminatory to exact from a licensee exercising only a limited number of privileges the same fee assessed against those exercising a substantially greater number.

The inequity of the general manufacturer's license is emphasized by the fact that a State-wide wholesaler's license, which authorizes a holder thereof to exercise only one of the many privileges conferred by the manufacturer's license, involves annual payment of a fee of \$1,000. This inequity was corrected partially by the General Assembly in 1939 by the enactment of a provision permitting wholesalers of beer only to procure a less expensive license.¹⁵ The fees for

¹⁴ The Comptroller also issues a limited manufacturer's license which authorizes the holder to manufacture and bottle wine from grapes grown in Maryland and to sell such wine to any license holder. Annual fee: \$50. ANN. CODE MD., Art. 2B, Sec. 4(d) (Supp. 1947).

¹⁵ Md. Laws 1939, c. 775, sec. 3(b), now codified as ANN. CODE MD., Art. 2B, Sec. 5(d) (Supp. 1947). This provision was also designed to facilitate collection of the State excise on beer. Prior to 1939 the local retail off-sale license for beer authorized retailers of the package store type selling beer only to conduct a wholesale beer business. To ensure better enforcement of the beer excise, local licensing of beer wholesalers was eliminated, and the provision herein considered was enacted.

this license are based on two factors: the number of counties in which the wholesaler conducts his business and the population of such counties.

The Commission requested the Alcoholic Beverages Division to submit a schedule of licenses for manufacturers and wholesalers that would reflect more equitably the specific value of each of the many privileges conferred by such licenses, and also make provision for sufficient additional revenue to defray fully the costs of administering the alcoholic beverages laws. The proposed schedule of licenses and the fees chargeable therefor are set forth below. A descriptive code of these licenses and an indication of their relationship to existing licenses are included.

<i>Code</i>	<i>Proposed State-Wide Licenses</i>	<i>Proposed Fee</i>	<i>Present Fee</i>	<i>Includes</i>
SD	Distillery (Mfg. & Sale in bulk only)	\$1,500.	\$1,000.	SD-R-BWS
BM	Brewery (Mfg. & Sale to Wholesalers) ..	1,000.	1,000.	BM-B
Y	Winery (Includes bottling & Sales to Wholesalers)	500.	1,000.	Y-BW
Y(Ltd)	Winery (Ltd. to grapes grown in Md. inc. bottling and sales to licensees)	50.	50.	Y(Ltd)
R	Rectifier (Includes acquisition of bulk spirits, blending and sales to wholesalers)	500.	1,000.	R-WS
BWS	Beer, Wine & Spirits (Sales to licensees and permit- tees)	1,500.	1,000.	BWS
WS	Wine & Spirits (Sales to Licensees and Per- mittees)	1,250.	1,000.	WS-B
BW	Beer & Wine (Sales to licensees and permit- tees)	1,000.	1,000.	BW-S
B	Beer (Sales to licensees and permit- tees)	750.	1,000.	B-WS

Recommendation

The Commission recommends that Section 4 and Sub-sections (a), (b), and (c) of Section 5 of Article 2B be repealed, and that legislation be enacted adopting the substance of the State-wide manufacturer's and wholesaler's license proposals set forth above. The Commission recommends further that Sub-section (d) of Section 5 of Article 2B be amended to increase the annual fees for the beer wholesaler's license from \$100 to \$125 in counties of 18,000 population or less; from \$150 to \$175 in counties of more than 18,000 population but less than 35,000 population; and from \$200 to \$225 in counties of more than 35,000 population and in Baltimore City. Should these proposals be adopted, Sub-section (f) of Section 5 should be amended to conform to such legislation.

—It is believed that adoption of these recommendations would provide a more equitable system of licensing for both the alcoholic beverages industry and the State. Further, the relatively slight increase in license fees would permit the Comptroller to defray the expenses of administering the alcoholic beverages laws in the manner intended by the General Assembly.

LOCAL TAXATION OF ALCOHOLIC BEVERAGES

Retail Licenses:

Retail dealers in alcoholic beverages (except Classes E and F) are licensed by the several counties, Baltimore City and the City of Annapolis. An investigation of the laws governing these licenses has disclosed disparity in fees charged for licenses of the same class among the subdivisions, and, to a lesser degree, a disparity in rights of appeal from decisions of the licensing authorities. However, no disparities or instances of unfairness of great magnitude have been

found. The Commission believes these problems are essentially local in nature. Interference would be inconsistent with the State's long tradition of local option and control over sale and consumption of alcoholic beverages by localities.

Excise Taxes:

Three localities impose excises on alcoholic beverages. In Garrett County beer is taxed at the rate of two cents per twelve ounce container and five and one-third cents per thirty-two ounce container;¹⁶ Baltimore City and Baltimore County have levied taxes of fifty cents per gallon on distilled spirits.¹⁷ Although the Garrett County and Baltimore County taxes are of permanent character, that levied by Baltimore City is of emergency nature and expires at the end of 1951.

While imposts of this character have offered a remunerative and attractive source of revenue to the localities, we believe that such revenue may be raised only at the price of decreasing State receipts from alcoholic beverages taxes and also revenues from other taxes paid by the alcoholic beverages industry. It has been demonstrated to the Commission that when alcoholic beverages taxes are increased, either locally or by the State, taxable consumption suffers.¹⁸

Alcoholic beverages taxes have constituted an important and dependable source of revenue to the State and should not be jeopardized through the imposition of local levies. To protect this significant source of revenue we believe it to be essential that such source be preempted to the exclusive benefit of the State. Because of the fiscal dependence of the three subdivisions concerned upon these taxes, we are unwilling to recommend their repeal at this time. We do, however, strongly

¹⁶ ANN. CODE MD., Art. 2B, Sec. 116 (Supp. 1947).

¹⁷ See f.n. 1.

¹⁸ The Commission has not studied the question of desirability or undesirability of liquor consumption, since its task is restricted to a study of the equitable application of present taxes wherever they are levied. To avoid unnecessary dilution of State sources of revenue, however, the question of taxable consumption has been considered.

recommend that the imposition of local excise taxes upon alcoholic beverages be rigidly limited to those subdivisions now levying such measures.

REPORT

on

**GROSS RECEIPTS TAXES AND
HIGHWAY USE TAXES**

INCOME TAXES

REAL PROPERTY ASSESSMENTS

GROSS RECEIPTS TAXES and HIGHWAY USE TAXES

PRELIMINARY STATEMENT

At its first meeting this Commission determined that its duties were limited to making recommendations intended to bring about the equalization of taxes and the elimination of such tax discriminations as were found to exist in the Maryland tax structure. It was agreed that the Commission was not a budgetary body and that its recommendations would, insofar as possible, be consonant with the maintenance of the general level of State revenues. Where it might be necessary to eliminate a tax inequality or inequity, however, it was agreed that such elimination would not be precluded solely to maintain the existing level of revenues.¹ Critical examination of the Maryland Gross Receipts Tax (and certain aspects of related taxes) has convinced us that only through recommendations that will affect receipts materially may several seriously discriminatory features of the Maryland tax structure be alleviated.

Reports on gross receipts taxes and highway use taxes are submitted together because of the close relationship between the two, in that the railroads, on the one hand, and busses and trucks, on the other, are the chief competitors in the business of transporting both passengers and freight. Domestic and foreign railroads are subject to gross receipts taxes and domestic and foreign busses pay a titling tax and a seat-mile tax. Both of these taxes are related to business done in Maryland. Motor trucks, however, are in a quite different position. Domestic trucks pay a registration fee to the State of Maryland, but by reason of reciprocity arrangements, foreign motor trucks do not. Gasoline taxes are paid to the State of Maryland by or on account of motor trucks to the extent, but only to the extent that the gasoline used in such trucks is purchased in Maryland. Neither

¹ MARYLAND TAX SURVEY COMMISSION OF 1949, INTERIM REPORT, p. 1 (February 5, 1950). See p. 1 this Report.

domestic nor foreign motor trucks are subject to Maryland gross receipts taxes nor under existing law are they subject to highway use taxes which the Commission regards as equivalent to gross receipts taxes, or, in the case of large trucks, as compensatory for the use of the Maryland highways.

In the course of its work, the Commission through its Subcommittee on Gross Receipts Taxes, has held two public hearings, the first of which was attended by representatives of various industries subject to gross receipts taxes and by a former Assistant Attorney General interested in the subject, and the second of which was attended by representatives of the motor trucking industry. The Commission wishes to express its thanks to the representatives of these industries as well as to the former Assistant Attorney-General who appeared at the first hearing to support gross receipts taxes. The Subcommittee has found the presentation of views by these representatives, both oral and written, very helpful in its work in a field which the Subcommittee has found to be one of considerable difficulty.

Although this Commission is not a budgetary body, it must give consideration to the effect of its recommendations upon the State revenues. The net effect of the recommendations with regard to gross receipts taxes is a moderate increase in the over-all amount, but this is arrived at only after the elimination of gross receipts taxes on trust companies and safe deposit companies and after reductions in some instances and increases in others. Where the sales tax appeared to be economically a duplication of the gross receipts tax, the recommended elimination of the sales tax results in a substantial decrease in revenues, and the over-all effect of recommendations with regard to gross receipts taxes and retail sales tax is a net reduction on the basis of the figures used in this Report, of approximately \$1,325,000 in general funds. The recommendations with regard to highway use taxes are estimated to produce additional revenues for highway purposes in the neighborhood of \$4,000,000, assuming success in collection. Since this proposed tax is new in Maryland it is exceedingly difficult to make an exact estimate.

PART I

GROSS RECEIPTS TAXES

The relationship between net revenues from the Maryland Gross Receipts Taxes and total tax revenues of the State for the fiscal years 1940-1949 is set forth in Table IV.

Recommendations

1. A State franchise tax measured by the gross receipts for the preceding year should be imposed upon the following public service companies doing business in Maryland at the rates specified below:

Railroad Companies:

One per centum on the first \$5,000 per mile of gross earnings;

One and one-half per centum on gross earnings above \$5,000 and up to \$10,000 per mile; and

Two per centum on gross earnings in excess of \$10,000 per mile.

**Telegraph or cable, telephone, express,
parlor car, sleeping car and
oil pipe line companies:**

One per centum on the first \$100,000 of gross earnings;

One and one-half per centum on gross earnings above \$100,000 and up to \$200,000; and

Two per centum on gross earnings in excess of \$200,000.

Electric Light or Power and Gas Companies:

One-half of one per centum on the first \$100,000 of gross earnings;

One per centum on gross earnings above \$100,000 and up to \$200,000; and

Two per centum on gross earnings in excess of \$200,000.

2. The tax measured by the gross receipts of safe deposit and trust companies should be repealed.

3. In any case in which a taxpayer subject to the franchise tax measured by gross receipts derives its operating revenues partly from within and partly from without the State, the State Tax Commission or its successor should determine, in accordance with standards of allocation to be prescribed by statute, what part or parts of such operating revenues are either derived from or are reasonably and fairly attributable to operations in this State. Only such part or parts of the operating revenues should be included in measuring tax liability.

4. Receipts from sales by an electric light or power company to another electric light or power company and by a gas company to another gas company made for the purpose of resale should be excluded from the measure of the tax.

5. Railroad revenues derived from express or parlor car or sleeping car companies should be excluded from the operating revenues of a railroad company for purposes of the gross receipts tax to the extent such revenues have entered into the measure of the gross receipts tax levied against the express, parlor car or sleeping car company.

6. The Retail Sales Tax should not apply to sales of electricity or artificial or natural gas by persons subject to the tax measured by gross receipts.

Maryland Gross Receipts Taxes

The development of gross receipts taxes in Maryland closely parallels similar developments in other states. Such parallelism obtains both in chronology and as to the taxpayers subjected to this specific form of taxation. From the date of enactment of the original Maryland Gross Receipts Tax in 1872² until the present time, gross receipts taxation has been imposed primarily upon utility or public service companies.

² Md. Laws 1872, c. 234.

Although several non-utility enterprises formerly were subjected to the tax, the present Maryland law applies to only two non-public service classifications. Current taxation of the gross receipts of safe deposit companies and trust companies appears to be residual of a period when careful distinctions between utility and non-utility activities were not made.

Although the reasons underlying the imposition of the tax are more enlightening than a bare chronological account of the rates, the latter does provide a basic picture of the development of gross receipts taxation. Table V sets forth a chronological account of gross receipts tax enactments, indicating original enactment dates, rates and changes in rates of taxes as applied to given classifications. Rates now applicable to the several classifications have remained unchanged since 1906.

As observable in Table V, the most important date in the history of the Maryland Gross Receipts Tax was 1890, at which time several classes of business other than railroads were brought under the tax. Except for changes in rates, inclusion of gas companies and elimination of certain non-public service businesses, the present scope of gross receipts taxation was established at that time. The basis for this extension in 1890 is explained in the 1888 Report of the Maryland Tax Commission.

Appointed by the Maryland Legislature in 1886³ because of complaints that taxes were not equally imposed and that much property was escaping taxation, the Maryland Tax Commission recommended an increase in the tax upon railroads and an extension of gross receipts taxation to several other classifications. In support of a gross rather than a net receipts tax, it was asserted that current accounting processes precluded the feasibility of taxing net receipts. That Commission observed:

"Taxation should never be based directly on net receipts, for in such cases expenses are likely to be increased and net revenues to be reduced to a minimum or disappear altogether."⁴

³ Md. Laws 1886, c. 488.

⁴ MARYLAND TAX COMMISSION, REPORT, p. 39 n. 2 (1888).

As to the new activities to be subjected to special tax treatment the Commission found that:

"... they are, for the most part, absolute monopolies, with no competition whatever, with the power to establish their own charges without restraint or appeal and enrich themselves at their own pleasure; and in the case of some of them with comparatively small outlay of capital."⁵

It is our belief that the reason expressed for choosing a tax on gross rather than net income is no longer valid.

Although in 1888 utility operations were largely unregulated, since that date all taxpayers now subject to gross receipts taxation have been subjected to regulation by either federal or state regulatory bodies. Accounting procedures prescribed by appropriate public agencies preclude current use of subterfuges feared half a century ago. Further, no gross receipts taxpayer now occupies a position completely free of effective competition. In most instances we believe the burden of taxes should be decreased somewhat in recognition of the increase in public regulation and the growth of competition.

Both in the choice of activities to be taxed and in the rate scales adopted, the Maryland Tax Commission of 1888 originally sought to impose taxes in accordance with the principle of ability to pay.⁶ However, the tax rates have not been changed since 1906, and the relative economic positions of several of the taxpayers have changed drastically. Therefore certain modifications in rates should be effected in order to adhere more closely to the original principle of gross receipts taxation.

As a result of changed conditions, taxing the gross receipts of public service corporations is of questionable wisdom today. This observation, plus obvious inequalities and discriminations in the gross receipts tax, initially disposed us to

⁵ *Id.* at 57.

⁶ *Id.* at 38 *et seq.*, 60.

recommend repeal of the Maryland Gross Receipts Tax and the substitution of some other form of taxation. Several factors, however, led us to conclude that the most satisfactory solution of the difficulties involved in gross receipts taxation and in certain other related taxes is to be gained through the rate modifications and other measures set forth in our recommendations.⁷ Among these factors are the following:

1. There have been few requests for the outright repeal of the Gross Receipts Tax. Despite difficulties and inequities inherent in this form of taxation, and the overlapping of the Gross Receipts and other taxes, in general only rate reduction has been sought. Long experience with this tax and the ease with which it can be computed appear to be the determinative factors.

2. Most utilities enjoy some privileges granted by the State which are not available to ordinary business enterprises. Notable among these are franchises, the right of eminent domain and, in many instances, protection through public regulation against unlimited competition. Some tax compensatory for these benefits seems appropriate. The problem is not, however, a simple one, for as we point out below, the ultimate burden of such taxes falls not on the utility, but on its customers; and such taxes are necessarily taken into account by a public regulatory body in fixing the rates which may be charged by a utility. With this in mind, the Commission made a canvass of possible tax measures to find a substitute for the Gross Receipts Tax. No adequate and satisfactory substitute to produce an equivalent yield was found.

3. Users of the services of utilities do, however, derive direct benefits from the services afforded them and from the protection which public regulation gives them, both as to

⁷ As this Report goes to press cases involving certain questions of constitutional law arising under the present Maryland Gross Receipts Tax as applied to railroads are pending in the Supreme Court of the United States. It is hardly necessary to state that any new enactment will have to be in conformity with the decision of that Court. We anticipate that it will be known either before or during the 1951 session of the General Assembly.

reasonable assurance of the continuation of such services and as to reasonable rates therefor, which benefits constitute at least some return to them for the cost of the tax.

4. The State Tax Commission, which is responsible for administration of the Gross Receipts Tax, stated that taxation of gross receipts is more easily administered than other forms of utility taxes.

Rate Modification

When the present gross receipts tax rates were established, the relationship between gross and net income was considerably more stable than today. Also, net return on utility investment was relatively greater than at present. Under such circumstances a gross receipts tax may once have constituted a rough equivalent of a more carefully calculated tax on net income and therefore may have been based on a reasonable index of "ability to pay".

Since the establishment of present gross receipts tax rates in 1906, two factors of importance in utility taxation have occurred: (1) Gross operating revenues and operating expenses (including taxes) have increased greatly without a corresponding increase in net operating revenues; (2) Several utility operations highly profitable then are now of marginal character. The effects of the first factor are shared by all taxpayers under consideration. As the ratio of gross to net has increased the amount of taxes incurred in relation to ability to pay has become disproportionately large. Since the Gross Receipts Tax is identified as a "franchise tax", it may be said there may be a wide disparity between the value of, and the amount of taxes exacted for, a franchise.

Once profitable, but now marginal, utility operations present a different, albeit equally significant, situation. Rates established under the Gross Receipts Tax presumably were based on the legislature's judgment of the value of the franchises in terms of earning power of the several taxpayer classifications. Several classes of taxpayers which fifty years

ago had the highest record of earnings and consequently were subjected to the highest tax rates now earn very modest returns on investment and occasionally incur deficits. Tax relief clearly is required for taxpayers of this category.

Whether relief is required by utilities affected solely by increases in operating revenues and expenses is a different question. We believe that except in the case of unprofitable businesses, taxes imposed upon business enterprises, no matter how designated and no matter who may be designated as the taxpayer, are, in the last analysis and as a matter of economic fact, borne by the ultimate consumers or customers of the business. Gross receipts taxes are no exception to this rule; neither are net income taxes.

The Commission has sought to correlate tax rates and present profitability. In recommending rates for specific classifications it has exercised its best judgment as to what rate seems fair and equitable. It has *not* attempted to calculate franchise values as a basis for the rate of taxation, as no accurate calculation of such values is believed to be feasible. Smaller utilities virtually without exception have displayed less ability to pay a substantial tax than have larger utilities. In recognition of this inability to pay a uniform rate of tax, we recommend the employment of graduated or progressive rate schedules. For the convenience of the reader, Table VI sets forth the present rates of the Gross Receipts Taxes as well as the rates recommended in this Report.

TABLE VI
GROSS RECEIPTS TAX RATES

Taxpayer	Present Rates	Proposed Rates
		(gross earnings)
Electric Light or Power	1%	.5% on \$.01 to \$100,000 1% on 100,000.01 to 200,000 2% on excess of 200,000
Express	2.5%	1% on \$.01 to \$100,000 1.5% on 100,000.01 to 200,000 2% on excess of 200,000
Gas	1.5%	.5% on \$.01 to \$100,000 1% on 100,000.01 to 200,000 2% on excess of 200,000
Oil Pipe Line.....	2%	1% on \$.01 to \$100,000 1.5% on 100,000.01 to 200,000 2% on excess of 200,000
Railroads	1.25% on first \$1,000 per mile of gross earnings	1% on first \$5,000 per mile of gross earnings
	2% on next \$1,000 per mile of gross earnings	1.5% on next \$5,000 per mile of gross earnings
	2.5% on excess of \$2,000 per mile of gross earnings	2% on excess of \$10,000 per mile of gross earnings
Safe Deposit and Trust*	2.5%	
Sleeping car, Parlor car	2.5%	1% on \$.01 to \$100,000 1.5% on 100,000.01 to 200,000 2% on excess of 200,000
Telegraph or Cable	2.5%	1% on \$.01 to \$100,000 1.5% on 100,000.01 to 200,000 2% on excess of 200,000
Telephone	2%	1% on \$.01 to \$100,000 1.5% on 100,000.01 to 200,000 2% on excess of 200,000

* The Commission recommends the repeal of the tax on the gross receipts of safe deposit and trust companies.

Because of the atypical economic conditions of recent years, we have selected the calendar year 1947 as the base year for our studies as being less distorted than others for purposes of estimating the revenue impact upon the State and the degree of relief to or increased burden upon the tax-

payer. To explain and summarize the effect of our recommendations we submit Tables VII, VIII and IX, Tables VII and VIII dealing with railroads and with gas and electric companies, respectively, and Table IX relating to all gross receipts taxpayers.

Railroad Companies:

Gross receipts taxation of railroads was begun in 1872, probably as the combined result of increased revenue requirements and the example of Pennsylvania which earlier had enacted a similar measure. The tax rate was increased from $\frac{1}{2}$ of 1% in 1890, and after several increases it was finally established in 1906 at the graduated rates of $1\frac{1}{4}\%$ on the first \$1,000 per mile of gross earnings, 2% on the next \$1,000 per mile of gross earnings and $2\frac{1}{2}\%$ on the excess of \$2,000 per mile of gross earnings.

The Report of the Maryland Tax Commission (1888) discloses that the earnings of Maryland railroads ranged from more than 7% to nearly 9% on investment. Railroad rates were unregulated and competition from other carriers relatively minor. The combined impact of public rate regulation, intense competition from other carriers and greatly increased costs of operation have resulted in substantial diminution of railroad earning capacity. Necessarily ponderous and relatively inflexible federal rate making procedures, together with the growth of competitive industries, have made it difficult if not impossible for railroads to shift a substantial part of their operating burden to their customers. As a result stockholders and frequently creditors have assumed greatly increased burdens. The return on the investment of all Maryland railroads for the period 1938-1948 averaged only 4.5%. In 1945 this figure was 4.4%; in 1946, only 2%; in 1947, 2.9%; and in 1948, 4.3%.

That railroads are paying at a disproportionately high rate is obvious. We have therefore recommended a reduction of rates and an increase from \$1,000 to \$5,000 gross re-

ceipts in the two lower rate brackets. The fiscal effects of this recommendation as to each Maryland railroad affected thereby are set forth as to each Maryland railroad in Table VII.

Telegraph or Cable and Telephone Companies:

Telegraph companies are taxed at the rate of $2\frac{1}{2}\%$, telephone companies at 2%. The explanation for this disparity in rates is not clear unless, when finally established in 1906, the infant telephone industry was favored at the expense of its then wealthy competitor.

The telephone industry today is firmly established and successful. The Western Union Company on the other hand has been going through a period of marked difficulty and it has requested exemption from the Gross Receipts Tax or, in the alternative, taxation at a reduced rate. We recommend some reduction in the rate applicable to telegraph companies, but since the telephone and telegraph industries are directly competitive, we have recommended that both be subject to taxation at the same rate. The prosperity of the telephone industry argues against great reduction of rates applicable to it.

However, reduction of the maximum rate on telegraph companies from $2\frac{1}{2}\%$ to 2%, in conjunction with the institution of the graduated rate schedule proposed for both telephone and telegraph companies will afford the Western Union Company substantial relief. Although this recommendation when applied to the telephone industry will give only nominal relief to the major telephone company in the State, small companies will benefit substantially. The degree of relief may be seen in Table IX.

Express or Transportation, Parlor Car, Sleeping Car Companies.

Operations of the two carriers presently classified under this heading are difficult to envisage other than as elements of railroad operations. For this reason, apparently, they have been taxed at the maximum railroad rate of $2\frac{1}{2}\%$. In recent

years both companies have been purchased by joint action of several railroads, thus rendering any previous distinctions between railroad operations and the operations of Pullman or Railway Express extremely tenuous. Owned by railroads, both companies have requested to be taxed on the same basis as their owners.

The schedule of rates involving per mile of gross earning graduations applicable to railroads does not lend itself to the taxation of these taxpayers. Because of the poor earning records of Pullman and Railway Express, however, we recommend that these companies be taxed at reduced rates upon the basis of a graduated rate schedule. The effective rate applicable to Railway Express under the proposal is estimated to be 1.56%, that applicable to Pullman, 1.7%, both reasonably proximate to the estimated average effective rate applicable to railroads. For fuller analysis, see Table IX.

The classification "express or transportation" company has been employed since 1890. So far as we have been able to discover, no definition of "transportation" company has ever been attempted either administratively or by the courts, and, indeed, no serious attempt has ever been made to impose the tax on other than express companies. Because of the indefinite content of this term and the confusion surrounding it, we recommend that all reference to it be deleted.

Electric Light or Power and Gas Companies:

The gross receipts of electric light or power and gas companies are taxed at the rates of 1% and 1½%, respectively. As is probable in the cases of telephone and telegraph companies, the rates (and the variance of such rates) imposed on electric light or power and gas companies are believed to reflect the relative economic status of these industries, both as between themselves and as among utilities generally, when the rates were established in 1906. Unlike that situation, however, both of these classes of taxpayers are generally prosperous industries, and both approximate telephone companies in degree of profitability.

This Commission believes that these industries are not contributing to the maintenance of State government to an extent consistent with their condition and ability or relative to contributions made by other industries subjected to this tax. This conclusion, together with the conviction that competitive industries should be taxed uniformly, has led us to recommend that the gross receipts of both classes of taxpayers be subjected to a graduated tax, the highest rate of which is 2%. This recommendation is closely related to one to be made subsequently for the repeal of the Retail Sales Tax on gas and electric current, and should be considered in connection therewith. The fiscal effects of this recommendation on the State and the individual companies concerned are summarized in Tables VIII and IX.

Oil Pipe Line Companies:

Since there is only one oil pipe line operator in the State and it transports oil on its own account only, the rate problem is academic. As a public service industry, however, oil pipe line companies should remain subject to utility taxation in the statute.

While the economic effects of taxation of the gross receipts of this industry are entirely speculative, we have proposed the enactment of a graduated rate schedule with a maximum rate at the present 2% level. It is believed desirable to accord similar treatment to all taxpayers in this category.

Repeal of Tax on Safe Deposit and Trust Companies

Gross receipts of safe deposit and trust companies from their safe deposit and trust business, including all receipts derived from the business of acting in a fiduciary or representative capacity, are taxed at the rate of 2½%. This tax is in addition to other taxes imposed on banking institutions in this State.

National banks compete with safe deposit and trust companies for both safe deposit and trust business. State banks (as distinguished from trust companies chartered by the State) and savings banks doing a safe deposit business frequently compete for rentals of safe deposit boxes. By virtue of U. S. Rev. Stat., Sec. 5219, as amended (12 U. S. C. A., Sec. 548), national banks are immune from State taxation of gross receipts; State banks and savings banks have not been subjected to this tax.

Even apart from the obvious discrimination in favor of national and State banks, no justification exists for subjecting a non-public service company to utility taxation. As indicated in Table V gross receipts taxes previously imposed on other non-public service companies have been repealed. We accordingly recommend the termination of this anomalous and inequitable situation. Repeal of this provision will occasion only an annual revenue loss to the State of approximately \$70,000.

Apportionment of Gross Earnings

The Maryland Gross Receipts Tax is not imposed on gross receipts; rather, gross receipts merely furnish the basis or measure whereby the amount of the tax to be paid may be ascertained.⁸ This tax is not limited to intra-state activities of locally chartered companies but is relevant to all earnings of foreign and domestic utilities doing business in Maryland.⁹

If a railroad has part of its road in this State and part in another state or states, it pays a tax "upon such proportion of its gross earnings as the length of its line in this State bears to its whole length of its line." Though without clarity, the statute requires similar apportionments to be made for each oil pipe line company, sleeping car, parlor car, express or transportation, telephone or telegraph or cable company, "so

⁸ See *Canton R. Co. v. Rogan*, 73 A. 2d 12 (1950); *Western Maryland Ry. Co. v. State Tax Commission*, 73 A. 2d 12 (1950) and cases cited at p. 14.

⁹ ANN. CODE MD. Art. 81, Sec. 95.

that the proportion of the said gross earnings of said companies, respectively, accruing, coming from their business within this State, may be accurately ascertained." The law provides in effect that the State Tax Commission may apply any allocation formula deemed by it to be satisfactory.

This apportionment requirement¹⁰ is made necessary by repeated assertions by the United States Supreme Court that an unapportioned tax on receipts from interstate commerce is invalid under the Commerce Clause of the federal constitution.¹¹

We believe total operating revenues, fairly apportioned to this State, should continue to be the measure of the tax. It is desirable, however, that applicability of the several rates to apportioned gross earnings be phrased more clearly than under the present law. We further recommend that provision should be made for apportionment of the gross receipts of gas and electric companies in order to overcome a literal interpretation of the existing statute under which only wholly intrastate transactions of such companies may be taxable.

A specific formula for apportionment of receipts of railroads is set forth in the present law. Use of such a formula, however, is not mandatory.¹² Receipts of some other utilities may be apportioned in any mode satisfactory to the Commission. The flexibility in such a provision, if kept within clearly stated statutory limits of fairness is desirable.

Differences in accounting practices of taxpayers and factual variations in their operations make it impractical if not impossible to draft a constitutionally valid apportionment formula universally applicable to the members of even a single rate classification. Drafting a series of alternative formulae to meet factual and accounting differences of each class of utility presents greater difficulties.

¹⁰ ANN. CODE MD. Art. 81, Sec. 95(b).

¹¹ For a recent statement to this extent, see *Central Greyhound Lines v. Mealey*, 334 U. S. 653 (1948).

¹² *Rogan v. B. & O. R. R. Co.*, 188 Md. 44 (1947); *West. Md. Ry. Co. v. State Tax Commission*, 188 Md. 240 (1947).

To avoid the drafting difficulties suggested above, we recommend that in any instance in which a taxpayer's tax is measured by interstate receipts, the State Tax Commission or its successor should be authorized in accordance with standards of allocation to be prescribed by statute to determine the portion of receipts derived from or fairly and reasonably attributable to operations in Maryland, and to include only such portion in the measure of the tax. This grant of discretion will permit the administering authority to accommodate the tax to factual circumstances and possibly changing constitutional views on gross receipts taxation. It should serve further to forestall tax litigation and the necessity for changes in legislation to meet such conditions and views.

Double Taxation of Gross Receipts

Two instances of actual or potential double taxation of utility gross receipts are found in the Maryland Gross Receipts Tax. This situation is manifestly undesirable and is burdensome to utility customer and utility alike.

Operating revenues of Railway Express and Pullman are taxable to those companies and, to the extent such revenues are paid to railroads for services rendered or as dividends, they are or may be taxable again as an element of railroad operating revenues. We believe that it would be equitable to exclude from operating gross revenues of railroad companies any revenues received from Railway Express or Pullman, provided such revenues previously have been taxed to such companies.

Gas and electric distributing companies frequently purchase gas and electricity from similar or producer utilities for purposes of resale to the ultimate consumer. Under the Gross Receipts Tax law, literally construed, revenues from such sales for resale are taxable. As a matter of administrative practice, however, receipts from this source are excluded from the tax. This administrative practice, while not explicitly authorized

under prevailing law, is equitable in its effect. Double taxation, in whatever form, is onerous. Receipts from sales of this character should not be taxable.

Multiple Taxation of Gas and Electricity Sales

While this Report is directly concerned with the Gross Receipts Tax and not with the Retail Sales Tax Act, the relationship between the Gross Receipts Tax and the Sales Tax in one instance demands our attention. The imposition of the 2% sales tax on sales of gas and electricity results in two discriminations. *First*, it involves the imposition of a tax on a tax.¹³ *Second*, it singles out consumers of gas and electricity for special discriminatory tax treatment.

Perfectly proper and standard rate-making practice permits gas and electric companies (like other utilities) to earn enough to pay their operating expenses and taxes and a fair return besides. Through rates which cover taxes, they are, of course, able to shift, and do shift, to the consumer the entire burden of the gross receipts tax they pay. Although the Gross Receipts Tax is technically imposed upon the utility companies, when its burden is shifted to the consumers, it is indistinguishable in economic effect from a sales tax. Consequently, the consumer of gas and electricity, to all intents and purposes, pays two sales taxes; and this Commission regards the second tax as an undue burden on consumers.

Of the customers of the several classes of utilities subjected to the Gross Receipts Tax, only those of gas and electric companies are subject to the Retail Sales Tax. This is the result of exempting from the Sales Tax all sales of transportation and communication services.¹⁴ Indeed, in most cases other than the sale of gas or electricity, the Retail Sales Tax

¹³ Baltimore City and Baltimore County, pursuant to emergency legislation, have imposed an additional tax of 5% of gross billings upon sales of gas and electricity by utilities in their respective jurisdictions. Since these measures are of limited duration and because this Commission is primarily concerned with taxes imposed by the State, no recommendation is made with respect thereto.

¹⁴ ANN. CODE MD. Art. 81, Sec. 261(n) (Supp. 1947).

Act exempts from the tax any transaction or sale where a special State tax has previously been imposed. Why, then, should gas and electricity consumers be marked for such special tax treatment?

Because of the factors discussed we recommend that the Sales Tax should not apply to sales of electricity or artificial or natural gas by persons subject to the gross receipts tax.

In making this recommendation we have given consideration to an urgent request by the utilities concerned. These companies compete directly with unregulated groups selling such competing fuels as propane gas, coal and oil. Because of the serious inroads in utility business made by these competitive fuels, the utilities concerned thought it only fair that the competitors be subjected to an equivalent tax burden. Though impressed by the fairness of their proposition, the Commission does not believe it feasible or sound to subject vendors of competing fuels to utility taxation. It is believed, however, the recommendation made will tend toward greater competitive equality.

The Sales Tax Division of the Office of the Comptroller advises that this recommendation will involve a revenue loss of slightly less than \$1.5 millions. We have previously recommended, however, that rates applicable to the gross receipts of gas and electric companies be increased by approximately \$700,000. Tax collections made as a result of sales of gas and electricity by utilities will, therefore, be diminished by only approximately \$800,000, all of which should represent a saving to utility customers.

*Net Effect of Above Recommendations as to
Gross Receipts and Retail Sales Taxes
upon Fiscal Position of the State*

On the basis of figures used in this Report, adoption of the proposals relating to Gross Receipts Taxes and the Retail Sales Tax which are submitted herewith would occasion a net revenue loss to the State of approximately \$1.325 millions.

This figure represents the difference between the \$1.5 million revenue loss resulting from exemption of sales of gas and electricity by utilities from the Retail Sales Tax as offset by a net revenue increase of approximately \$175,000 as shown by column 6 of Table IX that would result from adoption of all of our proposals affecting the Gross Receipts Taxes.

TABLE IV
RELATIONSHIP BETWEEN
GROSS RECEIPTS TAX REVENUES AND NET STATE TAX REVENUES
(1940-1949)

Fiscal Year	Net State Tax Revenues ¹ (In Thousands)	Revenues From Gross Receipts Tax ² (In Thousands)	Ratio of Gross Receipts Tax Revenues to Net State Tax Revenue
1949....	\$117,500	\$3,900	3.3%
1948....	101,509	3,441	3.4
1947....	67,644	2,988	4.4
1946....	58,027	3,109	5.4
1945....	50,644	3,164	6.2
1944....	46,482	3,034	6.5
1943....	36,752	2,654	7.2
1942....	51,425	2,203	4.3
1941....	48,325	1,722	3.5
1940....	45,548	1,536	3.4

¹ Source: Annual Reports of the Comptroller of the Treasury.

² Source: State Tax Commission. The Gross Receipts Tax is administered on a calendar year basis. Ann. Code Md. (1939) Art. 81, Sec. 96.

TABLE V

SCHEDULE OF GROSS RECEIPTS TAX RATES AS ENACTED BY THE MARYLAND LEGISLATURE

Taxpayer	1872 c. 234	1890 c. 245 559,608	1896 c. 120	1906 c. 712	1918 c. 469	1922 c. 351	1929 c. 226	1941* c. 906
Electric Light or Power	—	½ %	¾ %	1 %	1 %	1 %	1 %	1 %
Gas	—	—	1½ %	1½ %	1½ %	1½ %	1½ %	1½ %
Telegraph or Cable.....	—	1 %	2 %	2½ %	2½ %	2½ %	2½ %	2½ %
Express or Transportation	—	1 %	2 %	2½ %	2½ %	2½ %	2½ %	2½ %
Telephone	—	2 %	2 %	2 %	2 %	2 %	2 %	2 %
Parlor Car, Sleeping Car	—	2 %	2 %	2½ %	2½ %	2½ %	2½ %	2½ %
Safe Deposit and Trust	—	2 %	2 %	2½ %	2½ %	2½ %	2½ %	2½ %
Guaranty and Fidelity..	—	2 %	2 %	2 %	2 %	R ¹		
Oil Pipe Line.....	—	1 %	1 %	2 %	2 %	2 %	2 %	2 %
Title Insurance.....	—	1 %	1 %	2 %	2 %	2 %	2 %	R ¹
Electric Construction...	—	½ %	1½ %	1½ %	1½ %	1½ %	R ¹	
Railroads:								
On first \$1000 per mile of gross earnings...	½ %	1 %	8/10 %	1¼ %	1¼ %	1¼ %	1¼ %	1¼ %
On next \$1000 per mile of gross earnings...	½ %	1 %	1½ %	2 %	2 %	2 %	2 %	2 %
On excess of \$2000 per mile of gross earnings	½ %	1 %	2 %	2½ %	2½ %	2½ %	2½ %	2½ %
Guano, phosphate or fer- tilizer	—	—	1½ %	1½ %	R ¹			

* These figures represent current rates.

¹ Repealed.

(For TABLE VI, see page 87)

TABLE VII

ANALYSIS OF EFFECTS OF PROPOSED RATE MODIFICATIONS

Based on

1947 Gross Earnings — 1948 Tax Receipts

Present Tax — Modified Progressive Rates Substituted For Present Rates

\$1000 per mile progressive brackets changed to \$5000 per mile

Railroad	Present Tax	Proposed Tax	% Reduction
	1¼%-2%-2½%	1%-1½%-2%	
Baltimore Belt	5,598	3,074	45.09
Baltimore & Eastern.....	5,528	3,133	43.32
Canton	53,211	40,392	24.09
Castleman River	497	288	42.05
Cumberland & Pennsylvania	9,012	4,342	51.82
Curtis Bay	4,367	3,422	21.64
East Washington	80	41	48.75
Maryland and Pennsylvania	10,687	5,630	47.32
Norfolk & Western.....	18,532	12,695	31.50
Patapsco & Back Rivers...	138,469	102,646	25.87
Pennsylvania	1,010,990	739,095	26.89
Preston	306	150	50.98
Western Maryland	391,046	279,086	28.63
Totals.....	1,648,323	1,193,994	27.56
Composite Rate %.....	2.44	1.77	27.56

Source: State Tax Commission.

TABLE VIII

ANALYSIS OF EFFECTS OF PROPOSED RATE MODIFICATIONS
BASED ON 1947 GROSS EARNINGS — 1948 TAX RECEIPTS

Individual Gas and Electric Companies

Electric	Gross Earnings 1947	Present Tax 1%	Proposed Tax ½-1-2%
Chestertown	\$ 192,369.98	\$ 1,923.70	\$ 1,423.70
Conowingo	834,069.26	8,340.69	14,181.39
Consolidated	43,668,752.99	436,687.53	870,875.06
Eastern Shore P.S....	2,939,614.73	29,396.15	56,292.29
Pennsylvania	9,880.14	98.80	49.40
Potomac Edison	6,564,253.52	65,642.54	128,785.07
Potomac Electric ...	5,125,844.54	51,258.45	100,016.89
Stockton	21,586.18	215.86	107.93
Susquehanna	5,448,573.01	54,485.73	106,471.46
West Md. Power....	159,559.09	1,595.59	1,095.59
Fairfax	1,421.15	14.21	7.11
	<u>\$64,965,924.59</u>	<u>\$649,659.25</u>	<u>\$1,279,305.89</u>
Composite rate....		1%	1.97%
Percentage increase		—	96.92%

Gas	Gross Earnings 1947	Present Tax 1½%	Proposed Tax ½-1-2%
Chestertown	\$ 29,297.11	\$ 439.46	\$ 146.49
Citizens	173,971.63	2,609.57	1,239.72
Consolidated	16,209,060.64	243,135.91	321,681.21
Cumberland	934,765.76	14,021.49	16,195.32
Eastern Shore	134,494.22	2,017.41	844.94
Eastern Shore P.S....	50,465.95	756.99	252.33
Elkton	54,504.89	817.57	272.52
Hagerstown	290,962.78	4,364.44	3,319.26
Md. Counties	1,645.43	24.68	8.23
Potomac Edison	85,280.54	1,279.21	426.40
Washington	2,677,469.41	40,162.04	51,049.39
	<u>\$20,641,918.36</u>	<u>\$309,628.77</u>	<u>\$395,435.81</u>
Composite rate....		1.5%	1.92%
Percentage increase		—	27.71%

Source: State Tax Commission.

TABLE IX

ANALYSIS OF EFFECTS OF PROPOSED RATE MODIFICATION
BASED ON 1947 GROSS EARNINGS — 1948 TAX RECEIPTS

(1)	(2)	(3)	(4)	(5)	(6)	(7)
Taxpayer	Actual 1948 Tax	Average effective rate under (2)	Proposed Tax	Average effective rate under (4)	Revenue Loss (2)-(4)	% Reduction
Railroads	\$1,648,323	2.44%	\$1,193,994	1.77%	\$454,329	27.56%
Telegraph or Cable.....	20,954	2.5	15,263	1.82	5,691	27.16
Express or Transportation	8,580	2.5	5,364	1.56	3,216	37.48
Sleeping Car, Parlor Car	14,351	2.5	9,981	1.74	4,370	30.45
Safe Deposit and Trust..	71,139	2.5	—	—	71,139	100.
Telephone	718,053	2.	714,723	1.99	3,330	.46
Oil Pipe Line.....	—	2.	—	—	—	—
Electric Light or Power..	649,659	1.	1,279,306	1.97	629,647*	96.92*
Gas	309,629	1.5	395,436	1.92	85,807*	27.71*
	<u>3,440,688</u>	<u>1.78</u>	<u>3,614,067</u>	<u>1.87</u>	<u>173,379*</u>	<u>5.04*</u>

* Increase

Source: State Tax Commission.

PART II

HIGHWAY USE TAXES

Recommendations

1. A ton-mile tax of 2 mills per ton-mile should be placed on all trucks using Maryland roads and weighing 25,000 pounds gross road weight or over.

2. The titling tax law should be amended to exempt automobiles of persons moving into Maryland who wish to transfer their certificates of title from the state they are leaving.

Basis of Highway Use Taxes

It is common practice among all states in the United States to designate by law certain revenues that are earmarked for highway purposes. Most of these revenues come from taxes and fees which are based upon the theory that benefits are derived by users of the states' roads and highways from their use thereof. The correct measure of benefit is difficult to determine not only among those who actually operate vehicles on the highways but also as between actual users and those who receive indirect benefits, such as those who ship or receive merchandise, or persons who have the value of their properties enhanced through accessibility over good roads. The conviction is widely and strongly entrenched, and we believe it is justified, that persons who receive direct benefits from the highways, streets and roads should bear at least a large part of the costs of construction and maintenance; and conversely that taxes and fees imposed for such purposes should not be diverted to other governmental activities.

Any study of highway taxes imposed to pay the costs of the highways must recognize at the outset the various elements involved in the cost. The first such element is the cost of acquisition of the right-of-way, including the costs of excess condemnation, if any. The second such element is the cost of constructing the road itself. In most studies of taxes for

highway purposes these first two elements usually are considered together as highway construction costs. The other major element in highway costs consists of the maintenance and repair of roads, streets and highways. A further element of cost closely related to highway use is the expense of traffic control and law enforcement, but in Maryland enforcement costs have been transferred almost in their entirety to general funds and since the problem is one of expenditure rather than revenue it will not be the subject of further comment.

As indicated above, a perplexing problem always has been and still is that of equitable distribution of highway construction and maintenance costs among the various users of such highways and other persons who benefit from their existence. Before the days of self-propelled vehicles, general property taxes bore the relatively low costs involved. Today it is necessary to devise newer methods of taxation that bear a closer relationship to highway use. As a result, property taxes are being supplemented and to a large extent replaced by motor fuel taxes, vehicle registration fees, operators' licenses and taxes on the titling of vehicles.

The owners of adjacent property usually still are in a position to receive substantial benefits from street and local road improvements. Therefore, it continues to be the practice to meet part or all of such costs by levying special assessments or by including such costs or a part thereof in the general property tax rate. These methods of financing road improvements are based on the assumption that the streets and rural roads make the property more accessible and thus enhance its value. Therefore, it is reasoned that the property owners benefited should pay for this increment in value to the extent of the cost of the improvement. Scientific methods of measuring such increment in value, however, have proved elusive, and any tax system based on value increment can be shown as not entirely fair.

In a very broad sense, it may be argued that the largest group benefited to a substantial degree by road improvement

consists of all persons in the United States. Users of the United States postal system, to the extent that they depend on post roads, are indirect users of the road and highway system. To the extent that all persons are protected from foreign aggression by the armed forces, they again are beneficiaries of a highway system which is a vital part of the defense structure. Virtually all persons engaged in agriculture, manufacture, commerce and the professions must utilize the roads for transportation of persons and goods. All persons as consumers of food, clothing and shelter depend on the roads to bring these items to them. In this broad sense, no practicable tax structure based upon precise, relative benefits can be devised.

However, even though precise, scientific accuracy may not be attainable in our present state of knowledge, it is obvious that persons who own or operate the vehicles that travel the highways derive a very direct benefit from good roads, and highway use taxes have a just foundation in that fact. This seems to be in accord with the general view throughout the country. Thus all forty-eight states tax the motor fuel placed in or sold for use by self-propelled vehicles that travel the highways. Likewise, all forty-eight states require a license for each such vehicle, and the fees derived therefrom usually provide substantial state revenues. These two revenue sources generally provide the major portion of funds from which expenditures are made for highway construction and maintenance.

The laws of most states classify for tax purposes the motor vehicles traveling the highways as passenger cars, busses and trucks. Publicly-owned vehicles, school busses, hearses and other special types of vehicles frequently are given special preferred treatment. Maryland's special treatment for farm trucks serves as an example.¹ Privately-owned trucks usually are classified as private, or as contract

¹ See ANN. CODE MD. Art. 66½, Sec. 74 (Supp. 1947), as amended by Md. Laws 1949, c. 191 and Md. Laws 1950, c. 9.

or common carriers. The private trucks are those not engaged in for-hire operations. The contract carriers are those that may be hired for special trips, and common carriers have fixed routes and sometimes also definite time schedules. Many states impose taxes, which vary widely upon the three different types of trucks or truck use.

Although the highway use taxes are those levied in relation to motor vehicles, it does not follow that all levies on motor vehicles are necessarily highway use taxes. Thus, to the extent that motor vehicles bear part of a general property tax, they contribute to the support of the general government. The general property tax differs fundamentally from highway taxes in that usually it is identified as a tax based upon ability-to-pay rather than upon any theory of special or direct benefit. In Maryland, motor vehicles are no longer placed on the general property tax rolls, but amounts based on legally defined classifications of vehicles are added to the license fees, and the revenues so collected are divided among the subdivisions to compensate them for the loss involved in removal of the vehicles from the property tax rolls. Thus, in Maryland, some part of the motor vehicle revenues continue to be used for the support of the general government, but the allocation formula is somewhat arbitrary, and is not necessarily closely related to the value of the vehicles which would constitute the basis of the ability to pay theory.

Kinds of Highway Use Taxes

Among highway use taxes are such portions of the registration fees collected on motor vehicles as are in excess of the amounts necessary for identification of vehicles through licensing. The revenues are used for highway purposes, and the amounts of the fees are graduated in proportion to presumed benefits. Virtually all states have graduated fees based on weight or horsepower of the automobile. Heavier fees are levied against busses and trucks graduated in accordance to their weights, capacities or sizes. Special categories of vehicles may be given preferred or discriminatory treatment. It

is the assumption that this graduation in accordance to size bears a substantial relationship to the benefits derived by their owners from the streets and highways of the state.

An unusual highway user tax is the Maryland motor vehicle title registration tax levied at the rate of 2% of fair value for every certificate of title issued by the State of Maryland.² All revenues derived from the titling tax at present are earmarked for highway purposes. The incidence of the tax rests on the act of titling an automobile resulting from either a sales transaction or from the movement of the owner of a vehicle from another state to Maryland as his place of residence. Thus the burden on a specific vehicle may be multiplied tenfold if the vehicle should be sold and retitled ten times in the State of Maryland. All persons moving into the State are required to secure a Maryland certificate of title on their motor vehicles and pay the 2% tax on their fair value.

Since the sale of motor vehicles is exempted from the Retail Sales Tax, it is appropriate that the equivalent titling tax be levied against such transactions. If the automobile is purchased outside the State for use within the State, the titling tax similarly can be justified as the alternative of the Maryland Use Tax. An inequity is imposed on those persons, however, who move into the State and are required to pay the titling tax upon the automobiles they own. There is no more reason why they should be subjected to the equivalent of a sales tax upon their automobiles than that they should be subjected to the sales or use tax on any other of their property that they bring with them into the State. It is recommended therefore that the titling tax be levied only upon transfer of title between owners and not in instances of titling a vehicle resulting from change of State of residence. It is probable that the sense of injustice engendered by the present statute results in extensive evasion and subsequent loss of license revenues to the State, since it is extremely difficult, for example, to detect persons who work in the Dis-

² ANN. CODE MD. ART. 66½, SEC. 25A (Supp. 1947).

trict of Columbia and live in Maryland. The estimated \$30,000 to \$45,000 annual³ loss in State revenue, therefore, probably would be more than offset by registration fees from those who now purchase their licenses from other states to avoid the titling tax.

The motor fuel tax presumably is a fairer tax in any attempt to apply the benefit theory. Although the amount of tax per gallon of gasoline purchased is constant, it is known that, in general, the larger the size of the vehicle, the lower the mileage per gallon obtained from it. Thus the burden of the tax is roughly apportioned on the basis both of mileage and weight. Recent studies conducted in other states reveal, however, that a rethinking of the problem is necessary. These studies indicate that the smallest automobile pays substantially more per ton of weight moved per mile than do larger vehicles. They indicate that the largest and heaviest trucks pay the smallest motor fuel tax per ton-mile. The Council on State Governments declares, "There is evidence that in terms of gross ton miles per unit of tax the gasoline tax discriminates against the private car driver. It is clear also that in terms of over-all road construction and maintenance costs, as well as those incurred on main routes by an almost constant flow of heavy truck traffic, the share of highway costs borne by trucks carrying heavy cargoes is less than it should be."⁴

Alternate Tax Systems

A tax and license system possibly could be devised, based at least in part upon the minimum highway requirements of different types of vehicles. This plan would be most applicable to road acquisition and construction costs. Thus, it would be possible to ascertain the minimum width of highway, strength of bridges and depth of surfacing to provide reasonably satisfactory service to the lightest weight vehicles in common use. The cost of additional width, depth of

³ Estimate supplied by Department of Motor Vehicles.

⁴ COUNCIL OF STATE GOVERNMENTS, HIGHWAY SAFETY - MOTOR TRUCK REGULATION, p. 113 (Chicago 1950).

surface or strength of bridges could then be charged against heavier vehicles on the assumption that such heavier vehicles are solely responsible for the additional expenditure of funds. The widest and heaviest trucks thus would be responsible for paying the cost of facilities constructed over and above that needed for the next largest category. The major counter-argument to this plan is that the additional width provides extra safety and convenience for drivers of all vehicles.

Cost of maintenance, repair and eventual replacement could be allocated among the various types of vehicles in accordance with the extent of destruction allocable to each type of vehicle. This would be based upon the assumption that the heavier vehicles cause the greatest amount of wear and actual destruction. Lighter vehicles would be responsible for a corresponding lesser amount of such wear and destruction. Destruction resulting from weather conditions would be allocated among all vehicles on an equal basis. Tests being conducted in southern Maryland at the present time by the Highway Research Board of the National Academy of Sciences should give much evidence on this point when they are completed and the results thereof are analyzed.

The Commission has arrived at the conclusion that in the light of our present incomplete knowledge regarding the destructiveness of heavy trucks, a method of distributing highway costs based on a measure of the use made rather than destruction of the highways is preferable. Weight and distance obviously are the most pertinent factors in measuring road use. The employment of these factors in a tax system varies greatly among the states. Some states levy additional weight fees on trucks as a form of surtax based on presumed additional benefits received by such trucks. Other states subject the common and contract carrier trucks and busses to gross receipts taxes, but the shortcomings of gross receipts taxes as a measure of highway use lie in the fact, first, that there is no necessary relationship between gross receipts and weight and distance and, secondly, that they cannot be assessed against private carriers that do not have gross receipts

allocable to transportation of property. Other states levy taxes upon trucks based upon the miles traveled annually, and for this purpose the trucks usually are placed in several weight categories. Finally, there is the method of the ton-mile tax which many students of highway finance agree is the most satisfactory tax in any attempt to distribute the burden on the basis of benefits received from highway use. The levy may be made on the basis of unladen weight, capacity weight, or actual road weight.

Maryland Motor Vehicle Taxes

Examination of the Maryland vehicle tax structure indicates that the various levies are based on the ownership of vehicles, the privilege of operation, and the extent of use. As indicated by Table X, the motor vehicle fuel tax is most important from the point of view of State revenue. This is a tax of 5¢ per gallon on diesel fuel and on gasoline used for motor vehicles utilizing our public highways. This gasoline tax is slightly below the national average as indicated in Table XI.

The law specifies that revenues from the motor vehicle fuel taxes shall be distributed 50% to the Maryland State Roads Commission, 30% to Baltimore City and 20% to the counties. The allocation among the counties is based on their respective proportion of county roads in the State. Every municipality is authorized to apply for funds from motor vehicle tax revenues thirty days prior to the beginning of each State fiscal year. It then can receive a share of its county's allotment of funds in proportion to the miles of surfaced roads, streets and alleys owned and maintained by the municipality. Table X indicates that the State and Baltimore City especially have experienced during the past four years, tremendous growth in revenues from this source.

Second most important motor vehicle tax revenue-wise are the license or registration fees levied against vehicles and operators of such vehicles, the greater portion of these funds coming from the annual registration fees on private

passenger vehicles. For the fiscal year 1949, approximately \$8,404,000 was realized from this source, of which approximately \$5,106,000 was contributed by the owners of private passenger cars. The Commission believes that the owners or operators of the private passenger vehicles, as was suggested in the case of the gasoline tax, are probably contributing more than their fair share for the use of the highways of this State, and that the owners or operators of more sizeable vehicles are contributing a disproportionately small share.

This situation is the result of the system of registration fees employed in Maryland under which the amount of registration fees payable by owners or operators of trucks and busses is dependent upon several factors, among which are size, weight or capacity of the vehicle, classification of the owner or operator and scope of operations of such owner or operator. Domestic private and contract carriers of freight are subjected to smaller registration fees on their vehicles than those applicable to vehicles operated by common carriers, and any intra-state common carrier of freight is required to obtain a permit from the Public Service Commission before operating in the State. Foreign carriers of freight, whether of common, contract or private classification, are, through reciprocity provisions, generally exempted from payment of Maryland registration fees on their vehicles, and thus contribute nothing through this source.

Domestic and foreign common carriers of passengers are required to pay a tax of $1/30$ of 1¢ per seat multiplied by the number of miles operated in Maryland on each of their vehicles so operated, such tax being in lieu of a fixed Maryland registration fee.⁵ Consequently, this class of passenger carrier contributes substantially to the State's highway revenues. Domestic charter carriers of passengers are assessed an annual registration fee based upon seating capacity of each vehicle, and domestic private busses are assessed in accord-

⁵ The Maryland titling tax is imposed on foreign as well as domestic interstate busses. That this measure is constitutional, see *Capitol Greyhound Lines v. Brice*, 339 U. S. 542 (1950). Trucks registered in other states do not pay this tax.

ance with the weight classifications and fees applicable to private passenger automobiles. School busses receive preferential treatment.

The third most important motor vehicle revenue producer is the titling tax. This tax, which yields over \$5,000,000 annually, requires that a tax of 2% of the fair market value of a motor vehicle shall be levied on every certificate of title of a motor vehicle issued by the State of Maryland. The law specifies that, after payment of debt service charges, any surplus shall be transferred to the State Roads Commission for construction purposes. No portion of these funds is given to the local subdivisions of the State.

Table XII compares Maryland's highway user revenues with those of other states and the District of Columbia, and Table XIII breaks down motor carrier tax receipts of a number of states into six major categories.

Interstate Features of Highway Use Taxes

Highway use taxes have in the past given rise to serious interstate complications. This has been especially true in regard to motor vehicle licensing. During one period, for example, Maryland and the District of Columbia would not permit motor vehicles from the other jurisdiction to travel on its highways unless registered in the jurisdiction in which they were to travel. Now reciprocal arrangements have been entered into by most states including Maryland, under which duplicate licensing has been eliminated. Table XIV compares the amounts of truck licenses and taxes levied in Maryland and in other states, exclusive of property and gasoline taxes, and Table XV is comparable except that it includes property and gasoline taxes.

An interstate problem much more difficult to solve, however, arises from varying state rates of the gasoline tax. A state such as Maryland is extremely vulnerable to loss of revenue from this source because of its peculiar geographic situation. Motor vehicles with large capacity fuel tanks may

find it feasible to purchase fuel outside of Maryland for travel through the State, thus giving Maryland very little revenue for the use of its highways. No person reasonably can be expected to pay the 5¢ Maryland gasoline tax, for example, while the 3¢ New Jersey and 4¢ District of Columbia rates are available to him. Maryland is an especially heavy loser, since most casual observation reveals the main arteries of travel through the State are heavily populated with interstate carriers easily able to cross the State without refueling. Experiments by a number of states with a port of entry system to enforce their gasoline taxes have been failures and generally abandoned.

The titling tax has an interstate feature in that the resident of another state is penalized when he desires to move into Maryland if he owns an automobile. This we have already discussed.

If gross receipts taxes are levied against motor carriers, they must necessarily be apportioned so as to include only that share of gross receipts earned within the state making the levy. Similarly, a mileage or ton-mile tax should be imposed on interstate carriers for only that part of travel that occurred on the highways of the state making the levy, since it would be highly inequitable and probably unconstitutional if it were not limited to this extent.

Taxes on Competitors of Commercial Highway Users

Any system that taxes commercial users of highways must take due account also of the taxes borne by competitors of such commercial users. As shown elsewhere in this Report, railroads long have been subjected to a gross receipts tax over and above most other Maryland taxes. The Commission has recommended the continuation of such taxes, but not their extension to additional subjects of taxation. Airlines have not been subjected to such taxes, probably because they are considered to be in the "infant industry" category. Trucks and busses

pay graduated license fees as has been indicated, but they have not been subjected to the gross receipts taxes. A gross receipts tax would be very difficult to apply fairly to the trucking industry because a very large percentage of trucks are owned by persons who transport their own goods only. Since there is a trend in Maryland to limit gross receipts taxes to public utilities, the commercial trucking business should be excluded, because, rather than tending to monopoly, it is highly competitive in character. For the above reasons it is our belief that a gross receipts tax, although still imposed on the truckers' major competitors, the railroads, would be wholly inappropriate to the trucking industry in Maryland and would tend to create, rather than abolish, inequalities.

In 1945 the Legislature passed, and the Governor vetoed, Senate Bill 176, which would have imposed a gross receipts tax upon common and contract carriers by motor vehicle. In his veto memorandum (Laws of Maryland 1945, pages 1992 to 1993) the Governor cited the danger of retaliatory action by other states, the carriers' contention that the measure was hastily enacted, opposition to the bill by the wartime Office of Defense Transportation, a request of the Senate Finance Committee that the Governor reject the bill, and action in the House of Delegates seeking to have the measure recalled. The concluding paragraph of the Governor's memorandum reads in part as follows:

"Believing that additional study of the entire tax problem affecting motor carriers is necessary, I will appoint a Commission to survey existing tax levies upon all forms of transportation, within the State, to the end that a comprehensive and equitable tax system can be devised."

CONCLUSIONS

The Commission has arrived at the conclusion that the cost of the Maryland state highway system should be borne virtually in its entirety by its direct users. It seems apparent that large motor trucks are contributing to the Maryland highways

proportionately less than other classes of highway users and are receiving relatively greater benefits than such other classes. We believe that the State is entitled to greater financial support for the use of its roads than it is now receiving from motor trucks. The major problem then becomes the adoption of a proper measure of taxation for such use.

Table XVI indicates the major provisions of special taxes on commercial carriers in fourteen states that have imposed such taxes.

On the basis of logic as well as the experience of other states, the Commission has concluded that the movement of one ton, road weight (including the weight of vehicle or vehicles), one mile constitutes a reasonable measure of road use. Approximately a third of the states levy some form of mileage or ton-mile tax.

As has been demonstrated above, the titling tax and registration fee system bear the least relationship to road use. Graduation by vehicle weight or capacity is some concession to the benefit concept, but our investigation leads us to believe that it is a relatively crude measure of road use. Furthermore, as has been previously indicated, out-of-state vehicles are virtually exempted under reciprocal provisions from this type of levy. The extent to which out-of-state trucks utilize Maryland highways is shown in Table XVII.

The motor vehicle fuel tax bears a much closer relationship to amount of road use, but calculations have shown that light automobiles pay the greatest amount per ton-mile traveled and diesel-powered trucks pay least. Furthermore, out-of-state vehicles can escape paying any of the levies through the purchase of motor vehicle fuel elsewhere. Gross receipts taxes have only limited applicability because practically they can be levied only against carriers of goods or persons for hire.

Taken together, titling, registration and gasoline taxes seem, however, to afford a reasonably satisfactory method of

taxation for passenger cars and for light and medium trucks. Their comparative simplicity is a consideration in favor of continuing them.

On the other hand, when we come to large trucks and tractor-trailers, we find considerations which, we think, call for the imposition of a moderate ton-mile tax in addition to other taxes.

These considerations include the additional cost of construction and of maintenance of highways open to the use of large and heavy vehicles, the axle or vehicle weight which is likely to cause material damage to our existing highways of average good construction, and comparisons of taxes imposed upon the chief competitors of the motor trucks and upon other highway users.

We have already spoken of all of these except the weight which is likely to be harmful to many of our roads. Quite possibly this may be of only temporary importance, but at the present time the State law permits axle loads in excess of 18,000 pounds, which, we are advised, is probably the highest axle weight which can be used without material injury to our existing highways of average good construction. We are further advised that axle loads (provided axles are at least fifty inches apart on centers) is the most accurate method of determining proper weight limits, but that reasonable approximations can be made based upon gross weight of vehicles, types of vehicles and the number of axles. Thus, a single unit, two-axle truck having a gross weight (vehicle and load) of 25,000 pounds may be expected to have a weight of approximately 18,000 pounds on the rear axle. Figures vary for other types of vehicles, and we understand that, for example, a combination of a tractor and a two-axle trailer having a gross weight of 55,000 pounds will probably also have a maximum single axle weight of approximately 18,000 pounds. Aggregate weight alone, therefore, is not a conclusive test of probable road damage. The figure of 18,000 pounds is, we understand, the figure recommended by the American Associa-

tion of Highway Officials as the maximum axle weight which should be allowed; and we are advised through the State Roads Commission of Maryland that preliminary data from the Southern Maryland road tests now in progress tend to support this recommendation. These tests are not yet complete and their results remain to be fully evaluated.

The point at which ton-mile taxes should begin is not an easy matter to determine. Recommendations as to load limits are beyond our function, and are in the competent hands of the State Roads Commission, which is one of the sponsors of the present Southern Maryland tests. We believe, however, that a gross weight of 25,000 pounds (vehicle or vehicles and load) which is the equivalent of an 18,000 pound axle load in a single unit, two-axle truck, is a reasonable point at which to draw the line between medium and large trucks, not only in the light of possible damage to highways, but also in the light of increased costs of construction to accommodate large and heavy vehicles, in the light of taxes on railroads as the chief competitors in hauling freight, and in the light of comparative advantages as to gasoline taxes over others subject to such taxes.

In passing, we suggest that no license fees should be provided by one law of the State of Maryland for vehicles having weights in excess of weight limits prescribed by another law of the State of Maryland. Such a situation exists today, and is the cause of great confusion and resentment, which we think is justified.

The Commission recommends that in addition to the present fees and taxes imposed on motor trucks (with, however, the modification just suggested), a ton-mile tax of two mills per ton-mile, based upon mileage in Maryland, to be administered by the Department of Motor Vehicles, be levied on motor trucks and tractors and trailers or semi-trailers having gross road weights in excess of 25,000 pounds. Such a tax would tend, in addition to helping to meet construction and maintenance costs, to offset the inequities of the present situation

under which the smallest vehicles pay the highest tax for equal use of the roads. The largest haulers still would retain their advantage of hauling at lower unit costs, but in regard to taxes the result would be to place the large hauler and smallest automobile operator more nearly on a par regarding their tax burdens for highway use. It would also tend to offset Maryland's loss of gasoline tax revenues caused by the failure of owners or operators to buy fuel in this State. Our best estimate is that the two mill tax, which appears reasonable when compared with rates of other states, should result in revenues to the State of approximately \$4,000,000 annually, assuming success in collection.

Since the tax suggested has the purposes of equalizing the burden imposed upon all classes of motor vehicles using the highways of this State and exacting from the several classes of highway users fair and proportionate contributions for the construction, maintenance and repair of such highways and of equalizing taxes between competitors (railroads and trucks) the tax should be assessed equally against domestic and foreign motor carriers. Exemption of foreign motor trucks from the ton-mile tax would result in direct subsidization of that group by this State at the expense of domestic highway users of all classes and would give them a competitive advantage over both railroads and domestic truckers.

The experience of other states can be utilized to guide Maryland in the administration and enforcement of a ton-mile tax. Several of these states are now enjoying substantial revenues from this source. In their Illinois study, Griffenhagen & Associates stated, "... a direct ton-mile tax on heavy vehicles ... would offer no more inherent difficulties of administration than, say, an income tax or a general property tax ... Such a ton-mile tax would be administratively feasible in Illinois."⁶ The Maryland Department of Motor Vehicles also has assured the Commission that the tax is administratively workable.

⁶ GRIFFENHAGEN AND ASSOCIATES, A HIGHWAY IMPROVEMENT PROGRAM FOR ILLINOIS, p. 207 (Chicago 1948).

Regarding costs of administration, the Council of State Government declares, "... reports from states which levy a ton-mile tax indicate that the cost of administration is surprisingly modest and the staff required relatively small in view of the high returns in tax yields." Reporting states indicated costs ranging from 1.4% to 8% of collections.

It is, of course, essential that adequate funds be appropriated for enforcement, and we recommend that such an appropriation be made to enable the Department of Motor Vehicles to perform the additional duties arising from the administration of this tax.

Further, since ton-mile revenues will result primarily from use of highways under jurisdiction of the State Roads Commission, it is recommended that such revenues be allocated to that agency in their entirety. In the event that any motor carriers operate into or through Maryland on three or less occasions per year, it is recommended that an occasional trip permit good for one round trip within a seventy-two hour period be authorized upon payment of fee of \$6.00, in lieu of payment of the ton-mile tax.

It would appear that the port of entry method is not feasible in administering a ton-mile tax in Maryland. Therefore, the Commission suggests a system whereby (1) the commercial carriers would be required to submit periodic reports of their operations, (2) their books wherever located should be subject to audit by representatives of the State at any time, and (3) their vehicles should carry exterior identification to indicate compliance with the Maryland tax requirements. Records to be kept in the cab would aid in enforcement. The law should be equally applicable to intrastate and interstate private, contract and common carriers of property, both domestic and foreign, although the levy should be made only for mileage covered on Maryland highways.

⁷ COUNCIL OF STATE GOVERNMENTS, HIGHWAY SAFETY - MOTOR TRUCK REGULATION, p. 117 (Chicago 1950).

In conclusion, the Commission quotes a 1948 study of Illinois highways made by Griffenhagen & Associates in which they state, "The only such measure that has ever been found that would serve as a practical means for allocating costs among users is the ton-mile. It, admittedly, is not a perfect measure of relative use, but it appears to be about the only measure that can be employed as a practical matter under the present state of knowledge with respect to the means of highway financing."⁸ Similarly, the Board of Investigation and Research issued through the U. S. Government Printing Office in 1945 a study entitled, *Public Aids to Domestic Transportation*, in which it stated, "Gross ton-mileage . . . appears to be the best common measure of the relative amount of transportation service rendered by roads."⁹

⁸ GRIFFENHAGEN AND ASSOCIATES, A HIGHWAY IMPROVEMENT PROGRAM FOR ILLINOIS, p. 205 (Chicago 1948).

⁹ BOARD OF INVESTIGATION AND RESEARCH, PUBLIC AIDS TO DOMESTIC TRANSPORTATION, p. 304, (Government Printing Office 1945).

TABLE X

COLLECTION AND DISTRIBUTION OF STATE REVENUES
FOR HIGHWAY PURPOSES
(1946-1949)

I. Revenues
(In Thousands)

Tax	1946	1947	1948	1949
Titling	\$ 797	\$ 2,394	\$ 4,441	\$ 5,227
Motor Vehicle Fuel.....	11,881	14,468	19,021	20,710
Registration and Operator's Licenses*	5,714	7,660	8,431	8,770
Fines and Miscellaneous*....	432	629	1,086	1,241

* Refunds not deducted.

II. Distribution
(In Thousands)

Tax	1946	1947	1948	1949
Titling	(Not Distributed)			
Motor Vehicle Fuel:				
State Roads	\$ 5,050	\$ 6,145	\$ 9,411	\$10,302
Baltimore City	3,280	3,994	5,647	6,181
Counties	3,098	3,775	3,765	4,121
Motor Vehicle Fees and Fines:*				
State Roads	2,358	2,764	4,189	4,383
Baltimore City	967	1,118	2,513	2,630
Counties	—	—	1,675	1,753

* Registration fees, operator's licenses, fines and miscellaneous.
Source: Comptroller's Reports.

TABLE XI

COMPARISON OF MOTOR FUEL TAX RATES
IN THE UNITED STATES, 1950

Number of States	States	Rate per Gallon (Cents)
1	Louisiana	9
6	Florida, Georgia, Kentucky, New Mexico, North Carolina, Tennessee	7
1	Oklahoma	6.58
2	Arkansas, Washington	6.5
10	Alabama, Colorado, Idaho, Maine, Mississippi, Montana, Nebraska, Oregon, South Carolina, Virginia.....	6
1	Nevada	5.5
8	Arizona, Delaware, Kansas, MARYLAND, Minnesota, Pennsylv- ania, Vermont, West Virginia.....	5
1	California	4.5
13	Connecticut, Indiana, Iowa, New Hampshire, New York, North Dakota, Ohio, Rhode Island, South Dakota, Texas, Utah, Wisconsin, Wyoming	4
4	Illinois, Massachusetts, Michigan, New Jersey.....	3
1	Missouri	2
48	Average.....	5.14

Source: National Highway Users Conference, Motor Vehicle Tax Service,
No. 2.

District of Columbia rate is 4¢.

TABLE XII
STATE HIGHWAY-USER REVENUES — 1948
(In Thousands of Dollars)

State	Motor-fuel taxes	Motor-vehicle registration fees, etc.	Motor Carrier Taxes	Total
Alabama	\$ 27,879	\$ 8,836	\$ 724	\$ 37,439
Arizona	9,359	2,818	796	12,973
Arkansas	20,067	6,321	6	26,394
California	131,669	64,552	9,073	205,294
Colorado	18,376	4,377	1,657	24,410
Connecticut	17,169	9,590	747	27,506
Delaware	2,934	1,641	—	4,575
Florida	45,286	18,036	724	64,046
Georgia	36,713	4,827	115	41,655
Idaho	9,319	2,577	201	12,097
Illinois	52,649	33,554	—	86,203
Indiana	35,003	15,366	235	50,604
Iowa	24,423	18,121	572	43,116
Kansas	20,392	6,226	2,273	28,891
Kentucky	28,795	11,038	1,135	40,968
Louisiana	33,068	5,817	43	38,928
Maine	11,771	5,543	92	17,406
MARYLAND	20,014	14,375	—	34,389
Massachusetts	24,287	9,883	176	34,346
Michigan	42,062	33,992	791	76,845
Minnesota	25,779	16,693	61	42,533
Mississippi	20,427	5,618	85	26,130
Missouri	17,728	14,149	736	32,613
Montana	7,467	2,514	162	10,143
Nebraska	18,243	5,148	53	23,444
Nevada	2,541	540	642	3,723
New Hampshire	4,547	3,710	7	8,264
New Jersey	28,627	31,195	109	59,931
New Mexico	8,445	3,154	615	12,214
New York	82,743	66,583	17	149,343
North Carolina	44,390	17,200	1,408	62,998
North Dakota	5,214	3,556	69	8,839
Ohio	65,349	45,189	1,014	111,552
Oklahoma	27,256	12,758	481	40,495
Oregon	20,750	4,551	4,654	29,955
Pennsylvania	78,170	47,589	7	125,766
Rhode Island	5,776	4,028	40	9,844
South Carolina	22,443	4,119	515	27,077
South Dakota	7,055	2,450	1,176	10,681
Tennessee	38,843	10,000	214	49,057
Texas	72,689	51,650	281	124,620
Utah	6,895	1,640	—	8,535
Vermont	4,112	3,799	—	7,911
Virginia	36,877	11,008	487	48,372
Washington	27,906	15,037	460	43,403
West Virginia	15,982	12,099	392	28,473
Wisconsin	24,426	18,213	2,729	50,368
Wyoming	4,688	1,211	761	6,660
District of Columbia...	6,519	3,067	431	10,017
Total	\$1,348,122	\$695,958	\$36,966	\$2,081,046

Source: Highway Statistics 1948, Department of Commerce, Bureau of Public Roads, Washington, D. C., 1950, p. 58.

TABLE XIII
STATE MOTOR-CARRIER TAX RECEIPTS*
(1948)

State	Proceeds of State Imposts on Motor Vehicles Operated for Hire, and Other Motor Carriers ¹						Total
	Gross Receipts Taxes ²	Mileage, Ton-Mile, and Passen- ger-Mile Taxes	Special License Fees and Franchise Taxes ³		Certifi- cate or Permit Fees ³	Miscel- laneous Receipts	
			On Weight or Capacity Basis	On Flat Rate Basis			
	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars
Alabama	—	705	—	—	13	—	718
Arizona	804	—	—	—	—	—	804
Arkansas	—	—	—	—	6	—	6
California	9,026	—	—	—	161	—	9,187
Colorado	—	1,630	—	—	27	—	1,657
Connecticut	629	—	—	95	1	—	725
Delaware ⁴	—	—	—	—	—	—	—
Florida	—	676	—	26	20	1	723
Georgia	—	—	—	112	3	—	115
Idaho	91	—	51	—	1	—	143
Illinois ⁴	—	—	—	—	—	—	—
Indiana	—	—	—	220	8	—	228
Iowa	—	—	466	91	—	—	557
Kansas	—	2,251	—	—	22	—	2,273
Kentucky	—	325	644	—	92	59 ⁵	1,120
Louisiana	—	—	—	—	23	20	43
Maine	—	39	—	20	20	4	92
MARYLAND ⁴	—	—	—	—	—	—	—
Massachusetts	—	—	—	143	23	9 ⁵	175
Michigan	—	774	—	—	17	—	791
Minnesota	—	—	—	—	57	—	57
Mississippi	—	—	—	—	3	82	85
Missouri	—	—	736	—	—	—	736
Montana	121	—	—	38	1	2	162
Nebraska	—	—	—	46	7	—	53
Nevada	—	—	463	75	—	107	645
New Hampshire....	—	—	—	7	—	—	7
New Jersey.....	—	109	—	—	—	—	109
New Mexico.....	—	640	—	—	4	—	644
New York.....	—	—	—	1	7	9	17
North Carolina.....	1,398	—	—	—	10	—	1,408

TABLE XIII (continued)
STATE MOTOR-CARRIER TAX RECEIPTS
(1948)

State	Proceeds of State Imposts on Motor Vehicles Operated for Hire, and Other Motor Carriers ¹						Total
	Gross Receipts Taxes ²	Mileage, Ton-Mile, and Passen- ger-Mile Taxes ³	Special License Fees and Franchise Taxes ³		Certifi- cate or Permit Fees ³	Miscel- laneous Receipts	
			On Weight or Capacity Basis	On Flat Rate Basis			
	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars	1,000 Dollars
North Dakota.....	—	6	—	19	44	—	69
Ohio	—	—	1,018	—	—	—	1,018
Oklahoma	—	455	—	—	22	—	477
Oregon	83	3,753	1,169	—	16	12	5,033
Pennsylvania	7	—	—	—	—	—	7
Rhode Island.....	—	—	—	39	1	—	40
South Carolina.....	—	452	77	—	—	8 ⁵	537
South Dakota.....	—	20	1,129	—	25	2	1,176
Tennessee	—	—	212	—	2	—	214
Texas	—	—	69	193	22	—	284
Utah ⁴	—	—	—	—	—	—	—
Vermont ⁴	—	—	—	—	—	—	—
Virginia	417	—	—	—	2	52	471
Washington	48	—	297	56	33	26	460
West Virginia.....	—	392	—	—	—	—	392
Wisconsin	—	—	2,393 ⁷	335	—	—	2,728
Wyoming	—	714	—	58	—	—	772
District of Columbia	—	167	—	217	47	—	431
Total.....	12,624	13,108	8,724	1,800	740	393	37,389

¹ Complete classification of Motor-Carrier Tax Receipts is not available in all states. The classified receipts, in some cases, include miscellaneous small receipts not classified.

² Numerous states impose taxes on the Gross Receipts of Motor Carriers in connection with General State Sales Taxes or taxes on all transportation companies or public utilities. This column includes only the proceeds of Gross Receipts Taxes reported by the states as Special Taxes on Motor Carriers.

³ It is sometimes difficult to make a distinction between the three classes of receipts listed in the Third, Fourth, and Fifth columns of figures. In general, the proceeds of special weight or capacity taxes and taxes imposed at a flat rate per vehicle are included under special license fees and franchise taxes. Application or filing fees required for the issuance of certificates of convenience and necessity to common carriers, and corresponding permits to contract and other motor carriers, are included under Certificate or Permit Fees.

⁴ No special taxes on motor carriers were reported.

⁵ Motor-Carrier drivers licenses.

⁶ Ton-mile and passenger-mile taxes paid by motor carriers in lieu of registration fees are not included.

⁷ Includes receipts from mileage taxes that can be paid in lieu of weight taxes at option of carrier. Amount not reported.

⁸ Source: Department of Commerce, Bureau of Public Roads. This table deals with special taxes imposed by a number of states and indicates the revenue therefrom for 1948.

TABLE XIV

COMPARISON OF TRUCK TAXES PAID IN MARYLAND WITH ALL OTHER STATES
AS OF NOVEMBER 1, 1949¹

Type of Vehicle ²	Highest Truck Tax Paid	Lowest Truck Tax Paid	Median Truck Tax Paid	Truck Tax paid in Maryland	Maryland's Rank
Pick up Truck.....	\$ 31.00	\$ 2.50	\$ 15.00	\$ 12.00	33
Medium Truck (private)	255.00	10.00	48.00	25.00	40
Medium Truck (intrastate)	355.00	25.00	82.25	25.00	48
Light Tractor-trailer combination (intrastate)	1,055.00	42.00	217.40	235.00	22
Heavy tractor-trailer combination (intrastate)	2,055.00	69.00	370.75	235.00	38
Heavy Truck (intrastate)	1,650.00	71.00	399.00	175.00	42
Bus (intrastate, inter-city)	3,008.00	54.00	487.45	986.66	12

¹ Source: Griffenhagen and Associates, "Annual Motor Vehicle and Related Taxes in Motor Vehicles of Various Types in the Forty-eight States as of November 1, 1949."

² Assumptions upon which vehicle classifications are based are set forth in Chapter 8, Appendix B of Griffenhagen study, above. These figures exclude property and gasoline taxes, include other motor vehicle taxes. Because Maryland imposes no special taxes on trucks, registration fees alone are taken into account.

TABLE XV

TOTAL TRUCK TAXES PAID IN MARYLAND IN COMPARISON WITH ALL OTHER STATES
AS OF NOVEMBER 1, 1949¹

Type of Vehicle ²	Highest Truck Tax Paid	Lowest Truck Tax Paid	Median Truck Tax Paid	Truck Tax paid in Maryland	Maryland's Rank
Pick up Truck.....	\$ 79.96	\$ 35.85	\$ 53.65	\$ 45.50	37
Medium Truck (Private)	321.40	87.80	148.85	116.00	41
Medium Truck (intrastate)	604.90	156.20	300.16	211.50	41
Light Tractor-trailer combination (intrastate)	1,991.03	523.00	1,056.65	1,010.00	26
Heavy-Tractor- trailer combina- tion (intrastate)	3,364.72	785.00	1,628.00	1,295.00	33
Heavy Truck (intrastate)	2,595.06	619.53	1,286.15	924.50	36
Bus (intrastate, inter-city)	4,568.00	654.00	1,957.25	2,036.66	20

¹ Source: Griffenhagen and Associates, "Annual Motor Vehicle and Related Taxes in Motor Vehicles of Various Types in the Forty-eight States as of November 1, 1949."

² Assumptions upon which vehicle classifications are based are set forth in Chapter 8, Appendix B of Griffenhagen study, above. Figures include licenses, motor fuel, property and other motor vehicle taxes.

TABLE XVI

SUMMARY OF SPECIAL TAXES ON COMMERCIAL MOTOR CARRIERS IN CERTAIN STATES EMPLOYING MILEAGE, TON-MILE OR GROSS RECEIPTS TAXES
(Does not cover gasoline or property taxes, or registration or permit fees)

STATE	TYPE OF TAX	CLASS OF CARRIER TO WHICH TAX APPLIES				RATE AND BASIS OF TAX		EXEMPTIONS FROM MOTOR CARRIER TAXATION AND REGULATION	RECIPROcity GRANTED		OCCASIONAL TRIPS
		Intrastate		Interstate		Buses	Trucks		Registration Fees	Carrier Taxes	
Alabama	Mileage	Common Contract	Common Contract	Common Contract	Common Contract	Seating Capacity 16 or less 17 through 21 22 through 25 26 or over	$\frac{1}{4}$ ¢ per Mi. per axle $\frac{1}{2}$ ¢ per Mi. per axle for interstate trucks taking advantage of reciprocity on registration fees.	Operations wholly within municipalities or contiguous municipalities. School buses, government vehicles, materials for state roads, farm trucks within specified mileages.	Yes	No	3 trips in 3 mos. for fee of \$5.50 and mileage tax.
Colorado	Mileage & Ton-mile	Common Contract Private	Common Contract Private	Common Contract Private	Common Contract Private	1 mill per revenue passenger mile	2 mills per ton-mile on weight of property carried	Operations wholly within municipalities, school buses, public vehicles, farm trucks — owner's products farm to market.	Yes	No	Mileage Tax
Florida	Mileage	Common Contract	Common Contract	Common Contract	Common Contract	Pass. Cap. 10 or less Over 10 to 20 Over 20	Rated Factory Capacity Less than 5500 lbs. 1¢ 2 5500 lbs. or more	Operations wholly within municipalities and adjacent suburbs. School buses, farm trucks to and from shipping points. Owner's property in owner's truck.	Yes	No	Occasional trips not on fixed schedules pay 4¢ per mile.
Idaho	Gross Receipts	Common Carrier — fixed routes				1% of gross receipts quarterly. Gross receipts tax in proportion to mileage in Idaho.		Operations wholly within municipalities. School and hotel buses, farm trucks — farm to market. U. S. mail carriers.	Yes	No	
Kansas	Ton-mile	Common Contract Private	Common Contract Private	Common Contract Private	Common Contract Private	$\frac{1}{2}$ mill per gross ton-mile (Gross wt. = empty wt. plus 150 lbs. per pass. seat)	$\frac{1}{2}$ mill per gross ton-mile (Gross wt. = empty wt. plus 200% rated capacity)	Operations wholly within municipalities. School buses, farm trucks, owners produce etc. to and from shipping points.	None except to farm trucks — farm to market.	Yes	Pay fees at Port of Entry — Gross Wt. Fee/Mi. Not over 15000 lbs. 1½¢ 15000 to 25000 lbs. 2 Over 25000 lbs. 3 Commercial vehicles can enter for 10 days without registering.
Michigan	Mileage	Common Contract	Common Contract	Common Contract	Common Contract	Gross Weight 11000 lbs. or less Over 11000 lbs. to 15000 lbs. Over 15000 lbs.	Fee per Mile 1 Mill 1½ 2	Operations wholly within municipalities. School buses, farm trucks, U. S. mail carriers.	Yes	Yes	
Montana	Gross Receipts	Common Contract	Common Contract	Common Contract	Common Contract	$\frac{1}{2}$ % of gross revenue quarterly; \$30 min. for common carriers, \$15 min. for contract carriers. Also highway compensation fee of \$10 per vehicle annually (Seasonal operation \$5). Gross revenue tax applies to all revenue derived from operations within the State.		Operations wholly within municipalities or within 2 miles of boundaries.	Yes	No	
North Carolina	Gross Receipts	Common — (Franchise carriers over fixed routes)				6% of gross receipts on that portion exceeding registration fee. Gross receipts taxed in proportion to miles driven in state.		Operations wholly within municipalities. School buses, farm trucks carrying specified farm products, U. S. mail carriers.	Yes	No	
North Dakota	Mileage	Common with reciprocity in lieu of Reg. fee	Common Contract in lieu of Reg. fee	Common Contract in lieu of Reg. fee	Common Contract in lieu of Reg. fee	Net Weight Under 3 tons 3 to 4 tons 4 to 5 tons 5 to 6 tons 6 to 7 tons	Fee/Mi. $\frac{1}{4}$ ¢ $\frac{1}{2}$ ¢ $\frac{3}{4}$ ¢ 1 1½	Operations wholly within municipalities. School buses, mail carriers, farm trucks — farm products of owner to trading center. Interstate vehicles within 20 mi. of border — not over 40 mi. in state.	Yes	No	Pay mileage tax if no reciprocity
South Dakota	Mileage	Common	Common Contract in lieu of wt. fees	Common Contract in lieu of wt. fees	Common Contract in lieu of wt. fees	60¢ per pass. seat per month for 7 or more pass. of gross wt. in lieu of gross capacity. Seasonal and for less than 6 mos. — $\frac{1}{2}$ annual reg. fee plus $\frac{1}{2}$ mill per revenue pass. mile.		Operations wholly within municipalities. School buses, trucks hauling farm, mine, or forest products in owners' vehicle. Publicly owned vehicles.	Yes	No	One trip annually

TABLE XVI (continued)

STATE	TYPE OF TAX	CLASS OF CARRIER TO WHICH TAX APPLIES				RATE AND BASIS OF TAX		EXEMPTIONS FROM MOTOR CARRIER TAXATION AND REGULATION	RECIPROCALITY GRANTED		OCCASIONAL TRIPS
		Intrastate		Interstate		Buses	Trucks		Registration Fees	Carrier Taxes	
		Bus	Truck	Bus	Truck						
Oregon	Mileage	Common & Contract	Common, Contract & Private	Common & Contract	Common, Contract & Private	Declared Gr. Wt. (Pounds)	Declared Gr. Wt. (Pounds)	Operations wholly within municipalities. School buses, U.S. mail carriers, farm products in farmers' truck from his farm or a contiguous farm. Public vehicles. Private carriers under 4500 lbs. gross weight.	Yes, subject to registration in Oregon of a percentage of age of trucks in a fleet.	No	Pay mileage tax on miles driven in Oregon
						(Gas) (Diesel)	(Gas) (Diesel)				
South Carolina	Mileage & Ton-mile	Common	Common over fixed routes	Common	Common over fixed routes	Declared Weight (Pounds)	Flat Fee (Gas) (Diesel)	Operations wholly within municipalities. School buses, mail carriers, farm and lumber trucks with owners' products to shipping point.	Yes	No	Contract Operator not over fixed routes 1 trip per month. "Not for hire" operators, 4 trips per mo.
						0- 6000 \$ 20 \$110 6001- 8000 30 130 8001-10000 40 150 10001-12000 50 180 12001-14000 60 200 14001-16000 80 220 16001-18000 100 250					
West Virginia	Mileage & Ton-mile	Common	Common	Common	Common	Mileage and flat fees effective Jan. 1, 1950		School buses, publicly owned vehicles, farm trucks carrying owners' produce from farm to market.	Yes	No	
						1/50¢ per passenger seat-mile for 13000 lbs. gross weight or less (pneumatic tires); 1/40¢ per pass. seat-mile over 13,000 lbs. subject to min. fees— Carrying Cap. (Pneu. Tires) 1 ton or less \$ 25 1 to 2 ton 50 2 to 3 ton 100 3 to 4 ton 150 4 to 5 ton 200 5 or over 250 (Higher fees for vehicles with solid tires)					
Wyoming	Mileage & Ton-mile	Common & Contract	Common, Contract & Private	Common & Contract	Common, Contract & Private	1/2 mill per revenue pass.-mile	1/30¢ per capacity ton-mile	Operations wholly within municipalities. School buses, mail carriers, farm trucks carrying owners' produce and supplies - farm to market.	Yes	Yes	Single trip permits \$2.50.
						Compensatory fees under 3500 lbs. unladen wt., \$5 per year or 50¢ per month. 4000 lbs. or more 1 mill* Trailers 2 " " 1 mill* Semi-trailers 1 " " 1 mill* (Not using gasoline) Also 4¢ per gal. of fuel * Per ton-mile on unladen weight.					

TABLE XVII

AVERAGE DAILY TRUCK TRAFFIC AT THREE MAJOR
MARYLAND TRAFFIC COUNT STATIONS
(First Nine Months of 1950)

Susquehanna River Bridge

Truck Classification ¹	Local		Foreign		Total	
	No.	%	No.	%	No.	%
Light	268	7.65	94	2.68	362	10.34
Medium	342	9.78	244	6.98	586	16.76
Heavy	890	25.41	1664	47.50	2554	72.93
Total	1500	42.84	2002	57.16	3502	100.00

Baltimore-Washington Boulevard at Waterloo

	Local		Foreign		Total	
	No.	%	No.	%	No.	%
Light	512	23.37	151	6.90	663	30.27
Medium	101	4.61	56	2.53	157	7.14
Heavy	298	13.57	1095	49.02	1373	62.59
Total	911	41.55	1282	58.45	2193	100.00

Potomac River Bridge

	Local		Foreign		Total	
	No.	%	No.	%	No.	%
Light	93	26.64	79	22.65	172	49.29
Medium	36	10.30	35	10.04	71	20.34
Heavy	24	6.95	81	23.42	105	30.37
Total	153	43.89	195	56.11	348	100.00

¹ Light: Not in excess of 20,000 pounds, loaded; Medium: not in excess of 25,000 pounds, loaded; Heavy: weight in excess of 25,000 pounds, loaded.
Source: Letter from State Roads Commission, October 26, 1950.

INCOME TAXES

PRELIMINARY STATEMENT

The Commission has conducted a survey of the income tax laws of the State of Maryland in an effort to find inequities inherent therein, and has attempted to devise methods by which such inequities may be corrected. The Commission has also compared the income tax laws of the State of Maryland with those of the federal government in order that wherever possible the two systems might be brought into line with each other, with the attendant amelioration of the taxpayer's burden of understanding two varying standards of taxation. In a further effort to improve our income tax laws, the Commission has engaged in an exploratory study of similar laws of other states.

Whenever inequities were found to exist, corrective measures were sought; wherever divergent State and federal laws could be harmonized, the necessary adjustments were undertaken. However, no changes are recommended with the principal view of either increasing or diminishing the revenue. In certain cases, the probable effect upon the tax yield has been considered, but the elimination of inequities, wherever found, rather than the adjustment of State revenue has been this Commission's constant goal.

The Commission has been studying a proposal, recently brought to its attention, which, if adopted, would effect a major change in the income tax laws of the State of Maryland. Investigation of the feasibility of adopting an income tax law similar to that of the State of Vermont is being made. Under this law there would be substituted for most taxpayers an extremely brief form, upon which a tax is computed in short order from net income as reported on the federal income tax return. Such a major change requires extensive analysis and it is the hope of the Commission to present an evaluation of the plan at the conclusion of pending studies.

The recommendations herewith submitted are designed to improve our income tax laws under the existing structure.

Where divergent views exist upon a given subject, the best practice has been sought. Where discrimination in treatment of a segment of the taxpayers was discovered, every effort has been made to find a fair solution.

Recommendations

1. It is recommended that an optional standard deduction be made available to all individual taxpayers.

2. It is recommended that the first five hundred dollars of "investment income" be taxed at the rate applicable to "ordinary income", regardless of the total amount of such "investment income".

3. It is recommended that there be allowed as a deduction from the total amount of the taxable "investment income" of an individual to the extent thereof the amount of ordinary and necessary expense paid or incurred in acquiring or preserving such "investment income" and the property from which such income stems. To the extent such expense exceeds the amount of taxable "investment income," such deduction should be allowed from "ordinary income". Provision should also be made to prevent the use of the same items as deductions in both "ordinary" and "investment income" computation.

4. It is recommended that alimony (whether paid directly by a spouse or from a trust) be included in the gross income of the spouse receiving such alimony and be deductible from the gross income of the spouse (or trust) paying such alimony.

5. It is recommended that a deduction be allowed in reasonable amount for depreciation, exhaustion, wear and tear on property, either used in trade or business or held for the production of income. However, only property considered depreciable under federal standards should qualify for the deduction.

6. It is recommended that Section 224 (f) of Article 81 of the Code of Public General Laws of Maryland be amended to allow the deduction of partially worthless debts within a

taxable year to the extent to which they are charged off within the given taxable year, and to allow the deduction of debts which become totally worthless within the taxable year, regardless of the year in which they are charged off.

7. It is recommended that losses incurred in transactions not connected with a taxpayer's trade or business be allowed as deductions under certain circumstances.

8. It is recommended that the present non-allowance of the Federal Income Tax as a deduction in the computation of the Maryland Income Tax should be continued.

9. It is recommended that the proceeds of a pension or other deferred compensation plan set up by an employer for an employee be taxed at "ordinary income" rates after first excluding from such proceeds all moneys previously taxed to such employee in the year of receipt. Where a pension or similar trust is not exempt under federal standards, and the employee's rights may not be forfeited, the employee should be taxed in full on the employer's contribution in the year made.

10. It is recommended that in the computation of the income tax liability of corporations, domestic or foreign, engaged in business in Maryland and one or more other states, separate accounting be allowed wherever practical, but never in the case of a unitary business. Where separate accounting is neither practical nor allowed, except for income susceptible of definite identification with a particular state which is allocated to such state without the use of an apportionment formula, taxable net income of multi-state corporations should be allocated among the states by means of a three-factor formula of property, payroll and sales.

11. It is recommended that Section 223 (o) of Article 81 of the Annotated Code of Public General Laws of Maryland be amended to allow the exclusion from gross income of payments up to \$1,500 in each current year received by taxpayers as members of the therein-listed armed services while serving in a combat zone after June 24, 1950. Section 246 (b) of such Article should be amended to provide for the release from

obligation for filing a return or paying an income tax of a resident of the state who died while serving in the armed forces of the United Nations, as well as in those therein mentioned.

12. It is recommended that the provision in Sub-section (j) of Section 222 of Article 81 of the Code be amended to eliminate the provision that "amounts paid in liquidation or dissolution of a corporation shall be treated as dividends to the extent that they represent earnings of the corporation".

INEQUITIES INHERENT IN THE SHORT FORM

Under the existing income tax law of Maryland, an individual may use the "short form" of return, containing the standard deduction and the uniform two per cent rate of taxation (regardless of the nature of the income), only if his gross income for the taxable year is ten thousand dollars or less, and the amount of his "dividends, interest and annuities" is not in excess of five hundred dollars.

The "short form" has proved to be a highly desirable method of simplification of income reporting, benefiting both the administration of the tax laws by the State and the execution of the returns by the taxpayer. In the case of the taxpayer, there is the additional benefit resulting from the privilege of using the uniform two per cent rate of taxation and from the right to utilize a standard deduction which need be neither itemized nor justified under the other criteria for allowance of deduction.

Inherent within the present allowance of the use of the "short form", however, are at least three serious elements of discrimination.

First, there is the arbitrary limit of ten thousand dollars of gross income, bringing about an obvious inequity between two taxpayers, both of whom might otherwise be able to utilize the "short form", but one of whom has more than ten thousand dollars of gross income for the taxable year, while the other has not.

Second, there is the distinction made between having more than five hundred dollars of investment income and having less than five hundred dollars of such income. Under existing law, the receipt of any amount in excess of five hundred dollars in "investment income" will result in the denial of the use of the "short form" to a taxpayer otherwise qualified for its use, and will result in a five per cent rate of taxation upon the five hundred dollars that would otherwise have been taxed at two per cent.

Third, there is the lack of fairness inherent in denying use of the standard deduction to those who do not qualify for the use of the "short form".

The advantages of using the "short form" are too great to allow abandonment of the method because of its shortcomings. The most glaring disadvantages can be eliminated or alleviated. For administrative reasons, some certain upper limit of income must be set for the use of the "short form", and the present limit of ten thousand dollars, albeit arbitrary, is not unreasonable. However, the standard deduction could be made available to all, and "investment income" could be taxed at the rates applied to "ordinary income" to the extent such "investment income" is not in excess of the sum of five hundred dollars.

1. *It is recommended that an optional standard deduction be made available to all individual taxpayers.*

Under existing income tax law a taxpayer may use the "short form" of return, containing the optional standard deduction only if he has five hundred dollars or less of "investment income" and no more than ten thousand dollars of taxable income.

The right to use a standard deduction is of benefit to many taxpayers. Not only is the taxpayer spared the task of preserving and itemizing records of payments, but also it frequently happens that the standard deduction is greater than

the total of itemized deductions the taxpayer might be able to muster.

That some taxpayers may use the standard deduction while others may not is an obvious inequity. To alleviate this inequity, the use of the standard deduction should be allowed or denied to all. Denial of its use would result not only in great inconvenience (as well as additional expense) to the taxpayer, but would also render the administration of the law much more difficult. The standard deduction, therefore, should be allowed to all.

It is believed, however, that the use of the deduction should not be made the means of extensive avoidance of payment of taxes. Accordingly, the maximum standard deduction permitted should be five hundred dollars. We are advised by the Comptroller that this figure represents the maximum benefit now available under the standard deduction implicit in the present "short form". Itemization of deductions totaling more than five hundred dollars should be required. Where the total of deductions sought exceeds this figure, it is likely that the individual items will be of sufficient importance to audit, investigation and general administrative practice to warrant their being set out separately.

It should be noted that in abolishing the limitations upon the use of the standard deduction the Maryland Statute will more closely approximate federal law. The recommendation, if adopted, will also reduce the taxpayer's burden.

2. *It is recommended that the first five hundred dollars of "investment income" be taxed at the rate applicable to "ordinary income", regardless of the total amount of such "investment income".*

Under the present law, an individual who receives four hundred and ninety dollars in "investment income" may avail himself of the "ordinary income" tax rates by use of the "short form" if he qualifies under Section 230B of Article 81 of the Annotated Code of Public General Laws of

Maryland. However, a person who receives five hundred and ten dollars in "investment income" cannot use the optional method above referred to, and pays a tax of more than twice as much as the first individual, even upon the same four hundred and ninety dollars. The example here presented highlights a glaring inequity in our law. The recommendation here made would effect a more nearly just distribution of the tax burden.

To the extent to which the above recommendation may constitute the tax a graduated tax, a problem of constitutionality is presented. Prior to 1940, there was a considerable body of opinion to the effect that the requirement of uniformity found in Article 15 of the Maryland Declaration of Rights would prevent the enactment of a Maryland income tax law other than of the flat-rate type.¹ The federal government, in the famous *Pollock* case,² had encountered the proposition that an income tax upon the income from property was a tax on the property itself, a direct tax, which must be uniform, and not graduated. It is true, however, that by 1937, considerable doubt had been cast about the holding of the *Pollock* case, as is evidenced by the holding in the *Cohn* case, perhaps overruling it by implication.³ A survey made in 1940⁴ found that of nineteen states examined, eight had held their state income tax laws to be taxes upon property. Eleven had held otherwise. It should be noted that Kentucky, after whose statute our 1937 (flat) income tax law was patterned; has held its act to be a non-property tax.

As early as 1876, the Court of Appeals of Maryland, in a case in which a gross receipts tax was held not a direct tax on property, stated that "it will hardly be contended that an income tax is a direct tax upon property within the meaning of the Bill of Rights."⁵

¹ In an effort to avoid the question of constitutionality of a classified, graduated or progressive income tax, a referendum for a constitutional amendment was proposed by Chapter 525, Laws of 1937. The voters rejected the amendment.

² *Pollock v. Farmers Loan & Trust Co.*, 157 U. S. 429 (1895).

³ *New York, ex rel. Cohn, v. Graves*, 300 U. S. 308 (1937).

⁴ Kelly, *The Maryland Classified Income Tax of 1939*, 5 Md. L. Rev. 77, 88.

⁵ *State v. P. W. & B. R. R. Co.*, 45 Md. 361 (1876).

When Maryland enacted a *classified* income tax in 1939, the question of constitutionality immediately arose. The statute presented many elements not found in a typical flat-rate tax.

The classified income tax was sustained by the Court of Appeals in 1940.⁶ In that case, the Court of Appeals used sweeping language to indicate its judgment that (with one exception) none of the alleged discriminations or classifications was unconstitutional either in a federal or state sense.⁷

The Court found no violation of "equal protection" or of federal or state "due process" requirements, despite the presence of so many allegedly discriminatory features in the law. The Court has not in any later opinion, withdrawn from this view.

This Commission believes that the proposed treatment of the first five hundred dollars of investment income is not open to successful attack on constitutional grounds. Further, this treatment will go far towards the elimination of a most obvious discrimination.⁸

The proposed change in the tax rate will necessitate adjustment of the distribution formula provided for in Sec. 258 of Article 81 of the Code. It is believed that the "investment income", which is thus taxed at "ordinary income" rates, should still be regarded as "investment income" in effecting a distribution of the tax moneys. The Comptroller or similar officer should devise a distribution formula which will insure minimum loss to the various subdivisions entitled to share in the tax revenue.

The total diminution of public revenue, according to an estimate by the Comptroller's office, would approximate a quarter of a million dollars.⁹

⁶ *Oursler v. Tawes*, 178 Md. 471, 13 A. (2d) 763 (1940).

⁷ The one exception concerned an attempt to violate contractual agreements by ground rent lessees to pay the income tax upon income from ground rents.

⁸ Senate Bill 104, passed by the General Assembly of 1950, sought to accomplish substantially that which is now proposed. This bill was vetoed by the Governor in order that this Commission could study the matter further.

⁹ This figure might be increased by an uncertain amount if, as is elsewhere recommended, expenses incurred in production of investment income were first deducted from investment income.

3. *It is recommended that there be allowed as a deduction from the total amount of the taxable "investment income" of an individual to the extent thereof the amount of ordinary and necessary expense paid or incurred in acquiring or preserving such "investment income" and the property from which such income stems. To the extent such expense exceeds the amount of taxable "investment income", such deduction should be allowed from "ordinary income". Provision should also be made to prevent the use of the same items as deductions in both "ordinary" and "investment income" computation.*

Subsection (c) of Section 230 of Article 81 of the Annotated Code of Public General Laws of Maryland requires the tax upon net income of individuals to be computed "at the rate of five per cent on the amount of the taxable net income up to but not exceeding the amount of the investment income and at the rate of two per cent on the balance, if any, of the taxable net income." The effect of such provision is to cause the amount of allowable deductions to be subtracted entirely from "ordinary income", to the extent of such income, before any deduction may be taken from "investment income". That a distinction of this nature can legally be made is probably not open to question. That such a distinction is inequitable, however, is clear. Situations in which "investment income" predominates are not infrequent. Even in the more common circumstances wherein "ordinary income" predominates, the requirement that deductions be made solely from "ordinary income" presents a greater tax burden upon certain taxpayers than the mere existence of the higher rate of taxation of "investment income" would justify.

An attempt to eliminate the inequity above mentioned meets with the practical difficulty of devising a provision readily able to be used by the taxpayer.

Probably the most nearly just manner of solution of the problem would be to allow the apportionment of deductions between "ordinary" and "investment" income according to the

ratio of the amount of one type of income to the other. However, such solution would require a mathematical operation perhaps too complex for the majority of taxpayers.

A simple method of resolving the dilemma might be to require the deductions to be subtracted first from "investment income". However, this method would result in an appreciable loss of revenue to the State, a loss not fully justified on the grounds of eliminating the above-mentioned inequity.

It appears that the median course of allowing as a deduction from the total amount of the taxable "investment income" of an individual to the extent thereof the amount of ordinary and necessary expense paid or incurred in acquiring or preserving such "investment income" and the property from which such income stems, is the most feasible method of solving the problem. To the extent such expense exceeds the amount of taxable "investment income", each deduction should be allowed from "ordinary income". It should be mentioned, of course, that the same items of expense would not qualify as deductions in both "investment" and "ordinary" income computations. Section 224 (m) should therefore be reworded to show that the deduction therein provided should be taken from "investment" instead of from "ordinary" income. Section 230 (c), imposing the tax, should be rewritten in this regard as well as in the light of the change, in rate of taxation of a portion of one's "investment income", recommended elsewhere in this report.

4. *It is recommended that alimony (whether paid directly by a spouse or from a trust) be included in the gross income of the spouse receiving such alimony and be deductible from the gross income of the spouse (or trust) paying such alimony.*

The federal income tax law was amended in this regard in 1942. In the case of the federal income tax, with its high surtax rates, examples were cited wherein, prior to the Act of 1942, the total of the amount of alimony paid to the wife and the tax on the entire income of the husband exceeded

the total income of the husband. While the considerably lower rate of the Maryland Income Tax makes such a situation unlikely to occur here the example serves to point out the burden inherent in taxing the alimony-paying spouse upon his entire income, no matter to what extent such income is diverted to the alimony-receiving spouse. While it is recognized that alimony is generally a payment for support of a spouse, it should be pointed out that the recommendation of allowance of a deduction for support is not unaccompanied by a recommendation for inclusion of such funds within the taxable income of another. The recommendation amounts, therefore, primarily to a shifting of the tax burden to those who receive the income under the special circumstances here considered. Such treatment, in addition, would further correlate the treatment of income and deductions of the Maryland Income Tax law with that of the federal government. Such treatment would effect a fuller realization of the goal of eliminating the requirement of learning dual sets of interpretations of the tax laws.

Alimony payments should qualify only if made pursuant to a decree of divorce or of separation, or pursuant to a written instrument incident thereto. Payments from a trust should be deductible even though the payments to a wife might otherwise be regarded as in discharge of the husband's legal obligation to support her. However, payments made for support of children, and lump-sum payments (as understood in the federal law) should not be considered as alimony.¹⁰ Taxation of alimony income should be at "ordinary income" rates regardless of the source of funds from which such alimony is paid.

In the drafting of the amendment, careful regard should be paid to the provisions of the federal law, as interpreted by the internal revenue regulations and by the courts in order that understanding by the taxpayer and administration by the State may be facilitated.

¹⁰ It would be unnecessary to incorporate within our law provisions similar to those of Sec. 171 of the Internal Revenue Code, as they stem primarily from the federal government's taxation of certain trust income to the donor, a procedure not followed by Maryland.

5. *It is recommended that a deduction be allowed in reasonable amount for depreciation, exhaustion, wear and tear on property, either used in trade or business or held for the production of income. However, only property considered depreciable under federal standards should qualify for the deduction.*

At present, Subsection (j) of Section 224 of Article 81 of the Annotated Code of Maryland, provides for the allowance of a deduction for exhaustion, wear and tear of property *used in trade or business*. As a matter of fact, the Comptroller's Office has been allowing deduction for certain property not used in the taxpayer's "trade or business", such as an apartment house owned by an attorney. Effectively, Maryland has been following the same course as the federal government, which allows a deduction for depreciation of certain property held for the production of income as well as property used in the trade or business. However, only property considered depreciable under federal standards should qualify for the deduction. The proposed change in statutory language serves largely to place upon the statute books as law, the rules followed in administrative practice. Nothing else in Subsection (j), such as allowance for depletion and speedy amortization of emergency facilities, which should most likely be kept in alignment with the federal law, would be affected.

6. *It is recommended that Section 224 (f) of Article 81 of the Code of Public General Laws of Maryland be amended to allow the deduction of partially worthless debts within a taxable year to the extent to which they are charged off within the given taxable year, and to allow the deduction of debts which become totally worthless within the taxable year, regardless of the year in which they are charged off.*

In the allowance of deductions for partially worthless debts to the extent charged off within the taxable year, and in changing the standard of deductibility for fully worthless debts from the dual requirement of ascertainment of worthlessness and charging off within the taxable year to the sole

requirement of determination of worthlessness within the taxable year, the Maryland law would only be following the change made in the federal law by the Revenue Act of 1942 and subsequent judicial interpretation thereof. The difficult nature of the problem of proof of worthlessness of a debt and date of recognition of such worthlessness for tax purposes under the federal law is indicated by the volume of litigation which has arisen in that regard. Under the circumstances, it is felt that a taxpayer would be considerably relieved by the adoption of the federal standard of deductibility of worthless debts and date of tax recognition thereof, and the resultant diminution of his problems of satisfying the requirements of the law and of maintaining a single system of bookkeeping.

No appreciable change in revenue to the State is anticipated from adoption of this recommendation.

7. *It is recommended that losses incurred in transactions not connected with a taxpayer's trade or business be allowed as deductions under certain circumstances.*

Under the existing income tax law of this State, a loss incurred in a transaction entered into for profit is not deductible if outside the taxpayer's trade or business. In a recent Maryland case, *Fleischmann v. Lacy*, 62 A. 2d 561 (1948), the Court of Appeals found that, although a taxpayer, an attorney, may have guaranteed loans on three occasions, such action did not constitute being engaged in the trade or business of guaranteeing loans. Thus, although the fee for guaranteeing a loan was regarded as taxable income, a subsequent loss incurred by the taxpayer's being compelled to fulfill his guarantee was not deductible. The Court noted that the federal income tax law provided for deduction of such expenses and that the Maryland law did not. In the light of the direction in our statute that the Comptroller "apply as far as practicable the administrative and judicial interpretations of the federal income tax law", the Comptroller's assessment of a deficiency was upheld.

In order to remedy the inequity presented in such a situation, and in order more fully to eliminate the diversity between our statute and that of the federal government, it is recommended that a deduction be allowed in the case of any transaction entered into for profit, although not connected with trade or business, to the extent income from such transaction is subject to taxation under the income tax laws of the State of Maryland. The allowance of the deduction herein recommended would be in addition to that already allowed in Section 224, Sub-section (d).

It is believed necessary, however, that the language utilized in creating the new deduction should carefully limit the deductions to situations similar to that hereinabove mentioned. Particularly, it should be provided that no such deduction should be allowed which would amount to the allowance of a capital loss or loss on sale or exchange of capital assets (as such terms are understood in the federal tax law), or of any assets sale or exchange of which is taxed at other than ordinary income rates under Section 117 of the Internal Revenue Code. Thus, the deduction here proposed would be limited to that allowed under similar wording in the Internal Revenue Code, not extending either to a capital loss or a non-business bad debt.

8. *It is recommended that the present non-allowance of the Federal Income Tax as a deduction in the computation of the Maryland Income Tax should be continued.*

Wherever inequities appear in the Maryland tax system the Commission has sought ways to eliminate them. The non-allowance of the federal income tax as a deduction in the computation of the Maryland Income Tax, however, does not constitute an inequity or discrimination. Moreover, allowance of such deduction is only another manner in which the State revenues could be diminished, a manner in which not as much of the benefit as might be imagined would enure to the taxpayer.

Several statistical studies have been made; and, while the results of such research have been less precise than they

might have been (had the U. S. and Maryland tax statutes been more similar, and had more information been available), it seems clear that, in varying degrees, an appreciable part of the saving attendant upon the allowance of the deduction here discussed would enure to the benefit of the federal government, not the taxpayer. The allowance of this deduction would decrease the Maryland tax. The federal tax (with its higher rates) would then be greater because of the diminished deduction for Maryland income tax paid. While a similar interaction attends all deductions, the results are startling in the case of the deduction here discussed, because of the highly progressive nature of the federal income tax.

Because the allowance of the federal income tax as a deduction in computing the Maryland Income Tax would not only cause great decrease in revenue to the State, which would enure only partly to the benefit of the taxpayer, and because the present non-allowance does not amount to an inequity, it is recommended that no change be made in the present treatment of such deduction.

At the request of the Commission, the office of the State Comptroller prepared a table showing the effect and estimated loss of revenue by net income groups arising from the proposal to allow federal income taxes paid by resident individuals as a deduction on the State of Maryland income tax return. This table, included in this report as Table XVIII, is based upon a statistical study made by the Comptroller, entitled "An Analysis of 1947 Maryland Resident Individual Income Tax Returns" (referred to herein as the "1947 Study").

In his 1947 Study, the Comptroller collected certain basic data. These data included (1) a classification of all resident individual Maryland taxpayers by income groups, (2) the total reported income of such taxpayers, and (3) the total number of dependents claimed by such taxpayers. By using this information and by applying a composite rate for the federal tax (a figure supplied by the Bureau of Internal Revenue) an amount equal to the federal income tax for all

resident individual Maryland taxpayers who reported in 1947 was calculated (with certain qualifications as explained in Table XVIII). The federal income tax thus calculated was then subtracted from the 1947 Maryland income tax basis in order to calculate the effect of permitting Maryland taxpayers the privilege of deducting the federal tax in computing the Maryland tax.

The detailed calculations contained in Table XVIII are self explanatory. It should be pointed out, however, that the estimated loss in State revenues (based on 1947 returns) would be \$5,056,000. This figure should be compared with the additional federal tax liability which would be occasioned by permitting the federal tax to be deductible in computing the State levy, namely \$2,119,000. It follows that the resulting net saving to the Maryland individual resident taxpayers would be \$2,937,000.

While the State as an entity would lose \$5,056,000 if the federal income tax were permitted as a deduction in computing the State levy, it should be borne in mind that this loss would be borne proportionately by the State government and its local political sub-divisions. It is estimated that the local political subdivisions would share \$1,567,000 of this loss. Assuming that the subdivisions should not be called upon to sustain a loss in their share of the State income tax (an assumption to which this Commission fully subscribes)¹¹ legislation would be required to cause an additional \$1,567,000 in State taxes. When this figure is subtracted from the \$2,937,000 (the estimated net savings to taxpayers) it can be seen that the total net saving to the individual Maryland resident taxpayers would be approximately \$1,370,000, if the federal income tax were permitted as a deduction in computing the Maryland levy.

¹¹ In its *Interim Report* (February 5, 1950), the Commission recommended several amendments to the Maryland Income Tax law which were expected to result in a revenue loss to the State of approximately \$1,216,000. In order that this loss be borne by the State, and not shared by the political subdivisions, the Commission recommended enactment of a new percentage figure covering the allocation of income tax revenues to the subdivisions. These recommendations were adopted by the General Assembly of 1950. See particularly Md. Laws 1950, c. 15.

TABLE XVIII
STATE OF MARYLAND
COMPTROLLER OF THE TREASURY

TABLE SHOWING THE EFFECT AND ESTIMATED LOSS OF REVENUE BY NET INCOME GROUPS
ARISING FROM THE PROPOSAL TO ALLOW FEDERAL INCOME TAXES PAID BY RESIDENT
INDIVIDUALS AS A DEDUCTION ON THE STATE OF MARYLAND INCOME TAX RETURN

Line No.	Net Income Groups	Total of All Groups	Under \$1,500	\$1,500 to \$1,999
1	Number of Taxpayers*.....	320,985	21,743	35,787
2	Total Income	\$1,437,413,610	\$ 31,349,316	\$ 69,736,286
3	Deductions	186,694,490	4,097,576	8,083,869
4	Net Income (State).....	1,250,719,000	27,252,000	61,652,000
5	Deduct: State Income Tax.....	15,407,000	135,000	529,000
6	Net Income (Federal)**.....	1,235,312,000	27,117,000	61,123,000
7	Less: Personal Exemption at Federal Rates	432,146,000	12,909,000	22,936,000
8	Net Income Subject to Federal Tax.....	803,166,000	14,208,000	38,187,000
9	Average Taxable Net Income.....		653	1,067
10	Federal Tax Rate***.....		20%	20%
11	Average Federal Tax Per Return.....		130	213
12	Total Federal Tax by Group.....	209,372,500	2,826,600	7,622,600
13	Effective Tax Rate (State).....		2.29%	2.11%
14	Estimated Loss of Revenue.....	5,056,000	64,700	160,800
15	Additional Federal Tax Liability.....	2,119,000	12,900	32,200
16	Net Saving to Taxpayers.....	2,937,000	51,800	128,600
17	Original State Tax Per Return.....		6.20	14.80
18	Average Saving in State Tax.....		3.00	4.50
19	Per Cent of State Tax Saving.....		48%	30%
20	Additional Federal Tax Per Return.....		.60	.90
21	Net Saving to Individual Taxpayer.....		2.40	3.60

NOTES:

* The basic data appearing in this table was derived from the study, "An Analysis of 1947 Maryland Resident Individual Income Tax Returns" filed during the fiscal year ended June 30, 1948; and applies only to those returns showing a tax liability due the State of Maryland.

** Does not include net capital gains and certain dividends which are not subject to the Maryland Income Tax.

*** The rates used are tentative for the calendar year 1951.

\$2,000 to \$2,499	\$2,500 to \$2,999	\$3,000 to \$3,999	\$4,000 to \$4,999	\$5,000 to \$5,999	\$6,000 to \$6,999
54,700	59,079	70,292	32,628	14,564	7,823
\$141,853,740	\$187,229,159	\$276,822,762	\$163,330,230	\$ 90,452,122	\$ 57,652,757
15,875,447	21,719,647	32,508,262	20,183,947	10,984,836	7,217,326
125,978,000	165,510,000	244,315,000	143,146,000	79,467,000	50,436,000
874,000	1,069,000	1,905,000	1,484,000	1,018,000	739,000
125,104,000	164,441,000	242,410,000	141,662,000	78,449,000	49,697,000
55,294,000	81,919,000	117,801,000	58,329,000	26,623,000	14,090,000
69,810,000	82,522,000	124,609,000	83,333,000	51,826,000	35,607,000
1,276	1,397	1,773	2,554	3,559	4,552
20%	20%	20%	\$400 plus 22% on all over \$2,000	\$400 plus 22% on all over \$2,000	\$840 plus 26% on all over \$4,000
255	279	355	522	743	984
13,948,500	16,483,000	24,953,700	17,031,800	10,821,100	7,697,800
2.11%	2.12%	2.13%	2.18%	2.24%	2.28%
294,300	349,400	531,500	371,300	242,400	175,500
58,900	69,900	106,300	81,700	53,300	45,600
235,400	279,500	425,200	289,600	189,100	129,500
15.90	18.10	27.10	45.00	70.00	94.00
5.40	5.90	7.60	11.40	16.60	22.40
34%	33%	28%	25%	24%	24%
1.10	1.20	1.50	2.50	3.60	5.80
4.30	4.70	6.10	8.90	13.00	16.60

TABLE XVIII (Continued)

STATE OF MARYLAND

COMPTROLLER OF THE TREASURY

TABLE SHOWING THE EFFECT AND ESTIMATED LOSS OF REVENUE BY NET INCOME GROUPS
ARISING FROM THE PROPOSAL TO ALLOW FEDERAL INCOME TAXES PAID BY RESIDENT
INDIVIDUALS AS A DEDUCTION ON THE STATE OF MARYLAND INCOME TAX RETURN

Line No.	Net Income Groups	\$7,000 to \$7,999	\$8,000 to \$8,999	\$9,000 to \$9,999
1	Number of Taxpayers*.....	5,694	2,833	2,494
2	Total Income	\$ 49,128,820	\$ 27,204,699	\$ 27,007,642
3	Deductions	6,050,569	3,258,614	3,344,644
4	Net Income (State)	43,078,000	23,946,000	23,663,000
5	Deduct: State Income Tax.....	705,000	406,000	427,000
6	Net Income (Federal)**.....	42,373,000	23,540,000	23,236,000
7	Less: Personal Exemption at Federal Rates	10,093,000	5,073,000	4,411,000
8	Net Income Subject to Federal Tax.....	32,280,000	18,467,000	18,825,000
9	Average Taxable Net Income.....	5,669	6,519	7,548
10	Federal Tax Rate***.....	\$840 plus 26% on all over \$4,000	\$1,360 plus 30% on all over \$6,000	\$1,360 plus 30% on all over \$6,000
11	Average Federal Tax Per Return.....	1,274	1,516	1,824
12	Total Federal Tax by Group.....	7,254,200	4,294,800	4,549,100
13	Effective Tax Rate (State)	2.34%	2.32%	2.37%
14	Estimated Loss of Revenue.....	169,700	99,600	107,800
15	Additional Federal Tax Liability.....	44,100	29,900	32,300
16	Net Saving to Taxpayers.....	125,600	69,700	75,500
17	Original State Tax Per Return.....	124.00	143.00	171.00
18	Average Saving in State Tax.....	29.80	35.10	43.20
19	Per Cent of State Tax Saving.....	24%	25%	25%
20	Additional Federal Tax Per Return.....	7.70	10.50	12.90
21	Net Saving to Individual Taxpayer.....	22.10	24.60	30.30

NOTES:

* The basic data appearing in this table was derived from the study, "An Analysis of 1947 Maryland Resident Individual Income Tax Returns" filed during the fiscal year ended June 30, 1948; and applies only to those returns showing a tax liability due the State of Maryland.

** Does not include net capital gains and certain dividends which are not subject to the Maryland Income Tax.

*** The rates used are tentative for the calendar year 1951.

\$10,000 to \$11,999	\$12,000 to \$14,999	\$15,000 to \$19,999	\$20,000 to \$24,999	\$25,000 to \$29,999	\$30,000 to \$39,999
3,440	3,311	2,721	1,432	776	76
\$ 43,827,440	\$ 47,737,155	\$ 56,027,523	\$ 37,484,229	\$ 26,250,152	\$ 30,960,510
6,495,626	7,248,180	9,243,128	5,494,503	4,473,135	5,156,540
37,332,000	40,489,000	46,784,000	31,990,000	21,777,000	25,804,000
714,000	818,000	1,002,000	714,000	514,000	643,000
36,618,000	39,671,000	45,782,000	31,276,000	21,263,000	25,161,000
6,071,000	5,554,000	4,745,000	2,497,000	1,239,000	1,202,000
30,547,000	34,117,000	41,037,000	28,779,000	19,974,000	23,959,000
8,880	10,304	15,082	20,097	25,740	31,690
\$1,960 plus 34% on all over \$8,000	\$2,640 plus 38% on all over \$10,000	\$4,260 plus 47% on all over \$14,000	\$7,260 plus 56% on all over \$20,000	\$8,380 plus 59% on all over \$22,000	\$10,740 plus 62% on all over \$26,000
2,259	2,756	4,769	7,314	10,587	14,268
7,771,000	9,125,100	12,976,400	10,473,600	8,215,500	10,786,600
2.41%	2.45%	2.46%	2.47%	2.55%	2.67%
187,300	223,600	319,200	258,700	209,500	285,800
63,700	85,000	150,000	144,900	123,600	177,200
123,600	138,600	169,200	113,800	85,900	108,600
208.00	247.00	368.00	499	662	871
54.40	67.00	117.00	181	270	378
26%	27%	32%	36%	41%	44%
18.50	26.00	55.00	101	159	234
35.90	41.00	62.00	80	111	144

TABLE XVIII (Continued)

STATE OF MARYLAND

COMPTROLLER OF THE TREASURY

TABLE SHOWING THE EFFECT AND ESTIMATED LOSS OF REVENUE BY NET INCOME GROUPS
ARISING FROM THE PROPOSAL TO ALLOW FEDERAL INCOME TAXES PAID BY RESIDENT
INDIVIDUALS AS A DEDUCTION ON THE STATE OF MARYLAND INCOME TAX RETURN

Line No.	Net Income Groups	\$40,000 to \$49,999	\$50,000 to \$59,999	\$60,000 to \$69,999
1	Number of Taxpayers*.....	397	182	102
2	Total Income	\$ 21,435,600	\$ 11,940,466	\$ 8,508,097
3	Deductions	3,868,850	2,078,886	2,042,107
4	Net Income (State)	17,567,000	9,861,000	6,466,000
5	Deduct: State Income Tax.....	462,000	264,000	178,000
6	Net Income (Federal)**.....	17,105,000	9,579,000	6,288,000
7	Less: Personal Exemption at Federal Rates	575,000	281,000	136,000
8	Net Income Subject to Federal Tax.....	16,530,000	9,316,000	6,152,000
9	Average Taxable Net Income.....	41,640	51,190	60,310
10	Federal Tax Rate***.....	\$18,360 plus 69% on all over \$38,000	\$26,820 plus 75% on all over \$50,000	\$34,320 plus 78% on all over \$60,000
11	Average Federal Tax Per Return.....	20,872	27,713	34,562
12	Total Federal Tax by Group.....	8,286,200	5,043,800	3,525,300
13	Effective Tax Rate (State)	2.74%	2.77%	2.83%
14	Estimated Loss of Revenue.....	227,000	139,700	99,800
15	Additional Federal Tax Liability.....	156,600	104,800	77,800
16	Net Saving to Taxpayers.....	70,400	34,900	22,000
17	Original State Tax Per Return.....	1,164	1,451	1,745
18	Average Saving in State Tax.....	572	768	978
19	Per Cent of State Tax Saving.....	49%	53%	56%
20	Additional Federal Tax Per Return.....	395	576	763
21	Net Saving to Individual Taxpayer.....	177	192	215

NOTES:

* The basic data appearing in this table was derived from the study, "An Analysis of 1947 Maryland Resident Individual Income Tax Returns" filed during the fiscal year ended June 30, 1948; and applies only to those returns showing a tax liability due the State of Maryland.

** Does not include net capital gains and certain dividends which are not subject to the Maryland Income Tax.

*** The rates used are tentative for the calendar year 1951.

\$70,000 to \$79,999	\$80,000 to \$89,999	\$90,000 to \$99,999	\$100,000 to \$149,999	\$150,000 to \$199,999	\$200,000 and Over
79	35	30	62	14	11
\$ 8,069,031	\$ 3,489,852	\$ 3,625,026	\$ 9,872,527	\$ 3,038,163	\$ 3,380,306
2,060,191	613,072	749,636	2,454,907	589,803	800,236
6,009,000	2,877,000	2,875,000	7,418,000	2,447,000	2,580,000
170,000	83,000	96,000	253,000	93,000	112,000
5,839,000	2,794,000	2,779,000	7,165,000	2,354,000	2,468,000
120,000	55,000	42,000	74,000	15,000	11,000
5,719,000	2,739,000	2,737,000	7,091,000	2,339,000	2,457,000
72,390	78,260	91,230	114,370	167,070	223,300
\$42,120 plus 81% on all over \$70,000	\$42,120 plus 81% on all over \$70,000	\$53,620 plus 87% on all over \$90,000	\$67,320 plus 89% on all over \$100,000	\$111,820 plus 90% on all over \$150,000	\$156,820 plus 91% on all over \$200,000
44,056	48,811	59,690	80,109	127,183	178,078
3,480,400	1,708,400	1,790,700	4,966,800	1,780,600	1,958,900
2.91%	2.95%	3.41%	3.46%	3.84%	4.36%
101,300	50,400	61,100	171,800	68,400	85,400
82,100	40,800	53,200	152,900	61,600	77,700
19,200	9,600	7,900	18,900	6,800	7,700
2,152	2,371	3,200	4,081	6,643	10,180
1,282	1,440	2,037	2,771	4,886	7,764
60%	61%	64%	68%	74%	76%
1,038	1,166	1,772	2,466	4,397	7,065
244	274	265	305	489	699

9. *It is recommended that the proceeds of a pension or other deferred compensation plan set up by an employer for an employee be taxed at "ordinary income" rates after first excluding from such proceeds all moneys previously taxed to such employee in the year of receipt. Where a pension or similar trust is not exempt under federal standards, and the employee's rights may not be forfeited, the employee should be taxed in full on the employer's contribution in the year made.*

The current increase in the number of pension or other deferred compensation systems calls for a reappraisal of the method of taxation of moneys involved in such plans.

Various aspects of the situation require separate treatment. The income of the pension *trust* is exempt from federal taxation if the plan meets the requirements set forth at length in the federal statute, Internal Revenue Code, Sec. 165, and Regulations. The purpose of the requirements, and the concomitant supervision by the Pension Trust Division of the Bureau of Internal Revenue, is primarily to make certain that the trust is a bona fide pension plan for the benefit of the employees, and not a disguised method of distributing profits at a tax advantage. Maryland tax law follows that of the federal government in this phase of the subject, and provides, in Section 251 (c) of Article 81, Annotated Code of Maryland, that the income from pension and similar trusts is exempt from taxation if the trust qualifies under the federal requirements.

If the particular plan has qualified for exemption under federal law, certain other advantageous results are achieved. Subject to certain limitations, the employer may deduct the amount he contributes to the plan, generally in the year the contribution is made. Internal Revenue Code, Sec. 23 (p). At present, Maryland allows such deduction to the extent allowed by the federal government. Annotated Code of Maryland, Article 81, Section 224 (q). Whether or not the plan is exempt, contributions by the employee are not deductible by

the employee either under federal or Maryland law, possibly on the theory that such contributions are akin to personal expenses incurred for the purchase of insurance.

From the point of view of the employee, a very important element of participation in a pension plan of the type here under consideration is the fact that, if the plan qualifies under federal law, the contributions of the employer to the plan are not taxable as additional compensation to the employee in the year the contributions are made. Instead, the employee pays the tax (if any) in the year or years in which benefits are received. To the extent, however, that the employee contributed to the pension fund, the benefits received are taxable each year only to the extent of three per cent of the consideration (contributions) of the employee. The balance of the year's benefit is tax-free. After the entire consideration has been returned, through such tax-freedom, the benefits are taxable in full. In a non-contributory plan, where the employer has provided all contributions, the annuity plan does not apply, and benefits are taxable in full. The effect of transferring taxable income from the productive years to years of lower income is appreciable. Maryland law follows the same pattern. Annotated Code of Maryland, Article 81, Section 223 (q).

The Maryland statute is silent upon the federal provision that if the trust is not exempt, and the employee's rights may not be forfeited, the employee is taxed in full on the employer's contribution in the year made. This principle should be set forth in the Maryland law. If the plan is not exempt, and the employee's rights are forfeitable, the employees would be taxed only in the year(s) of benefit, apparently on the annuity basis. Furthermore, under federal law, if the entire proceeds under a qualified plan are received in one year, the excess over the amount of the employee's contributions is taxed as if it were a long-term capital gain. Maryland, of course, has no capital gains provisions, and one uniform, low rate of tax obviates the need for special treatment of such lump-sum proceeds.

Maryland administrative interpretation has construed the taxable income under qualified pension plans to be annuity income, and thus taxable at the five per cent "investment income" rate. Such interpretation is fully justified under the present statutory language. However, to the extent that the taxable portion of the proceeds can be regarded as representing deferred compensation, a forceful argument can be made for amending the statute to provide for taxation of such income at "ordinary income" rates. It is therefore recommended that the proceeds of a pension or other deferred compensation plan set up by an employer for an employee be taxed at "ordinary income" rates after first excluding from such proceeds amounts included therein which were taxed to the employee in the year of receipt.

10. *It is recommended that in the computation of the income tax liability of corporations, domestic or foreign, engaged in business in Maryland and one or more other states, separate accounting be allowed wherever practical, but never in the case of a unitary business. Where separate accounting is neither practical nor allowed, except for income susceptible of definite identification with a particular state which is allocated to such state without the use of an apportionment formula, taxable net income of multi-state corporations should be allocated among the states by means of a three-factor formula of property, payroll and sales.*

The problem of allocating income of corporations which do business in more than one state has concerned legislators and tax administrators for many years. The courts recognize that no formula or other system is perfect, and will uphold any honest attempt to effect an allocation which does not produce an obviously unjust result. In an effort to assist the taxpayer, beset with many varying formulae in the more-than-thirty states that tax corporate income, and to aid the State in its administration of an admittedly complicated law, certain changes have been felt desirable.

Where a business is so established that the activity in a particular state is dependent upon the activities in other states, as in the case of a company the activities of which in one state benefit its activities in another, the business is of such a character as to be deemed unitary. In such a case, the use of the separate accounting method would be extremely artificial, if not false, in that it would usually be impossible to segregate income attributable to business done in a particular state without adopting arbitrary figures, based to some extent on opinion. Where a business is not unitary in character, however, the use of separate accounting should be allowed, as at present, "where practicable".

The allocation of income from items definitely identifiable with a particular state should continue as at present. In this category are such items as income from rental of property permanently located within a particular state and income from ground rents.

In all other cases, and where separate accounting is neither allowed nor practicable, the formula method should be employed. In an effort to alleviate the situation in which multi-state corporations may be taxed on more than their entire net income, it is believed that the State of Maryland should adopt a statutory formula which is used by more of the states than any other formula, the three-factor formula of property, payroll and sales. The change would mean principally the addition of the payroll factor and the inclusion of the formula within the statutory law itself. The present formula is to be found only in the Regulations of the Comptroller. Even were it not desirable from the standpoint of uniformity to adopt the payroll factor in our formula, that factor would still be a desirable addition to our tax law. While the sales factor is extremely difficult for the taxpayer and administrator to ascertain, the payroll factor is relatively simple. In most cases, the determination of the state in which the services were performed will admit of no difficulty. Furthermore, from the standpoint of trying to include within the formula factors which represent essential elements of doing business

within a particular jurisdiction, the payroll factor, representing labor or personal services, is an extremely important element.

In the computation of the property factor, it is customary in many states to exclude the value of leased premises. In view of the fact that a company which makes use of rented premises may be fully as much engaged in business in a particular state as one which uses property it owns, it is believed that the value of rented property used to produce income in the business be included in the property factor. The current employment of sale-and-lease-back agreements serves but to emphasize the need. (By the same standard the value of property *used* should not be affected by the amount of outstanding mortgage debt.) In determining the amount of rent, percentage-of-sales rent and fixed charges which the tenant pays other than utilities and services, should be considered as well as fixed rent.

The establishment of the value of property on the basis of rentals is a process perhaps better left to administrative determination; but in order to provide a standard in the absence of such determination, the concept of eight times the annual rental is suggested in the case of real property. This figure was adopted in New York after consultation and hearing with interested groups, and does not vary considerably from the traditional "dollar per hundred" method of valuing rental property.

Tangible personal property used in a business contributes to the value of such business no less than does real estate. Accordingly, it is believed that the property factor of an allocation formula should include tangible personal property located within the State no less than real property. Similarly, leased tangible personalty should be recognized as well as leased real estate. Neither leased nor owned tangible personal property, however, should be considered unless it is permanently located in Maryland.

The application of the formula, and the determination of when it should be used, are complex matters. It is deemed essential, therefore, that the Comptroller or Director of the State Department of Revenue, if such officer replaces the Comptroller, should have the right, in those cases where circumstances warrant, to alter any of the above rules as to the use of the separate accounting method or the formula method, the weight to be given the various factors in the formula, the manner of valuation of rented property included in the property factor and the determination of the extent to which tangible personal property is permanently located within the State.

Although it is constitutionally possible for the state of a corporation's legal domicile, that in which it is incorporated, to tax the entire net income of such corporation, and although there are indications in the decided cases that a state in which a corporation has acquired a commercial domicile by doing business therein may tax perhaps the entire net income of such corporation, the fair and realistic practice of the states is to tax only that portion of the corporate income attributable to sources within the particular state. The changes above advocated are recommended in the interest of promoting a system of taxation that will be at the same time equitable to the taxpayer and administratively feasible to the State.

11. *It is recommended that Section 223 (o) of Article 81 of the Annotated Code of Public General Laws of Maryland be amended to allow the exclusion from gross income of payments up to \$1,500 in each current year received by taxpayers as members of the therein-listed armed services while serving in a combat zone after June 24, 1950. Section 246 (b) of such Article should be amended to provide for the release from obligation for filing a return or paying an income tax of a resident of the state who died while serving in the armed forces of the United Nations, as well as in those therein mentioned.*

Subsection (o) of Section 223 should be amended to allow the exclusion from gross income of payments up to \$1,500 in

each current year received by taxpayers as members of the therein-listed armed services while serving in a combat zone after June 24, 1950. The subsection now considers only the years, 1944, 1945 and 1946, and does not stipulate where the money need be earned. A combat zone should be defined as an area so designated by the President of the United States. The recommendation here proposed differs from the provisions of the federal law as amended by Sec. 202 of the (U. S.) Revenue Act of 1950 primarily in that the \$1,500 limitation here proposed applies to officers as well as to other members of the armed forces.

Subsection (p) of Section 223 should at the proper time be amended to provide for the exclusion from gross income of mustering-out pay and benefits under any "Bill of Rights" to be enacted in connection with the present military conflict in addition to moneys considered in subsection (o). No action is recommended at the present time.

Section 245, providing for the extension of time for filing a return, needs no change; and, as it stands, applies properly to the present world situation.

Section 246A, pertaining to the postponement by reason of war of time for performing certain acts such as filing returns, making payments, claims, etc., is in the proper form and provides that the Comptroller is authorized to adopt appropriate regulations.

Section 246B, providing that neither obligation for filing returns nor liability for payment of income taxes by "residents of the State who died while serving in the armed forces of the United States or the Allied Nations * * *" should be amended to change the phrase "Allied Nations" to "Allied or United Nations".

12. *It is recommended that the provision in Sub-section (j) of Section 222 of Article 81 of the Code be amended to eliminate the provision that "amounts paid in liquidation or dissolution of a corporation shall be treated as dividends to the extent that they represent earnings of the corporation".*

The provision mentioned above amounts to the taxation of a capital gain. It is not the purpose or intent of the Maryland income tax law to consider capital gains or losses in the computation of taxable income. The present language appears to have been drawn in 1939, and is stronger than the original wording as it appeared in Section 215 (i) following the Act of 1937. In defining a dividend, the 1937 statute stated that "it includes such portion of the assets of a corporation distributed at the time of dissolution as are in effect a distribution of earnings." While it may be argued that the 1937 statute contemplated the taxation of earnings and profit of the year of dissolution, such interpretation can hardly be made under the present wording. It is therefore believed that the small segment of what is effectively capital gains taxation be removed from our income tax law.

REAL PROPERTY ASSESSMENTS

PRELIMINARY STATEMENT

A sub-committee on Property Taxes was appointed to study and report to the Commission on all phases of direct taxation of all kinds of property, both real and personal. This required not only a study of the various kinds of property subject to direct taxation, such as real estate, tangible personal property, shares of stock in certain corporations, deposits in savings banks, operating property of railroads, etc., but also of the methods of valuation and assessment of the various kinds of property, and exemptions of property from taxation. After considerable study of the matter the sub-committee determined to concentrate its efforts first on the problem of the valuation of real property and the methods by which the same should be assessed. This report of the Commission will, therefore, deal only with this subject, except for one recommendation temporary in character, with respect to the assessment of tangible personal property.

The sub-committee made an intensive study of the very difficult problems involved in the valuation and assessment of real property for taxation. In addition to obtaining the assistance and advice of the Commission's consultants, Dr. John H. Cover and Dr. Elwyn A. Mauck, Richard W. Emory, Esq., of the Baltimore Bar was employed by the Commission as special counsel to the sub-committee.

In its deliberations, the sub-committee had before it an extensive 90 page report prepared by Mr. Emory on the assessment of property in Maryland from 1888 to date (including digests of reports of earlier Maryland Tax Commissions), and on the practice and problems in other states. This report included full abstracts of the findings and recommendations of recent tax study groups in twelve states.¹

¹ Alabama, Connecticut, Georgia, Illinois, Indiana, Kentucky, Massachusetts, New Hampshire, New York, Oklahoma, Tennessee and Virginia.

The sub-committee also had before it a second report prepared by its counsel giving the results of a series of conferences with the supervisors of assessments for Baltimore City and eight counties² selected as representative of the several counties. The purpose of these conferences was to obtain further information and practical advice on Maryland's present assessment administration.

A public hearing lasting all of Wednesday, September 18, 1950, to which interested persons and groups were invited, was held by the sub-committee. A number of County Commissioners, and in particular representatives of the County Commissioners Association for the Western Shore, a number of Supervisors of Assessments, and certain others appeared and made valuable suggestions which were fully explored both at the public hearing and later by the sub-committee in conference.

The Commission believes that one of the causes for the complaints against the present method of assessing properties is the increasing burden of property taxation. Recent tax study commissions have been aware of this situation and have unanimously recommended that there be no increase in the burden of property taxation.³ In spite of these warnings, the burden of property taxation has been made heavier in each political sub-division of the State by substantial increases in the revenues raised each year by taxing property. These additional revenues from the property tax have been realized by raising tax rates in spite of increases in assessments. This fact is well demonstrated by Table XIX, which sets forth the tax rates and levies for each county and Baltimore City for the years 1944 and 1949, which later year marked the end of the first five year cycle of reassessment.

The Commission believes, however, that the chief cause for the complaints against the rotational method of assess-

² Allegany, Anne Arundel, Baltimore, Cecil, Dorchester, Frederick, Montgomery and Prince George's.

³ See REPORT OF THE STATE COMMISSION ON TAXATION AND REVENUE, p. 2 (1939); REPORT OF ADVISORY COMMITTEE ON FINANCES TO MAYOR OF BALTIMORE, p. 7 (1939); and REPORT OF COMMITTEE ON ADDITIONAL TAX REVENUE FOR THE CITY OF BALTIMORE, p. 46 (1945).

ment now employed is the fact that in this era of rising values the present method of assessment has resulted in serious inequities and inequalities in valuations and assessments, not only among the various political sub-divisions of the State, but also among the five assessment districts or zones within each political subdivision. It has been the aim of the Commission to suggest changes in the present methods of valuations and assessments to eliminate, as far as possible, these inequities and inequalities in the valuation of property for assessment purposes throughout the State.

The Commission is impressed with the fact that substantial progress has been made during the past fifty years to improve assessment practices in Maryland; and it believes that Maryland compares favorably with other states in this respect, although our present system is far from ideal. Probably the biggest step forward has been the elimination of general but not periodic reassessments and the substitution of a method of reassessment at regular intervals. Other examples of the progress that have been made are: provision for a Supervisor of Assessments in Baltimore City and each county, required by statute to report to the State Tax Commission; State-wide supervision of assessment administration by the State Tax Commission through the Supervisors of Assessments; provision for full time assessors appointed for good behavior after examination as to their competency; in-service training of assessors and supervisors by means of an annual school, conferences and supervision; adoption of uniform property description records (which have not yet been completely installed and upon which improvements can be made); adoption by the State Tax Commission of uniform appraisal techniques and procedures set forth in a manual for uniform valuation of property, which manual includes unit value tables for land and improvements and standard procedures for the valuation of properties.

In recommending further improvement in Maryland valuation and assessment administration, the progress of the past fifty years should not be discarded. Any changes in law or

administration should be designed to improve upon the accomplishments of the past. To that end the Commission makes the following fifteen recommendations, which are individually discussed in full in the following pages of this report.

To avoid confusion in terminology the word "assessment" will be used in this report as meaning the act of assessing property for taxes, but not the act of valuing property for assessment purposes. Thus "valuation" will mean the appraisal or valuation of property for assessment; "assessment" will mean the determination of what property and the extent to which such property shall be assessed and subjected to taxation, either by statute or by administrative action pursuant to statute; and "levy" will mean the determination of the tax rate to be applied to the assessment.

Recommendations

There is no simple panacea that will immediately solve the problems which are the subject matter of this report, nor is it possible by any method yet devised, to achieve and maintain absolute uniformity and equality in the valuation of property for tax purposes. There is no scientific method of valuation that will produce a mathematically exact value. In the final analysis appraisal or valuation of any property is a matter of human judgment which is neither exact nor infallible. These facts must be taken into account in considering the recommendations which follow.

The Commission is of the opinion that the present five year rotational plan of assessment as now administered does not and will not (except during long periods of stability in our economy) produce the best results. It believes that four basic changes should be made: (1) Far more extensive appraisal aids are essential; (2) Property should be revalued each year; (3) Property should be valued at full cash value on the date of finality, although assessments need not be at full cash value; and (4) Supervision and control of valuations should be in the hands of one agency at State level in order to achieve uniformity and equality.

The following recommendations are made to carry out these basic changes:

1. All real property, both land and improvements, should be valued by the assessors at full cash value on the date of finality.

2. The Supervisor of Assessments in each of the counties should determine the value of all real property to be assessed in the first instance, and his valuations, after notice and opportunity to protest and be heard is given to the taxpayer, should be controlling and final, subject to review on appeal to the County Commissioners, or to an Appeal Tax Court, as the case may be.

3. Assessments for local taxes should be at such percentage of the valuations determined by the assessors as the City Council of Baltimore, or the Board of Estimates, and the County Commissioners of each county may determine each year at or before the tax levy for the succeeding year.

4. Assessments for State property taxes should be at full cash value on the date of finality, and for the purpose of determining the amounts of all State grants now based on assessments, such as the school equalization and incentive funds, welfare fund the State property assessments should be used.

5. All real property should be revalued each year.

6. Pending further study of the valuation, assessment and taxation of personal property, personal property subject to the prevailing State rate (except shares of stock in banks, trust companies, financial institutions, both foreign and domestic) should be valued in the same manner as now provided by law but assessments for purposes of local taxation should be based on the same percentage of the valuation as is fixed for the assessment of real estate.

7. During a transition period not to extend beyond January 1, 1954, or the completion of the present five year cycle

of rotational assessments, whichever shall first occur, Baltimore City and the several counties should be authorized to revalue property on the present rotational basis but not less frequently than the present five year plan.

8. All property revalued on a rotational basis during the transitional period not to extend beyond January 1, 1954, or the completion of the present five year cycle of rotational assessments, whichever shall first occur, should be valued at the same level of values and at the same percentage of full cash value as other property in Baltimore City or the county has been valued for 1950 and 1951.

9. The State Tax Commission or the Department of Revenue should be required to complete and install appraisal aids such as uniform property description cards, property location maps, land value and classification maps, and records of new construction, sales, rentals and private appraisals for Baltimore City and each county as quickly as possible and in any event not later than January 1, 1954, or the completion of the present five year cycle of rotational assessments, whichever shall first occur.

10. The State should assume the full cost of assessors' salaries and expenses including such full time clerical help as may be required, and also the cost of installing and maintaining appraisal aids as required by Recommendation 9.

11. The real estate assessment roll or tax maps of Baltimore City and each county should be made available to inspection by the public at no cost, and reproductions should be furnished at the cost thereof.

12. The real estate assessment roll or records of all assessments made by the State Tax Commission or the Department of Revenue should be made available to inspection by the public at no cost and reproductions of all or any part thereof should be furnished at the cost thereof.

13. Building permits should be required on all new construction over a stated minimum cost or value, and the State

Tax Commission or the Department of Revenue should be given a mandatory duty with appropriate power to enforce this requirement.

14. The State Tax Commission or the Department of Revenue should be required to promulgate rules and regulations covering all methods of assessment of general applicability and such rules and regulations should be made available to the public.

15. The proper operation of any assessment system is more an administrative problem than a statutory one. The above recommendations can be much more effectively carried out if the recommendations of the Commission concerning the establishment of a State Department of Revenue is approved by the Legislature.

- 1. All real property, both land and improvements, should be valued by the assessors at full cash value on the date of finality.*

There are two distinct processes involved in any property tax. The first is the valuation of property, and the second is the levying of the tax.

Everyone will agree that in order for a property tax to be equitable, property must be valued uniformly according to the same standards of value, or as the Maryland law states it, "all taxable property shall be entered upon the assessment rolls and equalized between persons, firms and corporations, so that all persons, firms and corporations, shall be assessed alike for like kinds of property."⁴

The valuation of property for taxation is purely an administrative function of listing and appraising property. In spite of the fact that most people fail to distinguish between the valuation (unfortunately termed "assessment") of property and its taxation, property can and should be listed and valued without regard to the assessment, levy and collection of taxes.

⁴ ANN. CODE MD. Art. 81, Sec. 175(4) (Supp. 1947).

Appraisal or valuation at best is an estimate of judgment based on experience. With market indices such as costs, reproduction costs, sales prices, rentals and private appraisals as guides, everyone recognizes that it is possible to estimate value within a reasonable degree of accuracy. Since the market may be or become unduly depressed or inflated, there is a certain element of hedging in all appraisals to take into account sharp fluctuations in the market. The net result is that amount of dollars for which the property may reasonably be expected to be sold, i.e., the sum which a willing buyer should pay a willing seller, assuming both have full knowledge of all pertinent facts. This result may be called cash value, fair value, full cash value or some such convenient name.

Valuation of property must be made at cash value or full cash value since that is the only appraisal technique known to exist⁵ and percentage valuation cannot be made until a determination of full value is made. In addition, valuations at full value are more accurate and more readily comparable, and mistakes are more easily disclosed. Practically all tax study groups, tax commissions and tax authors concur that full cash valuations are essential as the beginning point in any system of assessments. Since 1841 the Maryland law has required that property be valued "at the full cash value thereof on the date of finality".⁶ This requirement should be preserved and the law so administered as to comply with its mandate.

There appears to be some inconsistency in the present Maryland law in that Section 14 of Article 31, which requires land and buildings to be valued separately, requires that "such buildings or improvements shall be assessed at such sum, if any, as they may add to the fair market value of the land." This treatment was recommended by the Tax Revision Commission of 1927⁷, but experience has shown no real basis

⁵ See *Schley v. County Commissioners*, 106 Md. 407, 410 (1907).

⁶ ANN. CODE MD. ART. 81, SEC. 11 (1939).

⁷ REPORT OF THE MARYLAND TAX REVISION COMMISSION, p. 24 (1928).

for this provision. This Commission recommends that Section 14 be amended to provide that buildings and improvements be valued at the full cash value thereof on the date of finality, and thereby conform with Section 11.

2. *The Supervisor of Assessments in each of the counties should determine the value of all real property to be assessed in the first instance, and his valuations, after notice and opportunity to protest and be heard is given to the taxpayer, should be controlling and final, subject to review on appeal to the County Commissioners, or to an Appeal Tax Court, as the case may be.*

The Commission believes that the functions of initially valuing property for assessment, and reviewing such valuations, should be completely separate.

Since 1914 the State Tax Commission has had jurisdiction over the Supervisors of Assessments and the assessors and has been able to exert some measure of control over the initial valuation of property for assessment. When assessors in 1943 were made permanent, full-time employees, the exercise of this jurisdiction and measure of control by the State Tax Commission became more effective.

Actually, however, the law still designates the County Commissioners as the initial assessing authority, and notices to taxpayers of proposed changes in assessments are sent out by direction of the County Commissioners, who in turn (unless they have created an Appeal Tax Court as authorized by statute)⁸ are also the first reviewing authority. Thus the County Commissioners act in the dual capacity of being the initial assessing authority and also of sitting as a board of review to hear appeals in the first instance.

⁸ Md. Laws 1943, c. 717, Secs. 186-186B, codified as Ann. Code Md. Art. 81, Secs. 186-186B (Supp. 1947) authorizes the County Commissioners of Baltimore and Montgomery Counties to establish Appeal Tax Courts in those counties. Creation of Appeal Tax Courts has the effect of relieving the County Commissioners of the two counties of assessment and tax appeal duties.

In recommending the complete separation of the function of valuing property from the assessment, levy and collection of taxes, the Commission believes that all phases of the valuation of property should be administered by the assessors under the supervision of the State Tax Commission. The assessors should send out the notices of any proposed changes in valuations and should adjust any differences of opinion with the taxpayers before finally determining values. And the County Commissioners should act only as a board of review or appeal tax court to hear appeals in the first instance.

This recommendation merely adopts for the counties the separation of functions that presently exists in Baltimore City between the Department of Assessments and the Board of Municipal and Zoning Appeals.

3. *Assessments for local taxes should be at such percentage of the valuations determined by the assessors as the City Council of Baltimore, or the Board of Estimates, and the County Commissioners of each county may determine each year at or before the tax levy for the succeeding year.*

If property is valued alike at its full cash value, there is no compelling reason why it should not be assessed for taxation at a lesser sum or percentage of full cash value, provided the percentage be the same as to all property in the taxing district.

The levy of a property tax and the assessment of property for that purpose are political functions of government which should be performed by the elected officials answerable to the electorate; on the other hand the valuation of property for purpose of assessment is purely an administrative function which should be entirely free from political influence or control. Only by so being can uniformity of valuation and uniformity of assessment within a taxing district be achieved. It is for this reason that the Commission recommends a complete separation of the valuation function from that of the assessment, levy and collection of property taxes.

It is properly the responsibility of elected officials to determine the amount of appropriations and the extent to which funds to match appropriations should be raised by the property tax. Likewise, it is the function of these same elected officials to decide whether to base local assessments on full cash values as fixed by the assessors, or to assess property locally at some lesser percentage of full cash value. These elected representatives are responsible to and answerable to the electorate in deciding these questions.

The Commission, therefore, recommends that the Baltimore City Council, or Board of Estimates, and the County Commissioners of each county be authorized to fix assessments for local property taxes at such percentage of the assessors' valuations as those bodies may see fit.

This will empower the elected officials to adjust assessments as they deem best. If they feel that property values are unduly high, that fact can be taken into account in making assessments. And this adjustment of assessments to what is considered a proper level can be made without interfering with the valuation of property, which, as previously stated, can uniformly be done only at the current market as indicated by such guides as sales, costs, reproduction costs and private appraisals. At the same time the elected officials will be relieved of political pressure in the valuation of individual properties for assessment purposes.

It is, of course, obvious that a property tax may be levied at a high rate on a low tax base, or may be levied at a low rate on a high tax base; and the suggestion has been made that to insist upon valuation at full cash value but permit assessment at some percentage of full cash value really accomplishes nothing or, as stated by some, the figure in the lower right-hand corner of the tax bill will still be the same. It has also been suggested that this recommendation will cause confusion in budget making by the County Commissioners and by Baltimore City, because instead of having a predetermined assessable basis upon which to levy a tax at a sufficient rate to produce the necessary revenue, it will be

necessary to determine first the percentage of valuations to be used in arriving at the assessable basis, and then to determine the rate of tax which will produce the necessary revenue when applied to such reduced taxable basis.

The Commission is, however, not impressed with such criticisms. The recommendation that for local tax purposes assessments may be fixed at a percentage of the valuations is not made in order to "fool the taxpayers". It is contemplated that the determination of the percentage to be used in arriving at the assessable basis for local tax purposes will be done entirely separate and independent of the determination of the tax rate, and will be based upon independent considerations. For instance the percentage assessments can effectively be used to avoid very sharp increases or decreases in assessments from year to year. Past experience has shown that taxpayers misunderstand and mistrust assessments which are increased 200% or 300% in one year.

If we assume the premise that inequities and inequalities can be eliminated only by adopting as soon as possible a system of valuing property for assessment purposes at the full cash value thereof on the date of finality, then sharp increases in assessments can be avoided only by fixing the assessments at a percentage of the full cash valuations. In other words a much greater measure of equality could be achieved by beginning annual revaluations at full cash value in 1954, and at the same time very sharp increases in existing assessments could be avoided by fixing assessments at a percentage of full cash value in 1954, and then gradually increasing the percentage.

4. *Assessments for State property taxes should be at full cash value on the date of finality; and for the purpose of determining the amounts of all State grants now based on assessments, such as the school equalization and incentive funds, welfare fund the State property assessments should be used.*
5. *Assessments for State property taxes and for the purpose of determining the amounts of all State grants now based on*

assessments, such as the school equalization and incentive funds, welfare funds, etc., obviously must be at full cash value, or the same level thereof throughout the State in order to prevent inequalities in the State property tax and in State grants.

The same reasons for basing State assessments on a percentage of full cash value can be advanced as in the case of local assessments, except that unnecessary action by the Legislature would be required each year. Since the present State property tax is only 6¢ on each \$100 of assessed value, assessment at the full cash value of properties is not a burden on taxpayers. For purposes of simplicity, it is, therefore, recommended that full cash values as determined by the assessors be used as the assessments for the State property tax and that percentage assessments not be employed.

In so far as State grants are concerned, the function of assessments is to provide a basis of allocation among the political subdivisions. Since the basis of allocation would be the same regardless of the percentage used, a system of percentage assessments would be superfluous.

5. All real property should be revalued each year.

The present five year method of rotational reassessment by districts must be conceded to be inequitable on anything but a static market, which seldom if ever exists. On a rising market such as has existed in recent years, properties in the district or districts most recently revalued are over-valued in relation to properties in the other districts. On a falling market, properties in districts most recently revalued are under-valued in relation to properties in other districts, and there are apt to be so many applications for reduction of assessments that the plan would have to be abandoned, as it was in Baltimore City in 1930.

With annual revaluation, valuations should be more realistic, accurate and uniform because based on the same market value and closer to the current market. It is more difficult to

follow the market under the five year plan because valuations in the district currently being revalued must be related to the other four districts which have been or will be revalued at intervals of from one to five years. The rotational plan results in valuation according to somewhat artificial price indices for prior years, and either assessment at values for prior years or at some mean between the current market and the market of prior years.

The argument customarily made in favor of the five year plan of rotational revaluation is that it is impractical or impossible to value all property each year. This may be true if the job is undertaken without well trained assessors and without proper appraisal aids such as property description cards, property location maps, land classification maps, unit value maps, unit value tables, records of sales, rentals and appraisals; but given the proper administrative machinery, it is not impossible and is reported to be the practice in thirty states.⁹

In 1943 when the five year plan was made mandatory, it undoubtedly was impracticable to attempt annual revaluation of all property because, Baltimore City excepted, there was no adequate administrative machinery—no staff of assessors and no appraisal aids. Even property description cards were lacking. Since 1943, each county has been provided with permanent assessors who have acquired training and experience for their work. An inventory of taxable property in the form of property description cards has been undertaken. Unit value tables, cost indices and uniform procedures to be followed in valuing property have been prescribed and made available to each assessor by the State Tax Commission.

This Commission believes, however, that in spite of substantial progress since 1943 in establishing better valuation and assessments machinery in Maryland, it still is not feasible to convert forthwith to a system of annual revaluation except

⁹ Among them California, Massachusetts, New York and Pennsylvania. See ASSOCIATION OF ASSESSING OFFICERS, ASSESSORS' NEWS LETTER, p. 65 (Aug. 1949). The quality of assessments in many of these thirty states is undoubtedly very low.

at greatly increased cost. Nor would it be desirable, in the opinion of the Commission, to change to a system of annual revaluation immediately and before the appraisal aids mentioned below are completed. Such appraisal aids are sorely needed in any event, even with the five year rotational plan of revaluation; but it will take approximately three years to complete the installation of such appraisal aids throughout the State. To attempt at the same time to make annual revaluations would only create confusion, inefficiency and increased cost.

But when such appraisal aids are completed an entirely different picture will be presented and the Commission believes that with further improvement in assessment personnel and appraisal aids all property can be revalued each year without too much additional cost. For example, one of the greatest needs in valuing property is a system of tax maps; i.e., property location maps, land classification maps, land value maps, etc. It is estimated that a set of maps at least doubles the efficiency of an assessor. Field work is cut 50% and an assessor can value property in less than half the time otherwise required. By furnishing assessors with these proper appraisal aids and by giving assessors further training and experience, the Commission believes that a system of annual revaluation can be gradually adopted without incurring costs which might be prohibitive.

It is estimated that the present cost of assessing property in the twenty-three counties and Baltimore City is approximately \$785,000, of which amount \$207,000 is contributed by the State in the form of payment of one-half of the salaries of Supervisors of Assessments and assessors. Accordingly the present net cost to the local subdivisions is \$578,000, of which \$386,000 is for the counties and \$192,000 is for Baltimore City.

At the conclusion of the three year transitional period, and a transfer at that time to the system of annual revaluation, the Commission is advised that during the first year of annual re-

valuation it will probably be necessary to add thirty-four full time assessors and not less than thirty additional clerks. It is estimated that the salaries of the additional assessors will amount to \$105,000, their expenses \$17,000 and the salaries of clerks \$60,000. To this should be added \$105,000 per year estimated as the cost of keeping the appraisal aids current. No attempt has been made to estimate the cost of additional office supplies and postage during the first year of revaluation, but if we ignore this item for the moment, it will be seen that the total additional cost is \$287,000; this added to the present cost of \$785,000 gives a total annual cost of \$1,072,000 for the first year's annual revaluation. The Commission is of the opinion that this cost will not remain the same in subsequent years, but will tend to decline so that as the personnel become more familiar with the use of appraisal aids and with the system of annual revaluation, it is very likely that the annual revaluation, except for the additional cost of maintenance of the appraisal aids, will not be greatly more than it is at present. For the purposes of this Report, however, the Commission is assuming that the total additional annual cost will be \$300,000.

The Commission believes that the additional cost is justified in order to have more equitable valuations and assessments. The inequities inherent in the present five year plan have already been discussed, and there is no cure for these inherent inequalities except annual revaluation.

It is important to bear in mind, however, that annual revaluations of properties of itself is not a cure for all assessment ills. An annual revaluation can be as inequitable and unfair as a rotational system. Regardless of the frequency of assessments, the result depends upon personnel and administrative techniques. High standards for personnel are more important than the period within which a reassessment is required.

6. *Pending further study of the valuation, assessment and taxation of personal property, personal property subject to the prevailing State rate (except shares of stock of banks, trust companies and financial institutions, both foreign and domestic) should be valued in the same manner as now provided by law but assessments for purposes of local taxation should be based on the same percentage of the valuation as is fixed for the assessment of real estate.*

As indicated in the preliminary statement to this Report, the Commission's sub-committee on Property Taxes was appointed to study and report to the Commission not only on real property assessments but also on all phases of direct taxation of all kinds of property, both real and personal. The sub-committee has given some preliminary consideration to these other problems but has not yet made any report with respect thereto, nor is it possible for the Commission to do so at the present time. There are many problems which arise in connection with the taxation of personal property; and before a report can be made with respect thereto much more study will have to be given to the matter.

In the meantime, however, it would seem unfair to permit assessments of real estate to be based on a percentage of the full cash value thereof and to require that personal property be assessed at the full cash value. Any recommendation on this question must necessarily at this time be temporary but the Commission believes that this recommendation is necessary in order to avoid creating a new inequity and inequality.

7. *During a transition period not to extend beyond January 1, 1954, or the completion of the present five year cycle of rotational assessments, whichever shall first occur, Baltimore City and the counties should be authorized to revalue property on the present rotational basis but not less frequently than the present five year plan.*

For reasons previously stated, the Commission recommends a transition period during which Baltimore City and

the counties may gradually convert to a system of annual revaluation as their administrative machinery permits it without incurring undue additional costs. The transition period suggested is three years, during which time it is anticipated that the necessary appraisal aids can be installed.

Some of the political subdivisions can probably convert to an annual system more readily and quickly than others because in these subdivisions the administrative machinery is more nearly perfected. During the transition period, the political subdivisions are therefore given the option of either maintaining the five year plan, speeding up the tempo to a three year or two year plan, or converting to an annual reassessment.

The Commission recommends this three year period of adjustment, first, because without the appraisal aids recommended the cost of annual revaluation would be excessive, and second, because it will take time to change over to a system of annual revaluation if it is to be done efficiently and without waste.

8. *All property revalued on a rotational basis during the transitional period not to extend beyond January 1, 1954, or the completion of the present five year cycle of rotational assessments, whichever shall first occur, should be valued at the same level of values and at the same percentage of full cash value as other property in Baltimore City or the county has been valued for 1950 and 1951.*

The Commission is advised that assessments today are at most approximately 65% of current market values; in many instances they are undoubtedly lower. Until all property is revalued in the same year, it would be most inequitable to put into effect Recommendation 1 that requires that property be valued by the assessors at full cash value on the date of finality, because in that event assessments in the three districts remaining to be assessed during the present five year cycle would have to be increased in rotation to take up at

one time the slack of at least 35% in valuation. This would mean an increase at one time of at least 50%, or maybe more.

The inequality would persist even though a system of percentage assessments were adopted by the local subdivision. For example, assume rotational revaluation continues for three years, properties are revalued by the assessors at full cash value, and assessments are 60% of the values determined by the assessors. Property in the district to be reassessed would be taxed on the basis of 60% of full cash value, but property reassessed in the past two years would be taxed on the basis of a maximum of 39% of full cash value.

For this reason, it is necessary to observe this Recommendation 8 until all property in the political subdivision is placed under annual revaluation. At that time percentage assessments for local taxation could be used to take up all or part of the slack gradually.

9. *The State Tax Commission or the Department of Revenue should be required to complete and install appraisal aids such as uniform property description cards, property location maps, land value and classification maps, and records of new construction, sales, rentals and private appraisals for Baltimore City and each county as quickly as possible and in any event not later than January 1, 1954, or the completion of the present five year cycle of rotational assessments, whichever shall first occur.*

The quality and equality of assessments are wholly determined by the valuations upon which they are based. The two essential requirements for sound valuations are properly trained personnel and adequate appraisal aids.

In the matter of properly trained assessment personnel, Maryland has made substantial progress and the efforts being made to select and train the best obtainable assessors appear satisfactory. A Supervisor of Assessments selected by the State Tax Commission was provided for Baltimore City and

each county in 1914. But until 1943, the actual appraisal work, except in Baltimore City, was done by part time, untrained assessors. With the adoption of the five year rotational plan of reassessment in 1943, the legislature also provided for permanent, full time assessors. The selection of these assessors after examination from lists prepared by the County Commissioners appears satisfactory. Once selected, the assessors hold office for good behavior. If salaries are not sufficient to attract good men, they can readily be made so. Thus for the first time the State was provided with a permanent assessment organization which the State Tax Commission has proceeded to train and equip for the difficult task of valuing the 700,000 odd parcels of real estate in Maryland.

In the matter of appraisal aids, the State Tax Commission has likewise made some progress in the past seven years, but in this regard there is still much to be desired. The State Tax Commission has prescribed a uniform system of property description cards. In some counties the cards have been completed; in others three years work at the present rate of progress remains. These cards are an essential requirement for equitable assessments because only by compiling basic data on each property is it possible to administer a uniform system of valuations. With the cards, the valuations task is much less difficult and less costly because a detailed physical examination and measurement of the property is unnecessary for a revaluation unless there has been some change in the property.

The State Tax Commission has also had a manual prepared and has prescribed its use by all assessors. This manual contains unit value tables for land and uniform building cost indices for valuing improvements. With the information that should be contained on well prepared property description cards and with the appraisal techniques provided in the manual, valuations of properties can and should be relatively uniform.

But throughout the State there is still a great deficiency in the appraisal aids essential for an equitable system of assessment. Property description cards have not been completed in many counties, and in many instances the cards are said to be incomplete and to lack full, accurate, basic data on the property necessary for sound valuation. A first requirement is that a complete property description card system be installed throughout the entire State.

Another appraisal aid which the Commission believes essential for equitable valuation and assessment is tax maps. There should be a set of property location maps, unit value maps, and land classification maps, for each political subdivision. The need for tax maps has been recognized throughout the country since well before 1900. The Appeal Tax Court began to install a system of tax maps for Baltimore City in 1904. The Commission for the Revision of the Taxation System of the State of Maryland and the City of Baltimore in 1912 deplored "the complete lack of tax maps or plats showing property to be assessed by parcels".¹⁰ The need for tax maps has been pointed out on many occasions since that time. Yet only in Baltimore City and in Montgomery and Prince George's Counties has there been any effort to provide maps. In Montgomery County excellent work has been done and a system of maps will be completed at the present rate of progress in another three years. In Prince George's County, the work on maps is, unfortunately, reported to have stopped.

Still other essential aids to equitable valuations and assessments are complete records of new construction, building costs, sales, rentals, and private appraisals. Much work has been done to compile this data, more in some counties than in others. Much work remains to be done to complete the records and make them readily available to assessors.

The Commission believes that only by completing and installing a proper system of appraisal aids such as tax maps, property description cards, and records of sales, costs, etc.

¹⁰ See bulletin entitled *Reassessment in Maryland* published by that Commission.

is it possible to have an equitable method of valuation and possible to convert to a system of annual revaluations at a reasonable cost. With a proper system of appraisal aids, the task of appraising the State's 700,000 properties is made much easier. With property description cards and tax maps, an assessor can value a given piece of property in less than 50% of the time otherwise required. Personnel can be utilized with far greater efficiency, and shifting of personnel under the direction of the State Tax Commission or the Department of Revenue can be used as a method of spreading the burden of work and thereby reducing costs.

Of course, it will cost money to install proper assessment aids, particularly to prepare tax maps; but the cost is largely one of preparation and will not recur annually to the same extent once the appraisal aids have been completed.

It is estimated that the cost of installing appraisal aids in all of the counties and in Baltimore City will amount to \$264,000 for the first year, and \$172,000 in each of the two years following. These estimates are based on an allowance of \$172,000 for salaries in each of the three years required for this purpose plus the sum of \$92,000 for equipment and supplies which will have to be purchased in the first year. Thus the total cost of the appraisal aids for the three year transitional period is estimated to be \$608,000.

At the conclusion of the three year transitional period, and when the system of annual revaluation goes into effect, it is estimated that it will cost approximately \$105,000 a year to keep the appraisal aids current.

The cost of \$105,000 a year to keep the appraisal aids current, beginning with the year 1954, is a permanent additional cost but as has been pointed out heretofore, the Commission believes that the appraisal aids are essential even though the present five year rotational plan of assessment is continued in effect. On the other hand the total sum of \$608,000 may be likened unto a capital investment, i. e. it will be spread over the three year transitional period but will not continue permanently.

During the transitional period the existing cost of assessment will continue at \$785,000 per annum; when added to the cost of appraisal aids during the three year period, the total cost will be \$1,049,000 in the first year and \$957,000 each year in the second and third years. Thereafter as pointed out under Recommendation 5, it is estimated that annual revaluation, including the cost of maintenance of appraisal aids, will be \$1,072,000.

Because there is considerable inertia to overcome in preparing something new such as tax maps, which have been recommended since 1912 and before, the Commission believes that the law should require the State Tax Commission or Department of Revenue to undertake and complete this work within a given period of time, for example, not later than January 1, 1954, or the completion of the present five year cycle of rotational reassessments, whichever is earlier.

10. *The State should assume the full cost of assessors' salaries and expenses, including such full time clerical help as may be required, and also the cost of installing and maintaining appraisal aids as required by Recommendation 9.*

The State at the present time contributes to the cost of assessing property by paying one-half of the salaries of the Supervisors of Assessments and of the assessors. For the fiscal year 1950-1951 this amounts to \$207,665; and the budget request for the fiscal year 1951-1952 is \$234,821. In order to assist further Baltimore City and the counties to adopt an equitable system of assessments and annual revaluations, it is recommended that the State assume the full cost of assessors' salaries and expenses, including such full time clerical help as may be required and also the expense of installing and maintaining appraisal aids. As indicated above, it is estimated that this will obligate the State for an additional \$850,000 in the first year and \$750,000 in both of the two years following. After appraisal aids have been completed and installed, the additional expense to the State (including main-

tenance of the appraisal aids, clerical expense and additional assessors) is estimated to be approximately \$865,000 per year. Of course, to arrive at the total cost there must be added to these figures the sum of approximately \$207,000 which the State is already paying towards assessors' salaries, but it must also be remembered that Baltimore City and the counties will be saving approximately \$578,000 per annum for one-half of assessors' salaries and clerical hire.

These additional costs are the estimated price that must be paid for annual revaluation of all real property and more equitable and just assessments. These costs must be borne by the taxpayers whether assessed by the local subdivisions or by the State. Spread over the entire State, these additional costs are not great, and the Commission believes that the State should be able to recover this added expense without any increase in the present State tax rate by assessing the State property tax against the full cash value of property throughout the State.

11. *The real estate assessment roll or tax maps of Baltimore City and each county should be made available to inspection by the public at no cost, and reproductions of all or any part thereof should be furnished at the cost thereof.*

In Baltimore City the assessment roll has been printed and made available to the public each year since about 1938 by the Real Estate Board in conjunction with the Department of Assessments. It is believed that this is a very worthwhile project because assessments have thereby been exposed to public scrutiny and made readily comparable. The practice should be continued.

In the counties there does not appear to be a demand for publication of the assessment roll. It is an expensive requirement, and, in the absence of public demand, the Commission believes that the same objective can be obtained by requiring the assessment roll or tax maps to be made available to inspection by the public at no cost, and reproductions of all or any part thereof to be furnished at cost. Today these public

records are available, but without tax maps they are of little use in the counties. This recommendation is merely to insure that the records will continue to be made available to public inspection and to make available such additional information in the way of tax maps, property description cards, etc., as may be compiled.

12. *The real estate assessment roll or records of all assessments made by the State Tax Commission or the Department of Revenue should be made available to inspection by the public at no cost and reproductions of all or any part thereof should be furnished at the cost thereof.*

This Recommendation is the same as 11, except that it relates to assessments made by the State Tax Commission or the Department of Revenue. It is believed that all such information should be made freely available to the public so that assessments are open to public scrutiny and ready comparison.

13. *Building permits should be required on all new construction over a stated minimum cost or value, and the State Tax Commission or the Department of Revenue should be given a mandatory duty with appropriate power to enforce this requirement.*

Building permits are an extremely valuable source of information to assessors because they put the assessors on notice of new construction which might otherwise escape taxation. Building permits are today required in many of the counties. It is believed, however, that the law in some political subdivisions is not enforced.

There is some opposition in certain counties to requiring building permits because of the effort and expense involved in the usual requirement of filing plans, specifications, etc. For purposes of taxation, however, the only building permit needed is a short form of notice to the assessor so that he will be duly warned and subsequently inspect the premises. In those political subdivisions which do not have a building

code and which do not desire to regulate construction to the extent undertaken in Baltimore City, the form of building permit can be a very simple one.

In order to assure the enforcement of a mandatory building permit law for tax purposes, the State Tax Commission or the Department of Revenue should be given the duty and appropriate power to enforce this requirement.

14. *The State Tax Commission or the Department of Revenue should be required to promulgate rules and regulations covering all methods of assessment of general applicability and such rules and regulations should be made available to the public.*

This Recommendation is closely allied with the present Section 175 of Article 81 and other sections which assign to the State Tax Commission the duty of supervising assessments throughout the State. Because there is some public feeling that the State property tax should be discarded and the State Tax Commission be removed from the field of property taxation, a word should be said on that score.

The administration of a property tax is an extremely difficult task. Throughout the country it has been found desirable and necessary to provide a central agency to furnish administration supervision and guidance. The creation of a central state board was the first of three "basic" recommendations of the Tax Revision Commission of 1912. It has been the policy of the State since 1914 and should not be discarded.

It is not the function of the State Tax Commission to interfere with the assessments for local purposes, but to assist in the equitable valuation of all property by prescribing and installing appropriate assessment aids, training personnel and coordinating the effort of the political subdivisions. The objective of all concerned, local authorities and the central State agency, is uniform valuation of property. The central agency has proved of great assistance in this regard. After

property is valued, the actual assessment, levy and collection of taxes are matters for local authorities. By providing in Recommendation 3 that assessments may be at such level of property valuations as the local authorities may determine, the Commission hopes that the valuation of property will be segregated from the making of assessments, and that of the function of the State Tax Commission will be recognized as one of assistance and service to the political subdivisions.

The value of a central agency to the local governments lies in the fact that the appraisal of property in each part of the State is essentially the same operation. The training of personnel, the administrative requirements, the assessment aids, the information required by assessors are the same everywhere. There is a definite advantage to all in having a State Tax Commission to prepare an assessor's manual, conduct in-service training of assessors, examine new applicants for positions, furnish building cost indices, analyses of current market trends, etc. This will be particularly true during the recommended period for installing additional assessment aids such as tax maps and the perfection of property description cards. A county can go it alone, but the accomplishments are apt to be far less than if it has the assistance, advice and supervision of a central agency coordinating the same work throughout the State.

Furthermore, it has been learned by experience that improvements in valuing property for taxation can be realized only through mandatory legal requirements with a central body specifically charged with the duty of accomplishment.

The adoption of this Recommendation will not result in an extension of the jurisdiction of the State Tax Commission but, rather, in a limitation upon its authority. The Commission is already authorized and empowered to make rules and regulations. The important point in this Recommendation is that such regulations shall have no force and effect until published, printed and made available to the public. For example, the State Tax Commission has adopted certain practices in the

valuation of property, such as requiring that inventory be valued at cost or market, whichever is lower. The Commission believes and recommends that any such practices or principles as the State Tax Commission may adopt with general application to all property owners, or all owners of property of a given class, should be formalized into rules or regulations and given appropriate public notice.

15. *The proper operation of any assessment system is more an administrative problem than a statutory one. The above recommendations can be much more effectively carried out if the recommendations of the Commission as to the establishment of a State Department of Revenue is approved by the Legislature.*

As we have pointed out above, the proper operation of any system of valuing property for assessment purposes is much more of an administrative than a statutory problem. Our study of what has been accomplished in Maryland in the past, as well as our study of what has been and is now being done in other states, reinforces this conclusion. It is, of course, possible that the recommendations of this Report could be carried into effect by the State Tax Commission as presently constituted; but efficient administration of the existing tax laws and of the recommendations embodied in this Report can better be accomplished by a separate State department charged directly with supervision of the valuation of real estate for assessment purposes. If the previous recommendation of the Commission as to the establishment of a State Department of Revenue is adopted, then, logically, a division of that Department concerned solely and directly with the valuation of property for purposes of assessment would result in much more efficient and less costly valuation and assessment of real property throughout the State.

CONCLUSION

It appears probable that taxes on real property will continue to be the most important single source of revenue for counties and cities for many years to come. By the same token, such taxes will continue to be a matter of vital concern to those who pay them. The advantages to taxing authority and taxpayer alike of fair, up-to-date, annual appraisals appear too clear to require argument.

From the point of view of the State, since not only the State's own very light property tax, but also — and far more important — the apportionment of State-aid funds are based in large measure upon valuations of real property, it is essential in the interest of fairness that such valuations be made competently, that they be up-to-date and that they be made according to uniform standards. This does not mean that a piece of property or a building in the center of a town is to be valued at the same amount or by the same formula as a piece of property of like size or a building of similar character located in, say, a farming area. It does mean, however, that one standard — *fair cash value* — is to be applied throughout the State. Without a central administrative agency available to supervise, check and compare valuations and able to require compliance with its standards, the attainment of such an objective seems impossible.

The Commission's proposals to establish annual revaluations throughout each county and the City of Baltimore and to have these revaluations made under the direction of the State and at State expense thus seek the twin objectives of fairness (1) as between all taxpayers in any political subdivision and (2) as between taxpayers in different political subdivisions of the State. The cost to the State of carrying these proposals into effect will unquestionably be in excess of the cost of the present five-year rotational and decentralized methods. The increased cost to the State should not, however, mean a net increase of cost to the taxpayers in the same amount, since a part of the State's added expense will be due

to the State's absorbing the whole cost, instead of one-half of the cost, of assessors' salaries, one-half now being paid by the State and the other half by local governmental units. Most of the net additional cost will come from the enlargement of the assessing staff which will be required to handle revaluations on an annual basis, rather than on the present rotational, five-year basis. It is believed that the greater fairness of annual valuations and the greater fairness of uniform valuations throughout the State make the anticipated additional expense well worth while.

Furthermore, it is the belief of this Commission that the total tax burden upon taxpayers who are now paying their full share is not likely to be increased at all; for up-to-date and comprehensive appraisals should reduce the amount of property escaping taxation and should plug the leaks due to under-assessments. Thus the amount of State revenues from real property taxes should be increased without any increase in the State tax rate, and, indeed, a lowering of that rate may be possible.

Other Problems of Maryland Property Taxation

As pointed out in the preliminary statement to this Report, a sub-committee on Property Taxes was appointed to study and report on all phases of direct taxation of both real and personal property. The sub-committee first directed its attention to the problem of property assessments because that seemed most urgent. Because of the time required to make this study the sub-committee was unable to consider thoroughly the other matters committed to it. The Commission has therefore made no report with respect to direct property taxes except the reports as to real property assessments and deposits in savings banks and saving and loan associations.

The Commission does not think, however, that the present statutes relative to direct taxes on other property create no

inequities or inequalities. On the contrary, preliminary investigation indicates that a thorough study should be made of the various kinds of property subject to direct taxes, such as real estate, tangible personal property, operating properties of railroads and utilities, shares of stock in utilities and financial institutions, etc.; and such a study should also include the methods of valuation and assessment of each kind of property.

Perhaps the most troublesome of these problems is that presented by the tax on tangible personal property, particularly as applied to inventories or stock in trade of merchants and manufacturers. In many respects this tax works injustice and yet it produces a substantial amount of revenue so that to abolish the tax, as many have urged, would create serious budgetary problems. A further study of the matter would no doubt disclose changes which could be made to remove existing inequities.

The present method of assessing inventories or stock in trade of merchants and manufacturers results in unequal and inequitable assessments because the inventories of a corporation are assessed by the State Tax Commission, whereas those of an individual are assessed locally. The Commission is not able to make a definite recommendation for change in this practice but there would seem to be no sound reason for assessing the inventories or the stock in trade of a merchant or of a manufacturer by State agency if the business is conducted in a corporate form, and assessing the same stock in trade locally if the business is conducted as a proprietorship or a partnership.

The Commission strongly urges that a comprehensive study of the matter of exemptions from taxation be made. Such a study should undertake to develop how much property of various kinds now escapes local and State taxation by reason of the exemptions provided for in Section 7 of Article 81 of the Code. Many of these exemptions are undoubtedly sound; but it is entirely possible that at the present time some

exemptions which have been on the statute books for many years are no longer justified.

TABLE XIX

	1944 Tax Rate	Real Property Tax Levy	1949 Tax Rate	Real Property Tax Levy	5 year % increase in Assessments
	(1)	(1)	(2)	(2)	(3)
Allegany	1.68	\$ 1,609,228	1.65	\$ 2,619,800	14.73
Anne Arundel...	1.48	1,543,439	1.85	2,188,445	66.69
Baltimore	1.22	3,934,343	2.08	8,640,710	32.28
Baltimore City..	2.85	38,857,890	2.78	48,530,417	23.30
Calvert	1.91	138,683	1.88	224,046	25.32
Caroline	1.15	203,825	1.30	285,621	18.24
Carroll	1.10	498,882	1.25	806,563	40.94
Cecil	.90	445,294	1.28	740,657	16.45
Charles	1.20	190,798	1.10	365,671	31.22
Dorchester	1.30	309,086	1.65	553,888	15.79
Frederick	1.14	889,341	1.34	858,464	13.78
Garrett	1.50	339,193	2.00	464,282	27.84
Harford	.95	723,891	1.42	1,315,408	49.22
Howard	1.40	311,927	1.65	625,626	27.40
Kent	1.00	240,943	1.55	336,266	6.84
Montgomery	1.50	2,375,485	1.90	4,926,584	74.24
Prince George's..	1.45	1,578,818	1.97	3,055,886	36.87
Queen Anne's...	1.02	158,393	1.35	285,153	13.56
St. Mary's.....	1.47	146,000	1.40	219,870	64.51
Somerset	1.30	222,492	1.40	310,732	24.57
Talbot	1.06	291,443	2.00	455,153	16.69
Washington	1.22	1,149,534	1.50	1,804,382	20.98
Wicomico	1.24	506,041	1.25	626,368	50.79
Worcester	1.00	222,748	1.35	438,830	41.91
		\$56,887,717		\$80,678,822	

Note: These figures are exclusive of the state property tax and any property taxes levied by incorporated cities or towns (other than Baltimore City) or by metropolitan, water, sewage, school or other taxing districts.

- (1) From Report of Board of Public Works, January, 1947, pp. 7-13.
- (2) From Local Government Finances in Maryland, 1949, published by State Fiscal Research Bureau, pp. 16-20.
- (3) From Seventeenth Biennial Report of the State Tax Commission (January 1949), p. 61.

REPORT

on

**TAXATION OF FINANCIAL
INSTITUTIONS**

DEATH TAXES

TAXATION OF FINANCIAL INSTITUTIONS

PRELIMINARY STATEMENT

By Joint Resolution 14 of the General Assembly of 1949,¹ one of three joint resolutions² under which this Commission has functioned, we were instructed specifically to consider the franchise tax levied on deposits of savings banks for the purpose of determining whether such tax was inequitable and imposed an undue hardship. The immediate occasion for this instruction was Senate Bill 45, General Assembly of 1949, which sought a reduction in the effective rate of this franchise tax. Prior to the introduction of Senate Bill 45, the Legislative Council, the State Banking Department and the State Tax Commission indicated that some reduction was desirable.³

While the burdensome aspects of the franchise tax on savings banks have been the primary factors leading to this study, it is believed that Joint Resolution 14 requires a broader approach. Accordingly, we have sought to ascertain not only whether the tax imposes an undue burden on savings banks, but also whether it, in its relationship to State⁴ taxes imposed on competing institutions, places savings banks at a competitive disadvantage. As to what institutions constitute "competitive institutions", careful consideration has led us to include in our study the following: commercial banks (national banks, state banks and trust companies); savings and loan associations (including building and loan and home-stead associations); and credit unions. Table XX indicates the annual State and local taxes levied against these institutions.

¹ Md. Laws 1949, p. 1905.

² The other resolutions were Joint Resolutions 11 and 13, Md. Laws 1949, pp. 1903 and 1904, respectively. See Appendix I.

³ In 1946 the Legislative Council adopted a contrary view, largely, it is believed, because of the revenue loss that would have been sustained by Baltimore City.

⁴ Elimination of possible inequities resulting from federal taxes by State legislative action is, we believe, beyond our function to recommend, particularly in view of the uncertainties of federal tax policies under existing conditions.

TABLE XX
ANNUAL STATE AND LOCAL TAXES
(S: State; L: Local)

	<i>Real Property</i>	<i>Tangible Personal Property</i>	<i>Share</i>	<i>Gross Receipts</i>	<i>Franchise</i>
National Banks.....	S & L		S		
State Banks.....	S & L		S		
Trust Companies....	S & L		S	S ¹	
Savings Banks.....	S & L				S (¼ of 1% of deposits)
Savings & Loan.....	S & L				S (\$10.)
Credit Unions.....	S & L	S & L			S (\$10.) ²

¹ The repeal of this tax has previously been recommended by this Commission. MARYLAND TAX SURVEY COMMISSION OF 1949, THIRD INTERIM REPORT, pp. 4, 14 (December, 1950).

² We are informed by the State Tax Commission that federally chartered credit unions have not paid this tax on the grounds of the tax exemption provision contained in 12 U. S. C. A., Sec. 1768.

It may be observed in Table XX that each class of institutions pays State and local taxes on real property. The credit unions, in addition, pay State and local levies on any tangible personal property they may own. With the exception of trust companies, which are also subject to a gross receipts tax, previously recommended for repeal, all commercial banks are taxed only on their shares. Franchise taxes are levied against savings banks, savings and loan associations and credit unions.

In the course of its work, the Commission, through its sub-committee on Taxation of Financial Institutions, has held two public hearings to which were invited representatives of the two political subdivisions now benefiting from the franchise tax on savings banks,⁵ the State Bank Commissioner, representatives of the nine Maryland savings banks⁶ and representatives of each of the savings and loan

⁵ Baltimore City and Montgomery County.

⁶ Eight of these institutions are located in Baltimore City, one in Montgomery County.

associations and credit unions operating in the State.⁷ We wish to express our thanks to those public officials and industry representatives who appeared, and acknowledge the great assistance, both oral and written, which they gave to us.

Since this Commission is not a budgetary body, it must give great consideration to the effect its recommendations will have on State and local revenues, particularly at the present time when both State and local budgetary problems are so crucial. We believe the recommendations submitted herewith will, if adopted, go far to eliminate two obvious inequities in our tax structure without appreciable diminution of the revenues of any unit of government, and with some little increase in the revenues of others.

Burden of Franchise Tax on Savings Deposits

Section 94 of Article 81 of the Annotated Code (1939)⁸ imposes on mutual savings banks an annual franchise tax in the amount of one-fourth of one per cent of the total amount of deposits held by such banks. Receipts from this tax are apportioned one-fourth to the State and three-fourths to the county or to Baltimore City in which the savings bank is located. Tax receipts for 1950, based on total deposits as of December 31, 1949 were \$993,638., allocable as follows: State of Maryland, \$248,407; Baltimore City, \$738,397; and Montgomery County, \$6,834.

The mutual savings banks of the State have for several years urged a reduction in this tax. Currently, representatives of these organizations seek amendment to Section 94 to the extent that the franchise tax be imposed at the rate of one-tenth of one percent.⁹ This proposal would result in an overall reduction in revenues of approximately \$600,000

⁷ No spokesman for the federal savings and loan institutions appeared.

⁸ This tax was enacted by Md. Laws 1888, Ch. 242 and amended to its present form by Md. Laws 1931, Ch. 254.

⁹ Also requested is amendment of distribution proportions. The savings bank proposal would distribute one-tenth to the State, nine-tenths to the localities.

annually in terms of 1949 deposits, a loss which, because of the gravity of the discrimination involved, the savings banks contend should be accepted. In support of their contention, two primary arguments are advanced. *First*, Maryland taxes its savings banks at a rate in excess of five times the national average. *Second*, because of increasing deposits and decreasing return on investments, the effective rate of the tax in relation to the net rate of interest earnings has risen ninety-three per cent during the period 1934-1949.

Exhibits produced by the savings banks seem to indicate that Maryland taxes its savings banks to a greater extent than do other states. To compare and contrast the burden of taxes imposed by Maryland and other states, however, would involve a detailed analysis of the state and local tax structures of other states beyond the facilities of this Commission to perform. We believe that for an analysis of this Maryland tax there is available a Maryland yardstick more readily understandable by us. This will be discussed under the next sub-heading.

With reference to the increase in effective rate of taxation, the savings banks have supplied two tables which are included herein as Appendices III¹⁰ and IV.¹¹ Appendix III indicates a marked decrease in the gross rate of return earned on deposits. Appendix IV, read in conjunction with Appendix III, indicates that the rate of net income has declined even faster than the gross rate of return from investments. This situation is the result partially of increased operating expenses, and partially of the existence of a tax rigidly affixed to capital.¹²

According to the savings banks, the rate of the franchise tax per \$100 of net interest income has increased from \$5.48 in 1934 to \$10.60 in 1949. According to the Commission's computations, the franchise tax realized in 1950 amounted to

¹⁰ See p. 240 this Report.

¹¹ See p. 240 this Report.

¹² Difficulties involved in taxation of capital are closely related to those considered in our report on Gross Receipts Taxes. See MARYLAND TAX SURVEY COMMISSION OF 1949, THIRD INTERIM REPORT (December, 1950). See p. 81 *et seq.* this Report.

10.5% of combined net current operating earnings before charge-offs and payment of the franchise tax. It is recognized in this and subsequent approximations that in using aggregates of one hundred sixty one commercial banks, nine savings banks and three hundred eighty six savings and loan associations in determining rates that individual differences in operating expenses have been ignored.

It has been suggested that Appendices III and IV mentioned above do not accurately reflect net earnings of savings banks because they fail to take into consideration earnings credited to a surplus account. If this suggestion is valid, net earnings are understated. Maryland requires its savings banks to maintain a "guarantee fund", a surplus account, of "at least 3 per cent. on the whole amount of deposits for the protection of depositors . . ." ¹³

To the extent deposits are increased, the guarantee fund or surplus must be increased proportionately out of earnings. The average surplus of Maryland savings banks as of December 31, 1949, was 11.6% of deposits.

A survey of guarantee fund or surplus requirements of the major savings bank states, as administered by the supervisory authorities, indicates mandatory maintenance of surpluses approximating 10% of deposits.¹⁴ We are informed by the Deputy Bank Commissioner that Maryland's statutory surplus requirement is inadequate and that any attempt to decrease the existing surplus ratio would be opposed by him as unsound. This being so, it would seem that the Appendices in question are drawn with reference to sound banking practice and that the statement of net earnings is reasonable. Average surpluses of mutual savings banks throughout the country are set forth in Table XXI.

¹³ ANN. CODE MD. Art. 11, Sec. 43.

¹⁴ *Hearings Before Committee on Ways and Means on Revenue Revision of 1950*, 81st Cong., 2d Sess. 2800 *et seq.* (1950).

TABLE XXI

AVERAGE SURPLUS AS OF DEC. 31, 1949¹⁵

Connecticut	12.1	New Jersey	12.3
Massachusetts	12.3	Ohio	6.1
New York	10.7	Oregon	4.0
Delaware	16.1	Pennsylvania	8.8
Indiana	11.0	Rhode Island	11.6
Maine	13.7	Vermont	7.0
Maryland	11.6	Washington	7.3
Minnesota	8.2	Wisconsin	9.2
New Hampshire	13.2	Average for all States....	10.9

Note: The general term "surplus" is used. In those States where a "guaranty fund and undivided profits" are used in the statutes the sum of the two is used in calculating surplus.

Comparison of Tax Burdens on Commercial Banks and Savings Banks

Commercial banks perform broader functions than those permitted to savings banks. Distinctions between the character and operations of these banks may, and probably do, justify different methods of taxation. Such distinctions, however, seem not to afford a basis for tax benefits favoring commercial banks, particularly in view of the competitive character of the two classes of institutions.¹⁶ As of December 31, 1949 savings deposits of commercial banks in Maryland accounted for nearly one-third of the total deposits in such banks and exceeded by approximately \$17.5 millions the total deposits of savings banks.

The share tax on commercial banks is nominally levied against the shareholder and is based on his proportionate equitable interest in the valuation placed upon the property

¹⁵ *Hearings supra*, note 14, at 2800.

¹⁶ Traditionally, if favor is shown, the savings banks, representing an aggregation of small depositors, are the beneficiaries. The present federal income tax taxes commercial banks, exempts mutual savings banks and savings and loan associations.

of the corporation with allowance for certain deductions.¹⁷ In practice this tax is borne by the corporation. The assessment against the value of the shareholder's interest is \$1. per \$100. of valuation for the benefit of the several counties and Baltimore City and the prevailing State rate for State purposes.¹⁸ This tax is a substantial one and for 1950 represented approximately 8.8% of 1949 combined net current operating earnings before the share and federal income taxes.

While the base of the share tax is considerably broader than the value of deposits in commercial banks, such tax is reasonably comparable to the franchise tax on deposits in savings banks for purposes of a comparison of the relative tax burdens on deposits in the two classes of institutions. Table XXII, part I, sets forth such a comparison, and indicates the difference in tax burdens borne by commercial bank deposits with reference to the share tax and savings bank deposits with reference to the franchise tax. That the burden of the franchise tax is disproportionately greater than that of the share tax is obvious. Savings banks, having only 20% of total deposits, contribute 44% of the total tax yield. Commercial bank deposits, representing 80% of total deposits, contribute only 56% of the total revenues.

Table XXII, part II, segregates demand (non savings) and savings deposits and indicates the effect of subjecting these classes of deposits to the $\frac{1}{4}$ of 1% rate applicable to savings bank deposits. Under this circumstance, the hypothetical tax on savings accounts in commercial banks, comprising less than one-third of total commercial bank deposits, would yield revenues approximating four-fifths the amount yielded by the share tax with reference to all commercial bank deposits. Had all deposits of commercial banks as of December 31, 1949 been assessed under the franchise tax, the tax bill of commercial banks for 1950 would have been increased from \$1,250,935, which they paid under the share tax, to \$3,962,182.

¹⁷ ANN. CODE MD. Art. 81, Sec. 15 (Supp. 1947).

¹⁸ ANN. CODE MD. Art. 81, Sec. 25(b) (Supp. 1947).

TABLE XXII

ANALYSIS OF TAXES FOR 1950 OF COMMERCIAL BANKS,
TRUST COMPANIES AND SAVINGS BANKS

(December 31, 1949)

	<i>Deposits</i>	<i>% of Total Deposits</i>	<i>Tax</i>	<i>% of Total Tax</i>
I.				
RATIO OF ALL DEPOSITS TO ACTUAL TAX PAID				
Combined Banks and Trust Companies (161)	\$1,584,873,360	80%	\$1,250,935*	56%
Savings Banks (9)	397,495,156	20%	993,737	44%
Total	\$1,982,368,516	100%	\$2,244,672	100%
II.				
RATIO OF ALL DEPOSITS TO TAX PAYABLE AT $\frac{1}{4}$ OF 1%				
Combined Banks and Trust Companies:				
(Commercial)	\$1,169,853,564	59%	\$2,924,633	59%
(Savings)	415,019,795	21%	1,037,549	21%
	\$1,584,873,359		\$3,962,182	
Savings Banks	\$ 397,495,156	20%	\$ 993,737	20%
Total	\$1,982,368,515	100%	\$4,955,919	100%

* Exclusive of gross receipts tax on gross receipts of trust companies in the amount of \$76,290.

Source: State Tax Commission.

The Commission believes the share tax on commercial banks, representing 8.8% of combined net current operating earnings of such banks before share and federal income taxes, is a most substantial tax. But, it further believes it demonstrable that the franchise tax on savings bank deposits is so high relative to the share tax levied against commercial banks that reduction in the former is not only warranted but necessary for the alleviation of an undue hardship.

Savings and Loan Associations

Commissions making studies such as this one, involving taxation (or tax exemption) of savings banks and savings and loan associations,¹⁹ were in the past confronted with many more difficulties than is the case today. This is particularly true in a taxing jurisdiction such as Maryland in which one of these classes is subjected to a substantial tax and the other class is virtually tax exempt.

Historically, in many jurisdictions, both savings banks and savings and loan associations have been recipients of tax benefits in the form of exemption from various taxes. The basis for this preferential tax treatment is found in the belief that the public welfare would be served by fostering the safety and development of two useful and beneficial institutions. It is difficult to question the logic and wisdom of such a policy — for such time as protection is needed. When the need and reason for tax benefits no longer exists they should be discontinued. With respect to the institutions in question this point is clearly reached when (1) they are no longer financially weak mutual benefit arrangements of limited commercial consequence or (2) when their tax benefit becomes competitively disadvantageous to competitors. In the first instance the tax burden that is properly theirs is foisted upon the general public; in the second, it is inequitable and unjust to the competitor.

In the case of savings banks and savings and loan associations, exemptions were initially granted when taxes were light in weight and few in number. Also, neither individual savings banks nor individual savings and loan associations represented the substantial concentrations of capital they now do. In all probability they did not compete to any degree with one another or with commercial banks. With the passage of

¹⁹ As used in this Report the term includes state chartered "building and loan," "building" and "homestead" associations as well as federally chartered "savings and loan" associations. Our study of the laws and regulations governing these institutions reveal no restrictions or limitations on their operation or actual distinctions in operations as would lead us to make a segregation.

time (and with the growth of the institutions in both a financial and a competitive sense) legislative policy has changed. Today Maryland and thirteen of the other sixteen states in which mutual savings banks are located impose substantial taxes on such banks.²⁰ At least eighteen states tax in a substantial manner savings and loan associations located in those states.²¹ The National Administration is, for possibly the first time, seriously sponsoring the repeal of exemption of these institutions from federal income taxation.

In Maryland every domestic savings and loan association, regardless of size, is required to pay an annual franchise tax of \$10.²² Since the State may impose no greater tax on a federally chartered association than on a local one, no savings and loan association operating in Maryland is assessed more for such privilege than \$10.²³ annually. The Commission believes this tax bears absolutely no relationship to the value of the franchise granted nor to the character of the activities of present day savings and loan associations. Because of these beliefs, it is our conviction that this purely nominal tax constitutes one of the most obvious and glaring inequities in the Maryland tax structure. In 1949, as a result of this tax, the three hundred eighty-six²⁴ savings and loan associations of the State with share capital in the amount of approximately \$280.8 millions were liable for only \$3,860 in franchise taxes. Savings banks were required to pay a franchise tax on deposits of \$397.5 millions in the amount of \$993,738.

An indication of the size of the savings and loan associations is set forth in Table XXIII.

²⁰ Ohio, Rhode Island, Vermont, Indiana, New Hampshire, Maine, Connecticut, Minnesota, New York, Oregon, Delaware, Pennsylvania and Massachusetts. New Jersey, Washington and Wisconsin do not impose special taxes on mutual savings banks.

²¹ Alabama, California, Connecticut, Florida, Idaho, Indiana, Kentucky, Maine, Mississippi, Minnesota, Nebraska, New Hampshire, North Carolina, Ohio, Oregon, South Dakota, Utah and Vermont. This list does not necessarily include all states imposing such taxes.

²² ANN. CODE MD. Art. 81, Sec. 144(d) (Supp. 1947).

²³ 12 U. S. C. A., Sec. 1464(h).

²⁴ This figure does not include eleven foreign associations admitted to do business in Maryland.

TABLE XXIII
 MARYLAND SAVINGS AND LOAN ASSOCIATIONS
 (December 31, 1949)

SHARE CAPITAL		No. of Federal Associations	Total Number of State and Federal Associations in Maryland ²
OVER	To		
\$ 0	\$ 100,000		135
100,000	200,000		86
200,000	300,000		51
300,000	400,000		19
400,000	500,000		15
500,000	600,000		9
600,000	700,000		7
700,000	800,000		3
800,000	900,000	2	3
900,000	1,000,000	1	6
1,000,000	2,000,000	9	20
2,000,000	5,000,000	16	24
5,000,000	..	4	8
		32	386

¹ This classification includes only federally chartered associations. In addition to these 32 organizations, 11 State chartered associations were federally insured and 19 other State chartered institutions were uninsured members of the Federal Home Loan Bank. In 1950, the latter classification was increased by one new member.

² This classification includes all savings and loan associations operating in Maryland, both State and federally affiliated.

Source: State Tax Commission.

We are advised that as of December 31, 1950 a total of eleven federal or federally affiliated associations have share capital in excess of \$5 millions; five associations, \$5-\$10 millions; three associations, \$10-\$20 millions; two associations, \$20-\$30 millions; and one association has approximately \$32.25 millions.

It has become increasingly apparent in recent years that many savings and loan associations are doing a savings banking business in all except name. In recognition of this situation the *Maryland Tax Revision Commission of 1939* recom-

mended that these associations be taxed in the same manner as savings banks.²⁵

Originally, the purpose of savings and loan associations was to make it possible for persons of small means to pool their savings in order that sufficient funds could be accumulated to make loans to a few members at a time until eventually all members would be able to become home owners. Under early association arrangements, when all shareholders had had an opportunity to make a home loan and all shares were matured, the association was liquidated. Later, when more than one series of shares was available there developed a tendency to permanent existence.

The original conception (and operation) of a savings and loan association was substantially different from that of the mutual savings banks and in our opinion would justify different or even preferential tax treatment. This situation does not exist today. Now many associations invest in government securities as well as home loans. Through the paid-up share device periodic payments are no longer necessary. Also, members may hold varying numbers of shares. To join an association one need not intend to obtain a home loan; rather, he may invest his money for the dividend. Generally, to become a borrowing member it is not necessary to belong to an association for any length of time before obtaining a loan; and usually a prospective borrower may become a member by the purchase of a share for a nominal amount. A shareholder customarily may repurchase (withdraw) part or all of his investment with the same ease as one makes a withdrawal from a savings bank. Indeed, the federal institutions term their share accounts savings accounts. There are no statutory limits, either State or federal, as to the amount of investment a shareholder may hold in an association, and we are advised that most if not all associations will accept unlimited amounts.²⁶ Some associations not only accept, but solicit institutional ac-

²⁵ MARYLAND TAX REVISION COMMISSION OF 1939, REPORT, p. 76 (1941).

²⁶ The average savings account in both savings and loan associations and mutual savings banks in the United States in 1949 was approximately \$1,000. See *Hearings, supra*, note 14, at 2767, 2862.

counts. During the period December 31st, 1949 to December 31st, 1950, savings accounts in federal and federally affiliated associations in Maryland increased by approximately \$41.6 millions.²⁷ In the same period, deposits in Maryland savings banks increased by \$3.2 millions.²⁸

As a practical matter it is difficult to distinguish the operations of the larger savings and loan associations from those of savings banks. Both are mutual institutions. Ownership in one is evidenced by a share, in the other by a savings account. It is the business of both to collect capital with which to make loans at interest which in turn is used to pay a return to the depositor or shareholder. If there is any real distinction between these classes of institutions, it is found in the difference of portfolios. Most savings banks invest more heavily in government securities than in real estate mortgages. Savings and loan associations invest primarily in real estate mortgages and to a lesser extent in government securities.

On the purely technical level, there is a distinction between making a deposit in a savings bank and purchasing a share in a savings and loan association. Legally, the former establishes a debtor-creditor relationship, while the latter is the purchase of an equity interest. But when a depositor may withdraw his deposit or the shareholder repurchase his share with equal facility, the technical distinction between deposit and share becomes a distinction without a difference. We believe these two classes of institutions should be taxed on an identical or substantially identical basis.

Credit Unions

As of December 31, 1949 there were in Maryland 36 federal and 41 State credit unions with total combined share and deposit accounts in the amount of \$4.3 millions.

We are informed that in Maryland membership in these organizations is limited to employee groups, and that the

²⁷ Federal Home Loan Bank of Greensboro.

²⁸ State Banking Department.

general public may neither contribute to their capital through purchase of shares or deposit, nor may a member of the general public obtain a loan from them. Office space and equipment is usually made available to credit unions by membership employers.

Since these institutions bear some resemblance to both savings and loan associations and savings banks, representatives of the latter groups were questioned as to whether or not credit unions could be considered competitors. In both instances the response was in the negative.

Because of the purpose of these organizations, their limited assets, restricted lending authority and the private character of their membership, we believe these institutions are equitably and fairly taxed.

A practical consideration relative to taxation of credit unions is found in Section 1768 of the United States Code. This section exempts federal credit unions from state or local taxation except as to real and tangible personal property. Any attempt to increase the tax burden of local credit unions would probably result in their conversion to federal status.

Recommendations

1. An annual franchise tax should be imposed on savings banks at the rate of sixteen cents on each one hundred dollars of deposits.

2. An annual franchise tax should be imposed on foreign and domestic savings and loan associations at the following rates:

a) Ten dollars on the first one million dollars of all paid-in capital; and

b) Sixteen cents on each one hundred dollars of all paid-in capital in excess of one million dollars.

In cases in which the business is carried on partly within the State, the tax should be on such proportion of the paid-in capital as fairly represents the business done in the State.

3. Receipts from the taxes recommended above should be apportioned one-fifth to the State and the other four-fifths to the county in which the taxpayer is located or to Baltimore City if the taxpayer is located there.

Form of Tax Recommended

The Commission has recommended the continuation of an existing tax at a modified rate, and the extension of the substance of that tax to another subject. Much has been said and written against taxation of capital. We agree that generally such a tax is not based on the most adequate measure of earning power, and lacks the flexibility of a tax on net earnings. We believe, however, that when levied at a reasonable rate a tax on capital loses many of the objectionable characteristics.

A number of states have imposed taxes measured by gross or net income of both savings and loan associations and savings banks. Taxation of gross earnings has many of the disadvantages of taxation of capital. There is a very real dispute as to *what* net income of both savings banks and savings and loan associations should be taxed. It is not improbable that the federal government will remove existing income tax exemptions from both classes of institutions here under consideration. If this occurs, federal experience will afford this State a valuable guide. In the meantime, we believe our recommendations will afford a basis for equitable tax treatment.

Rate of Tax Recommended

The rate proposed is based on three considerations:

(1) Elimination of a tax discrimination favoring savings and loan associations against what we believe to be directly competitive businesses; (2) The establishment of a rate which would be fair to both classes of taxpayers, and make due allowance for small savings and loan associations, the profitable operations of which are dependent to some extent on

minimum expenses; and (3) The protection of State and local revenues in a period of budgetary stress.

It is obvious to us that many savings and loan associations have been competing directly and aggressively with savings banks and the savings departments of commercial banks. In doing so, they are of course performing the very useful functions of the latter. It is inequitable and discriminatory, however, to permit them to compete with the assistance of a tax benefit. It is likewise unfair to the State and the localities that they be deprived of revenues due them.

The rate proposed for the savings banks will afford those institutions substantial relief. An analysis of this relief in terms of the share tax levied on commercial banks is set forth in Table XXIV. It will be seen that their burden will more closely approximate the burden of the share tax on commercial banks. In terms of 1949 combined net current operating earnings before the franchise tax the proposed rate is 6.7%.

TABLE XXIV

SCHEDULE OF COMPARATIVE TAX ON DEPOSITS OR SAVINGS SHARES
(December 31, 1949)

RATIO OF ALL DEPOSITS AND SHARE CAPITAL TO TAXES PAID BY COM- MERCIAL BANKS AND PROPOSED FOR S. & L. ASSNS. AND SAVINGS BANKS	<i>Deposits and Share Capital</i>	<i>% of Total Deposit and Share Capital</i>	<i>Tax</i>	<i>% of Total Tax</i>
Combined Banks and Trust Companies ..	\$1,584,873,360	70%	\$1,268,930*	59%
Savings Banks	397,495,156	18%	635,992	29%
Savings and Loans...	280,822,279	12%	268,018	12%
Total	\$2,263,190,795	100%	\$2,172,940	100%

* Exclusive of gross receipts tax on gross receipts of trust companies in the amount of \$76,290.

Source: State Tax Commission.

The proposed franchise tax on savings and loan associations is based upon paid-in capital because such fund is the

equivalent of savings bank deposits. A nominal rate is imposed on the smaller associations because many operate with small capital and frequently unpaid personnel. Many small associations continue the practice of conducting business on one or two nights a week only. A substantial tax levied against these organizations could seriously limit their operations. Reference to Table XXIV will disclose that had the tax proposed been in effect in 1949, savings and loan associations would have been contributing their proportionate equivalent of the share tax.

The Commission has been unable to ascertain the operating statements of many of the local associations. The proposed tax, however, levied against the \$211 millions in savings accounts of the sixty-two federal or federally affiliated associations as of December 31, 1949 would have been the equivalent of 3.3% of combined net operating income after state and local taxes.

Distribution of Tax Receipts

The present division of revenues obtained from the tax on savings banks, viz., 25% to the State and 75% to the City of Baltimore or county in which the bank is located, is out of balance with the division of revenues obtained from taxes on commercial banks. The Commission believes that the recommended division of 20% and 80% is more nearly uniform with the division of revenues obtained from commercial banks, and, therefore, eliminates an inequity in the division of revenues that favors the State.

Fiscal Effect on State and Localities

The proposed rates have been fixed with direct reference to the revenue beneficiaries of receipts from the present franchise tax on savings bank deposits. Table XXV summarizes the revenues allocable to the State and localities on the basis of the taxes proposed, assuming deposits and share capital at the December 31, 1949 level.

TABLE XXV

SCHEDULE OF EFFECT OF PROPOSED TAX ON LOCALITIES
COMPUTED AT 16¢ PER \$100 AS OF 1-1-50

(December 31, 1949)

Locality	Present Tax		Proposed Tax	
	Franchise*	Franchise**	Building- Loan**	Combined
Baltimore City	738,397	504,128	177,097	681,225
Allegany			4,799	4,799
Anne Arundel			2,396	2,396
Baltimore County			2,152	2,152
Calvert .....			....	....
Caroline .....			....	....
Carroll			8	8
Cecil			24	24
Charles .....			....	....
Dorchester			8	8
Frederick			32	32
Garrett .....			....	....
Harford			56	56
Howard			16	16
Kent			16	16
Montgomery	6,834	4,665	8,700	13,365
Prince George's			16,360	16,360
Queen Anne's .....			....	....
St. Mary's .....			....	....
Somerset .....			....	....
Talbot			8	8
Washington			2,719	2,719
Wicomico			16	16
Worcester			8	8
State Share	248,407	127,198	53,603	180,801
TOTAL	993,638	635,992	268,018	904,010

* Distributed 75/25.

** Distributed 80/20.

Source: State Tax Commission.

As may be seen, Baltimore City would have forgone \$53,000 in revenues, and the State would have lost approximately \$67,600. It has been ascertained, however, that as of December 31, 1950, savings bank deposits have increased by slightly more than \$3 millions and now stand at \$400,685,827. Also, as of that date the sixty-three²⁹ federal and federally affiliated associations had increased their savings accounts by approximately \$41.6 millions. Assuming the share capital of the non-federally affiliated local institutions to have remained con-

²⁹ During 1950 a small State association, previously unrecorded at the State Tax Commission, became a member of the Federal Home Loan Bank.

stant,³⁰ total savings accounts of savings and loan associations as of December 31, 1950 would be in the amount of \$322,487,241.

It may be seen in Table XXVI that the proposed taxes levied on the current base would result in a loss of revenue for Baltimore City of only \$13,000 in 1951. The State loss would amount to approximately \$55,000 for the same year.

TABLE XXVI
SCHEDULE OF EFFECT OF PROPOSED TAX ON LOCALITIES
COMPUTED AT 16¢ PER \$100 AS OF 1-1-51
(December 31, 1950)

<i>Locality</i>	<i>Present Tax</i>		<i>Proposed Tax</i>	
	<i>Franchise*</i>	<i>Franchise**</i>	<i>Building-Loan**</i>	<i>Combined</i>
Baltimore City	\$ 744,452	\$511,712	\$219,938	\$731,650
Allegany			5,934	5,934
Anne Arundel			3,634	3,634
Baltimore County ...			3,555	3,555
Calvert .....			....	....
Caroline .....			....	....
Carroll			8	8
Cecil			24	24
Charles .....			....	....
Dorchester			8	8
Frederick			32	32
Garrett .....			....	....
Harford			56	56
Howard			16	16
Kent			16	16
Montgomery	6,834	1,166	11,150	12,316
Prince George's			17,706	17,706
Queen Anne's .....			....	....
St. Mary's .....			....	....
Somerset .....			....	....
Talbot			8	8
Washington			5,289	5,289
Wicomico			16	16
Worcester			8	8
State Share	250,428	128,219	66,849	195,068
TOTAL	\$1,001,714	\$641,097	\$334,248	\$975,345

* Distributed 75/25.

** Distributed 80/20.

Source: State Tax Commission.

³⁰ No figures as to the combined total of share capital in non-federal and non-federally affiliated State-chartered associations as of December 31, 1950 are available. These institutions will not submit condition statements for 1950 to the State Tax Commission until after the 1951 session of the General Assembly.

As may be seen, several counties will enjoy revenue gains. It would appear that during the past few years the level of share capital in savings and loan associations has risen steadily. Though at a more moderate rate, this also appears to be the situation in the case of savings bank deposits. Should this trend continue it is unlikely that by the effective date of any statute adopting the proposals herein recommended that the City of Baltimore would incur any revenue loss; any loss by the State should be no more than nominal.

The Commission believes that the adoption of these recommendations is necessary for the elimination of two serious tax inequities. It further believes the adoption of these recommendations would result in a broader tax base that should afford added stability to future State and local revenues.

Messrs. Brune and Case felt themselves disqualified by interest from taking part in the consideration of the taxation of savings banks and of institutions in competition therewith, and hence from making or joining in recommendations with regard thereto.

DEATH TAXES

PRELIMINARY STATEMENT

The Commission has examined the inheritance taxes of the State of Maryland as well as the Maryland estate tax and the tax upon executors' commissions. The Registers of Wills of the several counties and of Baltimore City were on several occasions invited to submit in writing to the Commission their comments with regard to the adequacy of existing laws, desirability of changes in such laws, and any problems related to the administration thereof. The replies of the Registers were carefully considered, and the many valuable suggestions were studied. A public hearing was held in the chambers of the Orphans' Court of Baltimore City, at which the judges of that Court and the Registers of Wills of several counties and of the City of Baltimore were present. Careful consideration was given to the desirability of the adoption of the suggestions there made for the solution of the problems brought to light. It is deemed to be of utmost importance that the manner in which the State of Maryland receives revenue upon the occasion of death continue to be fair and just, and that the process of administering decedents' estates be aided, so far as possible, rather than hindered by the system of death taxes in this State.

It is recommended that the Inheritance Tax Law of Maryland be amended to state specifically that the receipt of property by a surviving tenant of a tenancy by the entirety shall not subject such surviving tenant to the inheritance tax in respect to such property so received. Securities held jointly by husband and wife should also receive such treatment, though registered as a joint tenancy rather than as a tenancy by the entirety.

Under the existing statute, property received by a surviving joint tenant is subject to the inheritance tax, except "any interest, legal or equitable, of any surviving spouse in

any free-share account in any building or homestead association or in any moneys on deposit or in any registered bond of the United States in the names of husband and wife passing to such surviving spouse." Nowhere in the statute is there exempted from taxes the receipt of property as the result of survivorship in a tenancy by the entirety. Opinions of the Attorneys General of Maryland have consistently held that such property is exempted under our laws.

The principal theory upon which the opinions have been based, aside from legislative intent, is that, upon the death of one tenant by the entirety, nothing passes to the survivor which he did not already possess. If Maryland is to continue its policy of favoring a surviving spouse in its inheritance tax system, it should remove any doubt about the status of property received in the manner discussed. It is therefore recommended, that the inheritance tax law of Maryland be amended to state specifically, that the receipt of property by a surviving tenant of a tenancy by the entirety shall not subject such surviving tenant to the inheritance tax in respect to such property so received.

It is believed that such treatment should be extended to securities held by husband and wife as joint tenants as well as by the entirety. This action would correct an inequity based solely upon the policy of certain security transfer agents of refusing to register securities held by husband and wife as being held by the entirety.

It is recommended that property received by husband and wife as tenants by the entirety, one of whom is the child or other lineal descendant of the decedent and one of whom is not, be taxable for inheritance tax purposes, one-half at the rate applicable to direct succession and one-half at the rate applicable to collateral succession.

The concept of a tenancy by the entirety has long been especially regarded in Maryland, and for most purposes the interests of husband and wife in such tenancy have been regarded as one during coverture. Where property passes to

a child, or other lineal descendant, the one per cent direct tax is imposed; where property passes to a son-in-law or daughter-in-law, the seven and one-half per cent collateral tax is imposed. Where property passes to son and daughter-in-law or to daughter and son-in-law, as tenants by the entirety, a problem arises. Is the concept of the tenancy by the entirety to be disregarded? This question has frequently arisen in the letters of the various Registers of Wills to the Attorney General. Legislative confirmation of the Attorney Generals' opinions in this respect is advocated in the above recommendation.

It is recommended that the method of valuation of a life estate or other less-than-absolute interest shall be determined in accordance with tables based upon relatively current American mortality statistics, and that the Orphans' Courts of the various counties and of Baltimore City be empowered to adjust such valuation so computed in cases of poor health of the owners of interests involved.

Section 124 of Article 81 of the Annotated Code of Public General Laws of Maryland (Supp. 1947), provides that the value of a life estate or interest for a term of years or other interest less than an absolute interest shall be determined in accordance with the equity rules of the Supreme Bench of Baltimore City for the valuation of dower interests.

Rule 603 of the Rules of the Supreme Bench of Baltimore City (1947) sets forth the amount of the allowance to a widow in lieu of her right of dower elected in lands sold under a court decree. The Rule provides as follows: "If she be under forty-one years of age, not more than one-seventh. If 41 and under 45, not more than two-fifteenths. If 45 and under 51, not more than one-eighth. If 51 and under 56, not more than one-ninth. If 56 or above, not less than one-tenth of the net proceeds of the sale out of which she may be dowable." As dower is a one-third interest for life, it is provided that "the allowance to a tenant for life shall be three times as much as would be allowed to a widow of the same age."

These criteria of valuation are not in accordance with current mortality tables; and furthermore, they do not provide sufficient variation to reflect valuation at all ages particularly in the category of a life tenant over the age of 56 years.

It is therefore recommended that the present method of valuation of a less-than-absolute interest should be supplanted by a method of valuation in accordance with a table based upon relatively current American mortality statistics.

The Attorney General has approved (34 Op. A. G. 279) the interpretation of the Orphans' Court of Baltimore City that the use of the adjective "healthy" in referring to the life tenant in the former Supreme Bench Rules implies that the Orphans' Courts may make allowances for the poor health of the life tenant in valuing life estates. It is recommended that such power of the Orphans' Courts be incorporated within the statute.

It is recommended that the time within which an executor must pay the inheritance tax upon the distributive shares and legacies in his hands be increased from thirteen months from the date of his administration to fifteen months from the date of his administration.

In any estate to which the federal additional estate tax applies, there is likely to be a complexity of calculation where the marital deduction is involved. It frequently happens that the marital deduction is dependent in amount upon the federal estate tax, and that the federal estate tax is dependent in amount upon the marital deduction. To this set of interdependent factors is added, in Maryland, the factor of the State inheritance tax. In the computation of the Maryland inheritance tax, the federal estate tax is regarded in the same category as administrative expense, in that it is subtracted prior to the calculation of the inheritance tax. Since such interdependent calculations have brought about considerable difficulty in the administration of estates subject to the federal estate tax it is believed that the adoption of the fifteen month period allowed for making a return under the federal estate

tax as the time within which an executor must pay the State inheritance tax is advisable. In this regard, Section 119 of Article 81 of the Code of Public General Laws should be amended.

It is recommended that the period during which gifts shall be deemed to have been made in contemplation of death within the meaning of Section 111 of Article 81 of the Code be increased from two years to three years. The qualification that such transfer be of a material part of decedent's property should be eliminated.

The inheritance tax law of Maryland, like similar laws of most other jurisdictions, attempts to tax not only property passing at death, but property transferred during the lifetime of the decedent in contemplation of death. At the present time, Section 111 of Article 81 of the Code provides for a rebuttable presumption that a transfer of a "material part" of a decedent's "property, in the nature of a final disposition or distribution thereof, made by a decedent within two years prior to his death, except a bona fide sale for an adequate and full consideration in money or money's worth, shall . . . be deemed to have been made in contemplation of death. . . ."

While this standard may be deemed fully adequate, it is believed to be advisable in the interests of simplicity and uniformity to follow the newly-adopted federal criterion on this subject. Consequently, it is advocated that any such transfer as is above described shall be deemed conclusively not to have been made in contemplation of death within the meaning of such Section 111 unless made within *three* years prior to the date of death, and that any such transfer made within *three* years prior to the date of death be rebuttably presumed to have been made in contemplation of death within the meaning of such Section.

If this proposal with respect to Section 111 is adopted, it will be necessary to amend Section 119A of Article 81 of the Code, as regards the required report of an executor to the

Register of Wills of known transfers in contemplation of death.

The provision to the effect that a transfer in the nature of a final disposition within a short period prior to death be considered as made in contemplation of death is at present qualified by words indicating that such transfer must be of a *material part* of the decedent's property. No sound reason has been advanced for the retention of this qualification in the statute. If the provision, added in 1941, were intended to exclude small gifts made as birthday or wedding presents, for example, it would be unneeded, since a life motive in such cases can usually be found to rebut the presumption of testamentary disposition. Furthermore, it is felt to be important that the qualification be removed because it is indefinite in nature, provocative of litigation and productive primarily of confusion.

It is recommended that institutions which accept deposits of money in the regular course of business provide for certification upon all withdrawal slips that if the account is in joint names, no joint owner has died, and that such institutions report notice of death so ascertained to the appropriate Register of Wills.

The problem of collection of inheritance tax due the State of Maryland on property passing to a surviving joint owner other than a spouse has been of serious concern to those charged with the administration of the tax law. Testimony, written and oral, of the Registers of Wills of various counties has pointed to wide-spread evasion of the tax through inadequate means of discovery of withdrawal of funds by a surviving joint owner without knowledge of the bank, the savings banks or building and loan association of the death of one joint owner.

As property in such joint accounts does not pass through the administrator's hands, the administrator as such cannot now be held liable for the collection of the tax on the property here considered. Perhaps the least burdensome of the many

ways suggested for tightening enforcement of the law and facilitating the collection of the tax is the recommendation here made that a joint owner of a bank, savings bank or building association deposit or share account be required at every withdrawal to indicate whether or not one joint owner has died. Where a joint owner certifies that another joint owner has died, the banking institution or building and loan association should be required so to notify the Register of Wills of the proper jurisdiction. The certification by the joint owner should be under penalty in order to secure the receipt of correct information.

It is recommended that all persons charged with the administration of the Inheritance Tax Law make an increased effort to guard against loss of revenue properly due the State, through undervaluation in the process of appraisement of property subject to the tax.

No matter how fair a tax law may be designed to be, there is an effective inequity where one man pays a higher tax than his neighbor, on similar property, because of inadequate standards for valuation. Furthermore, where appraisement is made at figures below actual market value, some measure of the tax is thereby avoided.

It is suggested that those charged with the administration of the inheritance tax law remember particularly the provisions of Section 118 of Article 81 of the Code, which provides for modification, by the Orphans' Court, of an appraisement of personal property where good cause is shown. Furthermore, until at least thirteen months¹ from the date of administration, a reappraisement may be ordered under Section 119 of such Article of the Code. In addition, there is suggested in an opinion of the Attorney General (26 Op. A. G. 403 (1941)) that, if the local assessor has not yet made his return to the State Tax Commission, he should be asked to note in such return that the valuation is erroneous, and the State

¹ It has previously been recommended herein that the period be extended from thirteen to fifteen months.

Tax Commission could review the assessment for purposes of the tangible personal property tax, under Section 221 of Article 93 of the Code. The opinion also suggests that if the time for reappraisal has not expired, the Register of Wills should petition the Orphans' Court, in a proper case, for reappraisal, and the executor should be given an opportunity to be heard.

In an effort to secure the most efficient and equitable administration of the inheritance tax law, it is believed that careful attention to the proper appraisal of property subject to the tax, following definite standards, and continued vigilance by those entrusted with administration are indispensable.

It is believed by the Commission that careful appraisal, followed by reappraisal where necessary, under the existing law is preferable to the adoption of various proposals for permitting an alternative valuation for tax purposes based on sale price during a specified period after decedent's death, without regard to pendency or course of estate administration.

Marital Deduction and Exemption

The Commission has considered the desirability of introducing into the Maryland inheritance tax law either a marital deduction, patterned after that of the federal government, or an appreciable specific exemption from the inheritance tax for property passing to a surviving spouse. Reference may be made to the accompanying schedule for some measure of insight into the manner of treatment of this problem in other states.

It is believed that the provisions surrounding the interpretation and administration of the federal concept of marital deduction are unusually complicated. It is further believed that our present law and practice provide sufficient special consideration for the surviving spouse. Property passing by

reason of survivorship in a tenancy by the entirety passes tax-free. Certain joint interests of a surviving spouse, such as those in a registered U. S. bond, or bank or building association account are tax-exempt. Our statutory provision for enforcing apportionment of the federal estate tax among those who receive property upon the value of which such tax is levied contains special exoneration in favor of the surviving spouse in certain cases.

It is felt, therefore, that no enlarged specific exemption or marital deduction on the federal pattern should be added to our inheritance tax laws at this time.

TABLE XXVII
STATE INHERITANCE TAX EXEMPTIONS FOR INTEREST
PASSING TO SURVIVING SPOUSE

State	Amount of Exemption		For Spouse and Limited Class	For Others
	For Widow	For Spouse		
California	24,000			Less
Colorado	20,000			"
Connecticut			10,000	"
Delaware		20,000		"
Dist. Columbia ...			5,000	"
Idaho			10,000 ¹	"
Illinois			20,000	"
Indiana	15,000			"
Iowa		40,000		"
Kansas		75,000		"
Kentucky			10,000 ²	"
Louisiana			5,000	"
Maine			10,000	"
Massachusetts ...			10,000 ³	"
Michigan		30,000 ⁴		"
Minnesota			10,000 ⁵	"
Missouri		20,000		"
Montana	17,500			"
Nebraska			10,000	"
New Hampshire ...			100%	None
New Jersey			5,000	Less
New Mexico			10,000	"
North Carolina ...	10,000			"
Ohio			5,000 ¹ & ⁴	"
Oregon			100%	"
Pennsylvania ...	750 ⁶			None
Rhode Island			10,000	Less
South Carolina ...		10,000		"
South Dakota			10,000	"
Tennessee		10,000		"
Texas			25,000	"
Vermont			10,000	None
Virginia			5,000	Less
Washington			5,000 ¹	"
West Virginia		15,000		"
Wisconsin	15,000 ⁶			"
Wyoming			10,000	"

¹ Widow or minor child.

² Widow and certain others.

³ Special provision whereby interest is tax-free if less than amount listed as exemption. Also family residence exempt, within limitations.

⁴ Also up to \$3,000 for support.

⁵ If no widow, children claim it.

⁶ Widower's exemption is \$5,000.

California has marital deduction of $\frac{1}{2}$ decedent's separate property if transferred to spouse. N.Y. has no inheritance tax, but has an estate tax, from which there is now a marital deduction which, with but a few exceptions, is copied after the federal law.

The only state having an inheritance tax law but not noted in the above chart is Maryland. Our \$150. exemption, applicable to lineal as well as collateral bequests does not apply to any interest which is more than that amount.

Apportionment of Federal Estate Tax

The Commission has studied the provisions of Section 126 of Article 81 of the Annotated Code of Maryland, relating to the apportionment of the federal estate tax among certain recipients of property included in the gross estate upon which such tax is based. The Commission found this Section to be unusually complex; and, while it is realized that complexity in such a situation is difficult to avoid, it cannot be denied that a statute which is difficult to understand might well stand the addition of interpretive language. The section, designed to solve many of the problems of apportioning the incidence of the federal estate tax, unfortunately contains provisions that have proved lacking in clarity. The Commission has been made aware of wide-spread difficulty in interpretation, particularly of Sub-section 4.

It is felt, however, that Section 126 is not properly classified under Maryland death taxes, in that it only indirectly affects the State revenue, and might more properly be placed in the testamentary article of the Code along with other provisions regulating the descent and distribution of property in Maryland.

APPENDIX I

No. 11

(Senate Joint Resolution 15)

Joint Resolution requesting the Governor to appoint a commission to study the laws of Maryland requiring licenses to engage in a trade or occupation.

WHEREAS, numerous acts heretofore passed by the General Assembly relate to the requirement of obtaining licenses before engaging in certain trades or occupations; and

WHEREAS, it appears that a license procured in one political subdivision of the State authorizing the holder thereof to carry on a trade or occupation is not recognized in other political subdivisions; and

WHEREAS, it is deemed necessary to study said laws with a view to eliminating unnecessary duplications and facilitating the enjoyment throughout the State of the privileges thereby conferred; now, therefore, be it

Resolved by the General Assembly of Maryland, That the Governor be and he is hereby requested to appoint a commission, of such number as he shall determine, to study said licensing laws and to submit its report and recommendations to the Governor and Legislative Council on or before November 1, 1949 and to the General Assembly at the beginning of its next regular session.

Approved April 22, 1949.

No. 13

(Senate Joint Resolution 21)

Joint Resolution requesting the Governor to appoint a special Commission to study the law imposing a tax on gross receipts of certain corporations.

WHEREAS, the law imposing a tax on the gross receipts of certain corporations was first enacted in 1872; and

WHEREAS, the present rates on the gross receipts of railroad, telegraph, telephone and pipe line companies have been

in effect since 1906, notwithstanding the many economic and industrial changes which have taken place in the meantime; and

WHEREAS, serious representations have been made that the present tax on gross receipts is unfair, excessive, discriminatory and economically unsound; and

WHEREAS, it is desirable that a comprehensive study be made of the whole subject of the taxation of gross receipts of corporations as contained in Section 95 of Article 81 of the Annotated Code of Maryland; therefore be it

Resolved by the General Assembly of Maryland, That the Governor be and he is hereby requested to appoint a special Commission of not less than five members to study the law as contained in Section 95 of Article 81 of the Annotated Code of Maryland imposing a tax on gross receipts of certain corporations and the effect of such tax on said corporations, and to submit the results of its study together with any proposed legislation to make its recommendations effective to the Legislative Council on or before October 1, 1949 and to the Governor and General Assembly on or before February 6, 1950.

Approved April 22, 1949.

No. 14

(Senate Joint Resolution 22)

Joint Resolution requesting the Governor to appoint a special commission to study the laws imposing various taxes and licenses.

WHEREAS, numerous bills were introduced at the 1949 Session of the General Assembly to reduce certain taxes or eliminate them altogether, among which were Senate Bill 45, to reduce the franchise tax on deposits of savings banks; Senate Bill 46, to eliminate the gross receipts tax on safe deposit and trust companies; Senate Bill 165, allowing graduate nurses deductions for certain expenses in computing income tax; Senate Bill 194, reducing the income tax on investment income; Senate Bill 214, increasing the exemption of farming implements; Senate Bill 215, granting a \$2,000. exemption for stock in business; Senate Bill 217, authorizing

the inclusion of dividends in using the optional method of computing the income tax; Senate Bill 302, allowing deduction in transactions entered into for profit; Senate Bill 311, relating to the calculation of the inheritance tax on the sale price of real estate in certain situations, and other bills either in the House or Senate, relating to taxation; and

WHEREAS, the members of the General Assembly could not within the limited time at their disposal have given sufficient consideration to these numerous proposals for the purpose of determining whether they were inequitable and imposed undue hardships; and

WHEREAS, it is desirable that a study be made of all of the different kinds of taxes which are at present imposed with a view to submitting recommendations at the next session of the General Assembly; now therefore be it

Resolved by the General Assembly of Maryland, That the Governor be and he is hereby requested to appoint a special commission of not less than five members to study the laws imposing various taxes and licenses and especially to study the question of inequalities which may exist at the present time in these taxes and to submit the results of its study, together with any proposed legislation to make its recommendations effective to the Legislative Council on or before October 1, 1949 and to the Governor and the General Assembly on or before February 6, 1950; and be it further

Resolved, That the Governor be and he is hereby requested to make available such funds as may be necessary to carry into effect the purposes of this resolution.

Approved April 22, 1949.

APPENDIX II

MARYLAND TAX SURVEY COMMISSION OF 1949
10 LIGHT STREET, 25TH FLOOR
BALTIMORE 2, MD.

Richard W. Case,
Chairman

E. Dale Adkins
J. Kemp Bartlett
Frederick W. Brune
Harry Cohen
H. Vernon Eney
Henry C. Evans
John B. Funk
Charles S. Garland
Owen E. Hitchins
William J. McWilliams
John McC. Mowbray
J. Millard Tawes
Albert W. Ward
C. B. Windsor

John H. Cover,
Elwyn A. Mauck,
Consultants
Crombie J. D. Garrett,
Reporter

January 12, 1950

Governor William Preston Lane, Jr.,
Executive Department,
State House,
Annapolis, Maryland.

Dear Governor Lane:

As Chairman of the Maryland Tax Survey Commission I submit herewith, in letter form, the recommendations of the Commission regarding a program of tax reduction for the year 1950.

Historical Statement

On June 16, 1949, you made public the names of the persons whom you had appointed as members of the Maryland Tax Survey Commission. Thereafter, on June 28, 1949, the Commission held its first meeting at which time general organizational work was undertaken. At this same meeting, a question was raised concerning the scope of the Commission's activities. In defining this scope, you wrote to the Commission on July 1, 1949, that it "would perform a much greater

service to the State if (the Commission) considered the subject in its entirety, and studied the entire tax structure from the standpoint of correction of inequalities”.

From time to time thereafter you received numerous communications from individuals and organized groups urging you to recommend various tax reductions to the 1950 session of the General Assembly. You forwarded these requests to the Commission for consideration in its comprehensive study of the State tax field.

On September 9, 1949, the Commission met to discuss various matters incident to its general study. At this meeting, the Chairman asked for a general discussion concerning the question of making early recommendations for tax reduction, and in this connection called attention to the fact that numerous proposals for tax relief had been received by you from others and had been forwarded by you to the Commission. After fully discussing the matter, the Commission was of the opinion:

(a) That the question of tax reduction was necessarily geared to the question of the fiscal requirements of the State, a matter not within the scope of the Commission's reference.

(b) That the question of tax reduction, as such, should not be considered a part of the Commission's formal assignment unless such reductions were necessary to alleviate tax inequities. In this connection economic tax burden and “tax inequity” were not considered to be one and the same.

(c) That the Commission would be glad to advise or assist you or the members of the General Assembly in forming a program of tax reduction so long as the program (1) was based upon budget information supplied to the Commission by your office and (2) was not considered to be in lieu of or as a bar to other recommendations for tax reduction which the Commission might later make for the purpose of relieving existing tax inequities. The Commission was well aware of the difficulties involved in making piecemeal recommendations for tax reductions instead of submitting at one time a comprehensive plan based upon its full studies.

You were notified of the Commission's conclusions outlined above. Thereafter, while realizing this difficulty with which the Commission was confronted, you requested it to continue its study of possible methods of tax reduction with a view toward giving you advice and assistance in the preparation of a fiscal program to be submitted to the 1950 session of the General Assembly.

During the late fall a sub-committee of the Commission was appointed to consider this matter and was greatly assisted in its task by the office of the Comptroller, which furnished data as to the effect of various possible tax reductions. This assignment was completed during the last week in December and the sub-committee's report was submitted to the Commission at its meeting held January 11, 1950. The recommendations which follow are the result of Commission action taken on January 11.

General Considerations

In making the recommendations listed below, the Commission has been guided by certain fundamental considerations. These considerations, which have been anticipated in part above are as follows:

(1) The recommendations are predicated upon budget information which you have supplied to the Commission. This information is to the effect that General Fund revenues may be cut by from \$1,000,000 to \$1,250,000. These budget estimates place an outside limit upon the *amount* of tax reduction suggested in the program outlined below.

(2) The program outlined below does not foreclose the Commission from making other recommendations for tax reduction at a later date if the Commission, after a full study, is satisfied that such reductions are necessary to eliminate existing tax inequities or inequalities. Moreover, the Commission may, after a more complete study of the existing tax laws recommend that the suggestions contained herein be modified or even repealed in favor of other changes found to be more in keeping with a sound tax structure which is to obtain for the long term future.

(3) The program outlined below is based upon your request that the broadest possible base be selected as the object of tax relief consistent with sound principles of tax law.

(4) The tax relief proposals included herein are intended to preserve, as far as is practicable, and not to reduce the

amount of state taxes now being received by the local political subdivisions of the State.

(5) Tax relief should not extend to dedicated State revenues.

Revenue Measures Reviewed

(1) The bulk of the revenue received from the admissions tax, the recordation tax and the license laws is allocated to the local political subdivisions. For the reasons expressed above, no recommendation for tax reduction is made with respect to these measures. In addition, the Commission will submit to you and to the members of the General Assembly, within the very near future, a comprehensive report on the State license laws. This fact alone would foreclose recommendations with respect to the license laws in this letter.

(2) Revenues received from the gasoline tax, motor vehicle fees and fines, and the motor vehicle titling tax are funds dedicated to the State highway program. For the reasons stated above, no recommendation for tax reduction is made herein with respect to these measures.

(3) A sub-committee of the Commission has, for the past five months, undertaken an exhaustive study of the complex questions surrounding the gross receipts tax. Public hearings have been conducted by this sub-committee and it has held many other meetings. It is doubtful at the present time whether a report on the gross receipts tax will be made in time for action by the 1950 session of the General Assembly. Since the Commission will make complete recommendations with respect to this revenue measure at a later date, it was thought desirable to exclude it from consideration in this report.

(4) Corporate taxes administered by the State Tax Commission (other than those specifically mentioned herein) were found to be not sufficiently broad in application to come within the scope of your request for advice in this matter. The same reason has precluded consideration of the Insurance Premium Tax and the tax on Racing. In addition, the revenues derived from racing are allocated, in part, to the local political subdivisions and this is an added reason why no recommendation for tax relief is made in that field.

(5) The taxes on alcoholic beverages (beer, wine and liquor taxes) are generally considered to be taxes on luxury

items. This leads to the conclusion that the impact of these revenue measures is not upon a sufficiently broad basis to warrant tax relief at this time.

(6) Maryland death taxes, which include the direct and collateral inheritance tax, the estate tax, and the tax on executors' and administrators' commissions, are not unduly burdensome. Moreover, the inheritance tax is used, in part, to service the emergency bond issue of 1935. No recommendation is made herein with respect to a change in the rates of these taxes at the present time.

(7) The state property tax rate is fixed by law at each session of the General Assembly in an amount sufficient to pay the principal and interest on the state debt within fifteen years from the time that the debt was incurred. This legislation is dictated by Section 34 of Article III of the State Constitution. We are not in a position to know whether additional state debt will be authorized at the forthcoming session of the General Assembly. Moreover, a large amount of State bonds now authorized under existing legislation have not been issued, and we do not know whether or when these bonds will be sold. Accordingly, no recommendation can prudently be made at this time with respect to the state real estate tax rate. However, we do recommend that the annuity bond fund be analyzed for the purpose of determining whether accruals to that fund have not built up a sufficiently large reserve to warrant a reduction in, or at least a stabilization of, the State real estate tax rate for the coming years.

(8) The Commission has given consideration as to whether tax relief might appropriately be afforded through a reduction in the sales and use taxes. Tax relief through the medium of the sales and use taxes could take the form of either (a) a reduction in the rate of tax, or (b) an increase in the exemption level on sales from fourteen cents which presently obtains to some higher figure, or (c) the granting of an exemption to some specific article or class of items, the sale of which is now subject to tax. These suggestions will be discussed below in the order named.

Rate Reduction. The sales tax is based upon the amount received for a sale at retail (as defined by the Act) and is calculated at 2% of such sales on a bracket system. (The following discussion applies equally to the use tax.) Undoubtedly some tax relief would be forthcoming if the "bracket

system" of calculating the tax were supplanted with a gross revenue tax calculated at an exact two percent. But such a change would fundamentally alter the type of tax itself and would involve considerable practical departures from the existing tax and would add to the difficulties of calculation, collection and administration to such an extent as to cause this method of tax reduction to be viewed unfavorably at this time.

Bracket Increase. We have studied the possibility of increasing the exemption level on sales from thirteen cents to some higher figure. We are informed by the Comptroller's office that the revenue loss would be approximately \$1,050,000 if sales up to sixteen cents were excluded and \$1,200,000 if sales up to nineteen cents were excluded. However, by increasing the exemption bracket, the sale of many items which are not necessities would become tax free, and its relative desirability seems very questionable.

For the reasons stated above the Commission has concluded that no change should be made in the exemption level on sales from thirteen cents to a higher figure.

Specific Exemptions. The Commission has given consideration to recommendations which would in effect exempt certain particular items from the impact of the sales tax. However, it is difficult, if not impossible, to select an item for exemption which would afford substantial tax relief and at the same time treat all taxpayers fairly. For example, the Commission has had detailed studies made of the revenue loss incident to the exemption of soap, soap powders, soap cleansers from the tax. While it would seem that this item is one of general use the tax relief incident to its exemption would not be large. Moreover, the Commission is not convinced that an exemption of these items would produce maximum equity if some other type of property of general use remained taxable. We have also given consideration to the fact that the removal of one class of property from the impact of the sales tax might establish a precedent for the exemption of other items, thus seriously depleting the basis of the tax itself. For these reasons, we have concluded that the exemption of one or more specific articles from the scope of the sales and use taxes is not warranted at this time.

(9) We have concluded that a program of tax relief within the budget limits outlined above would best be afforded at the present time through the medium of the income tax."

In this connection, we have canvassed a variety of proposals including (a) a reduction in the rate of tax on the first \$5,000 of investment income from 5% to 2%; (b) the granting of an increased allowance for dependents; (c) a modification in the use of the "short form" of reporting taxable income and (d) the granting of an additional exemption for persons 65 years of age and over. In reviewing each of these possibilities, we have searched for proposals which would afford tax relief to the largest group of Maryland taxpayers.

Our consideration of this matter has been based upon a comprehensive study of all 1947 income tax returns prepared by the State Comptroller (hereinafter referred to as the Comptroller's study). From this study, it appears that the proposal to tax the first \$5,000 of investment income at the 2% rate would affect approximately 51,295 returns out of a total of 320,985 taxable returns filed. The revenue loss incident to this proposal would, based upon the Comptroller's study, be approximately \$1,298,300. The details of this analysis are appended hereto as "Appendix A".

The Commission is of the opinion that some relief should be granted to taxpayers who report and are taxed upon investment income. However, the proposal that the first \$5,000 of investment income should be taxed at the rate of 2% would more than consume the amount of tax relief now available and would benefit only a small percentage of the Maryland taxpayers. Accordingly, we recommend that the relief in this direction be afforded by a broadened use of the "short form" of reporting and that the specific proposal here considered be not adopted.

Approximately 50% of the Maryland income taxpayers report from \$2,500 to \$5,000 of net taxable income. While this group pays 30% of the total tax bill, it is burdened (economically) with 67% of the claimed dependents. It seems only just, therefore, that this group be given the major portion of the tax relief currently available.

Accordingly, the Commission recommends that the credit for dependents be increased from \$400 to \$600. Based upon the Comptroller's report, this recommendation will effect no less than 211,300 dependents and will give direct tax relief in at least 186,000 returns. However, the proposal will reduce the current basis of taxable income by an estimated \$42,267,800 and will produce a total revenue loss to the State in an

amount of approximately \$988,800. A table showing the effect of this recommendation is appended hereto for your information and is marked "Appendix B".

At the present time, persons having in excess of \$100 of investment income must use the long form in reporting their tax. In so doing, these persons are required to itemize their deductions in full (in lieu of using the \$500 standard deductions available on the short form) and must pay a tax at the full 5% rate on their entire net taxable investment income. As previously stated, some relief should be given to this group. Accordingly, it is recommended that all persons having up to \$500 of investment income be permitted to use the short form for the purpose of reporting their tax liability. Inequalities due to the different treatment of deductions on the long and short forms merits and will receive the further study of the Commission.

It is estimated that the proposal made above will affect approximately 37,000 taxable returns. The total loss in State revenues should be approximately \$158,800.

The 1940 census indicated that there were approximately 154,000 persons in Maryland who are over 65 years of age. During recent years, this group, on the national level, has been given a measure of income tax relief. Such relief would, of course, further assist persons in Maryland whose entire income consisted of investment returns, since it is common to find persons of 65 years of age or over depending almost entirely upon such income for support.

Accordingly, the Commission recommends that an additional personal exemption be granted to persons who are 65 years of age or over. We suggest that the necessary legislation in this connection be patterned after the Federal law which provides that the exemption may be taken in those cases in which the individual attains age 65 on or before the last day of the taxable year covered by the return.

The granting of an additional personal exemption for persons who have attained the age of 65 years would, in all probability, affect some 18,000 returns. We estimate that the revenue loss to the State in this regard would amount to approximately \$70,000.

It has been pointed out that the proposals for reducing the income tax discussed above would, in effect, create that reduc-

tion by shrinking the net taxable income basis. In this connection, it must be remembered that the local political subdivisions of the State share in the income tax by means of an application of a set percentage to the net taxable basis. It is obvious, therefore, that a reduction in the basis would automatically reduce the share of State income tax revenues received by the local political subdivisions assuming that the allocation percentages remained the same.

One of the principles upon which this report is made is to the effect that no tax reduction on a State level should reduce the share of State revenues received by the local units of Government. Accordingly, it is necessary to calculate a new percentage governing the allocation of income tax revenues to the local political subdivisions which will produce on the new (and reduced) basis the same amount of revenue that the old allocation percentages produced on the old basis.

The current allocation percentages are .625% on earned income and 1.50% on investment income. If these percentages remained the same after the income tax reductions proposed herein became law, it is estimated, based upon the Comptroller's study, that the City of Baltimore would sustain a revenue loss of approximately \$175,000 and that the Counties would have a similar loss of approximately \$185,000. Accordingly, we recommend that the allocation percentages be increased to .675% on earned income and 1.625% on investment income. Based upon the Comptroller's study, it is estimated that the application of these percentages to the new taxable basis will completely absorb any loss which the local units of government might sustain through the adoption of the recommendations made herein.

In making the recommendation contained in this report, the Commission has considered the various proposals which have been submitted to you in the past by interested persons or groups. In addition, the Commission has received invaluable service from the office of the State Comptroller and his able staff. We anticipate that the recommendations made herein will benefit a total of well over 225,000 taxpayers who file income tax returns and will occasion a revenue loss to the State of approximately \$1,216,000.

Sincerely yours,

/s/ RICHARD W. CASE,

RWC:MCN

Chairman.

EXHIBIT A

APPROXIMATE EFFECT ON REVENUES OF CERTAIN INCOME TAX PROPOSALS
(Based on personal income tax returns for 1947 fiscal year)

Sec. A. To Tax First \$1,000 Investment Income at Rate of Two Per Cent

	Returns with Taxable Investment Income of Less Than \$1,000	Returns with Taxable Investment Income of \$1,000 or More
1. No. of returns.....	42,776	11,488
2. \$1,000 per return or less taxable at 5%	\$9,753,480	\$11,488,000
3. Revenue at 5%.....	487,674	574,400
4. Revenue at 2%.....	195,070	229,760
5. Revenue loss	\$ 292,604	\$ 344,640
6. Total Revenue Loss.....		\$ 637,244

Sec. B. To Tax First \$2,000 Investment Income at Rate of Two Per Cent

	Returns with Taxable Investment Income of Less Than \$2,000	Returns with Taxable Investment Income of \$2,000 or More
1. No. of returns.....	47,488	6,776
2. \$2,000 per return or less taxable at 5%	\$16,406,980	\$13,552,000
3. Revenue at 5%.....	820,349	677,600
4. Revenue at 2%.....	328,140	271,040
5. Revenue Loss	\$ 492,209	\$ 406,560
6. Total Revenue Loss.....		\$ 898,769

Sec. C. To Tax First \$3,000 Investment Income at Rate of Two Per Cent

	Returns with Taxable Investment Income of Less Than \$3,000	Returns with Taxable Investment Income of \$3,000 or More
1. No. of returns.....	49,128	5,136
2. \$3,000 per return or less taxable at 5%	\$20,941,240	\$15,408,000
3. Revenue at 5%.....	1,047,062	770,400
4. Revenue at 2%.....	418,825	308,160
5. Revenue Loss	\$ 628,237	\$ 462,240
6. Total Revenue Loss.....		\$ 1,090,477

Sec. D. To Tax First \$4,000 Investment Income at Rate of Two Per Cent

	Returns with Taxable Investment Income of Less Than \$4,000	Returns with Taxable Investment Income of \$4,000 or More
1. No. of returns.....	50,664	3,600
2. \$4,000 per return or less taxable at 5%	\$25,374,820	\$14,400,000
3. Revenue at 5%.....	1,268,741	720,000
4. Revenue at 2%.....	507,496	288,000
5. Revenue loss	\$ 761,245	\$ 432,000
6. Total Revenue Loss.....		\$ 1,193,245

Sec. E. To Tax First \$5,000 Investment Income at Rate of Two Per Cent

	Returns with Taxable Investment Income of Less Than \$5,000	Returns with Taxable Investment Income of \$5,000 or More
1. No. of returns.....	51,295	2,969
2. \$5,000 per return or less taxable at 5%	\$28,431,930	\$14,845,000
3. Revenue at 5%.....	1,421,596	742,250
4. Revenue at 2%.....	568,639	296,900
5. Revenue loss	\$ 852,957	\$ 445,350
6. Total Revenue Loss.....		\$ 1,298,307

EXHIBIT B

TABLE SHOWING NUMBER OF DEPENDENTS BY INCOME GROUPS AND AMOUNT OF
ADDITIONAL CREDIT ACCRUING TO TAXPAYERS BY INCREASING CREDIT
FOR DEPENDENTS FROM \$400 TO \$600 BASED ON TAXABLE
RETURNS FOR CALENDAR YEAR 1947

Net Income Group	Number of Dependents	Total Credit @ \$400	Total Credit @ \$600	Amount of Additional Credit	Percent of Total
Under —\$ 1,500	276	\$ 110,400	\$ 165,600	\$ 55,200	.13%
\$ 1,500— 1,999	2,710	1,084,000	1,626,000	542,000	1.28
2,000— 2,499	12,683	5,073,200	7,609,800	2,536,600	6.00
2,500— 2,999	35,836	14,334,400	21,501,600	7,167,200	16.96
3,000— 3,999	68,878	27,551,200	41,326,800	13,775,600	32.59
4,000— 4,999	36,978	14,791,200	22,186,800	7,395,600	17.50
5,000— 5,999	17,288	6,915,200	10,372,800	3,457,600	8.18
6,000— 6,999	9,015	3,606,000	5,409,000	1,803,000	4.27
7,000— 7,999	6,427	2,570,800	3,856,200	1,285,400	3.04
8,000— 8,999	3,269	1,307,600	1,961,400	653,800	1.55
9,000— 9,999	2,862	1,144,800	1,717,200	572,400	1.35
10,000— 11,999	4,035	1,614,000	2,421,000	807,000	1.91
12,000— 14,999	3,484	1,393,600	2,090,400	696,800	1.65
15,000— 19,999	3,233	1,293,200	1,939,800	646,600	1.53
20,000— 24,999	1,774	709,600	1,064,400	354,800	.84
25,000— 29,999	917	366,800	550,200	183,400	.43
30,000 and Over	1,674	669,600	1,004,400	334,800	.79
	211,339	\$84,535,600	\$126,803,400	\$42,267,800	100.00%

APPENDIX III

GROSS RATE OF INTEREST EARNED ON DEPOSITS
IN MUTUAL SAVINGS BANKS IN MARYLAND: 1934-1949

Year	Gross Interest Income From Investments ^a	Amount Due Depositors (000) ^b	Rate Earned on Deposits	
			Amount	% of 1934 Rate
1934	\$ 9,517,609	\$194,549	4.89%	100%
1935	9,237,864	204,451	4.51	92
1936	8,964,012	212,619	4.22	86
1937	8,919,888	219,586	4.06	83
1938	8,359,508	222,669	3.76	77
1939	7,916,815	224,310	3.53	72
1940	7,300,566	226,801	3.22	66
1941	7,304,316	227,731	3.21	66
1942	7,914,513	231,458	3.42	70
1943	7,367,862	249,164	2.96	61
1944	8,235,310	281,653	2.92	60
1945	9,067,944	324,613	2.79	57
1946	10,226,666	366,026	2.79	57
1947	10,516,246	388,240	2.71	55
1948	10,833,352	395,179	2.75	56
1949	11,239,110	397,682	2.83	58

^a Data furnished by the banks. Gross income before any expenses and taxes.^b Data from reports of the Bank Commissioner. Figures are the average of the amounts due depositors, January 1, and December 31, each year.

Source: Mutual Savings Banks of Maryland.

APPENDIX IV

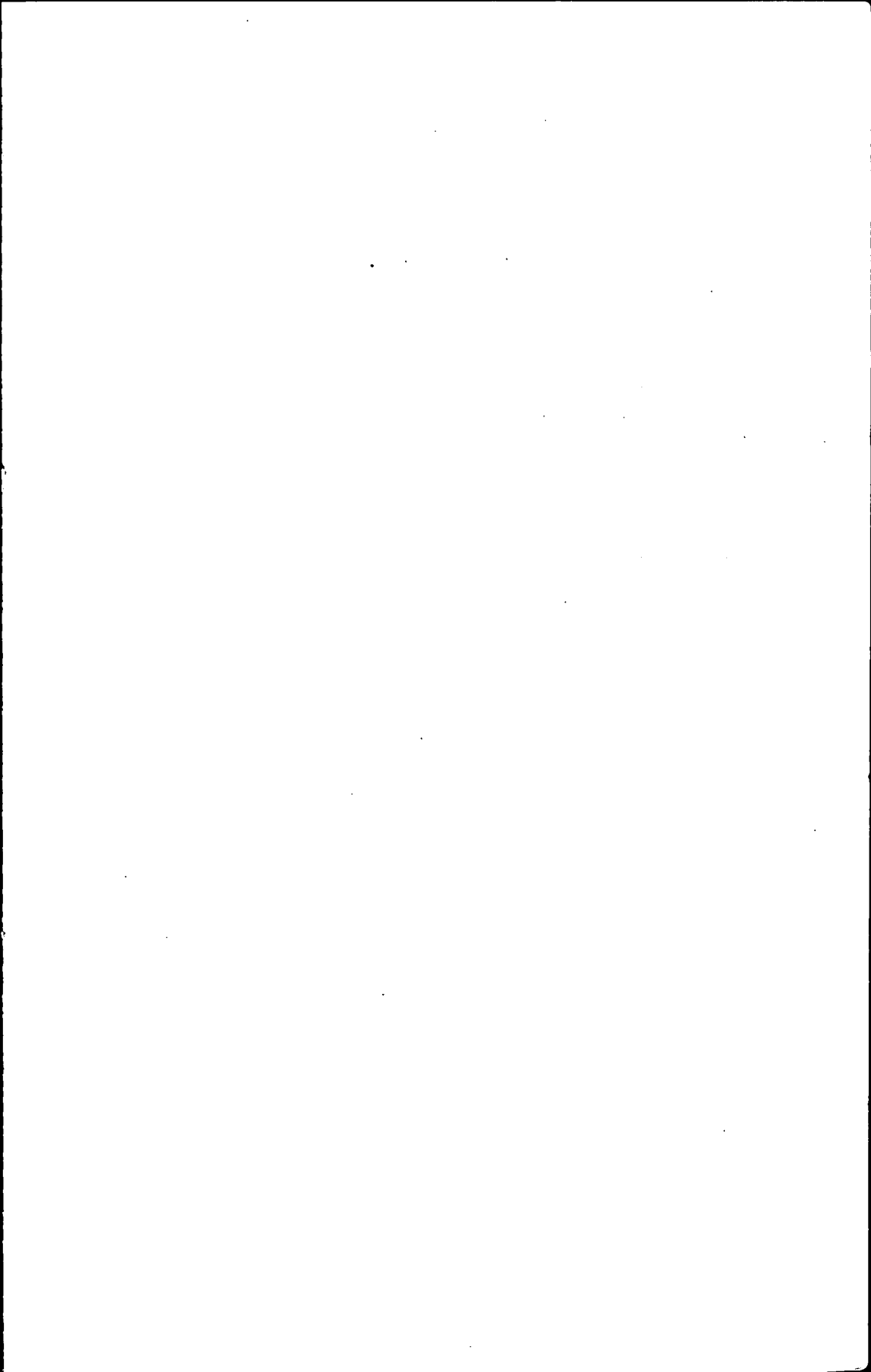
MUTUAL SAVINGS BANKS IN MARYLAND

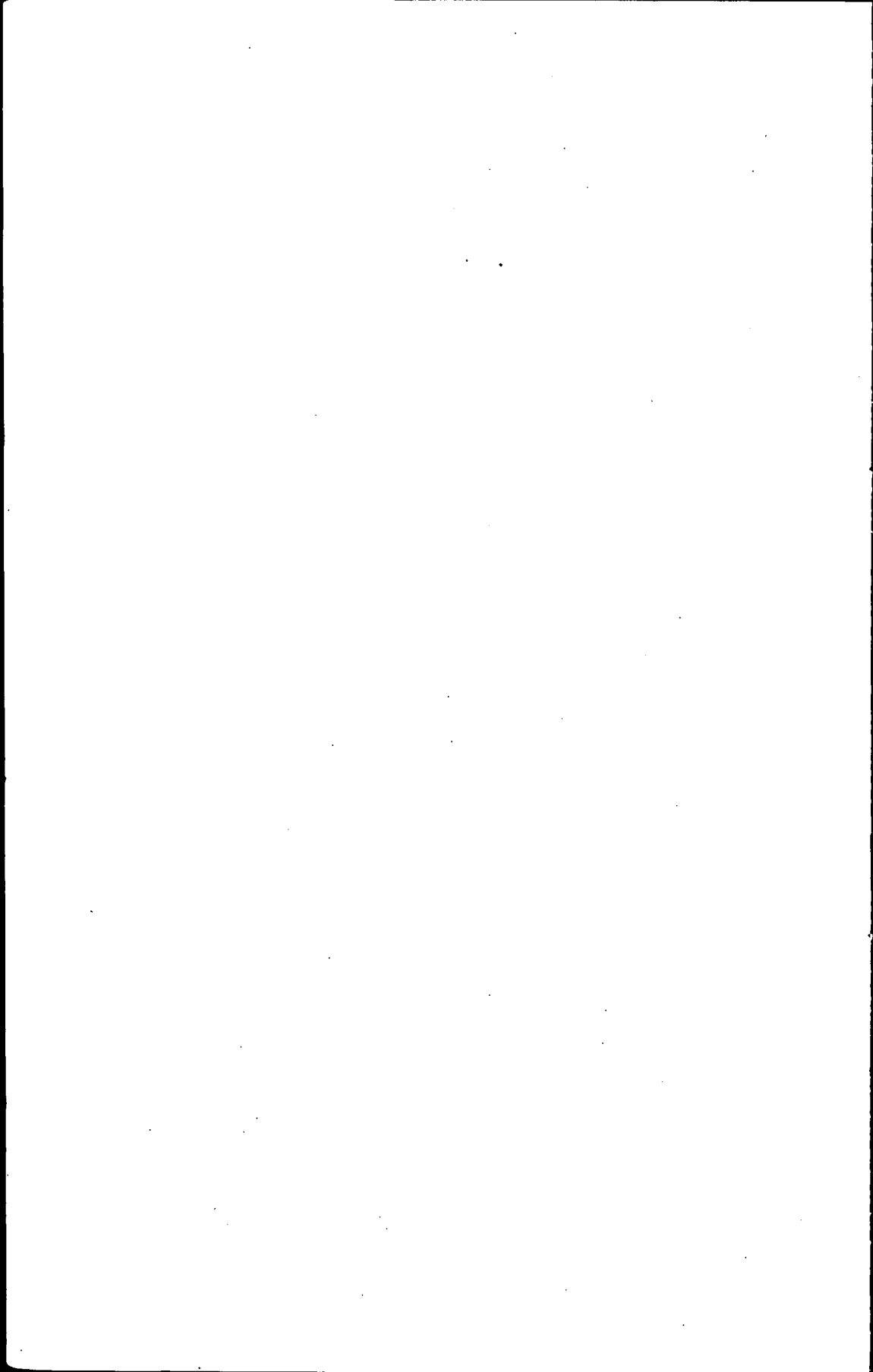
Net Rate of Interest Earned on Deposits, 1934-49

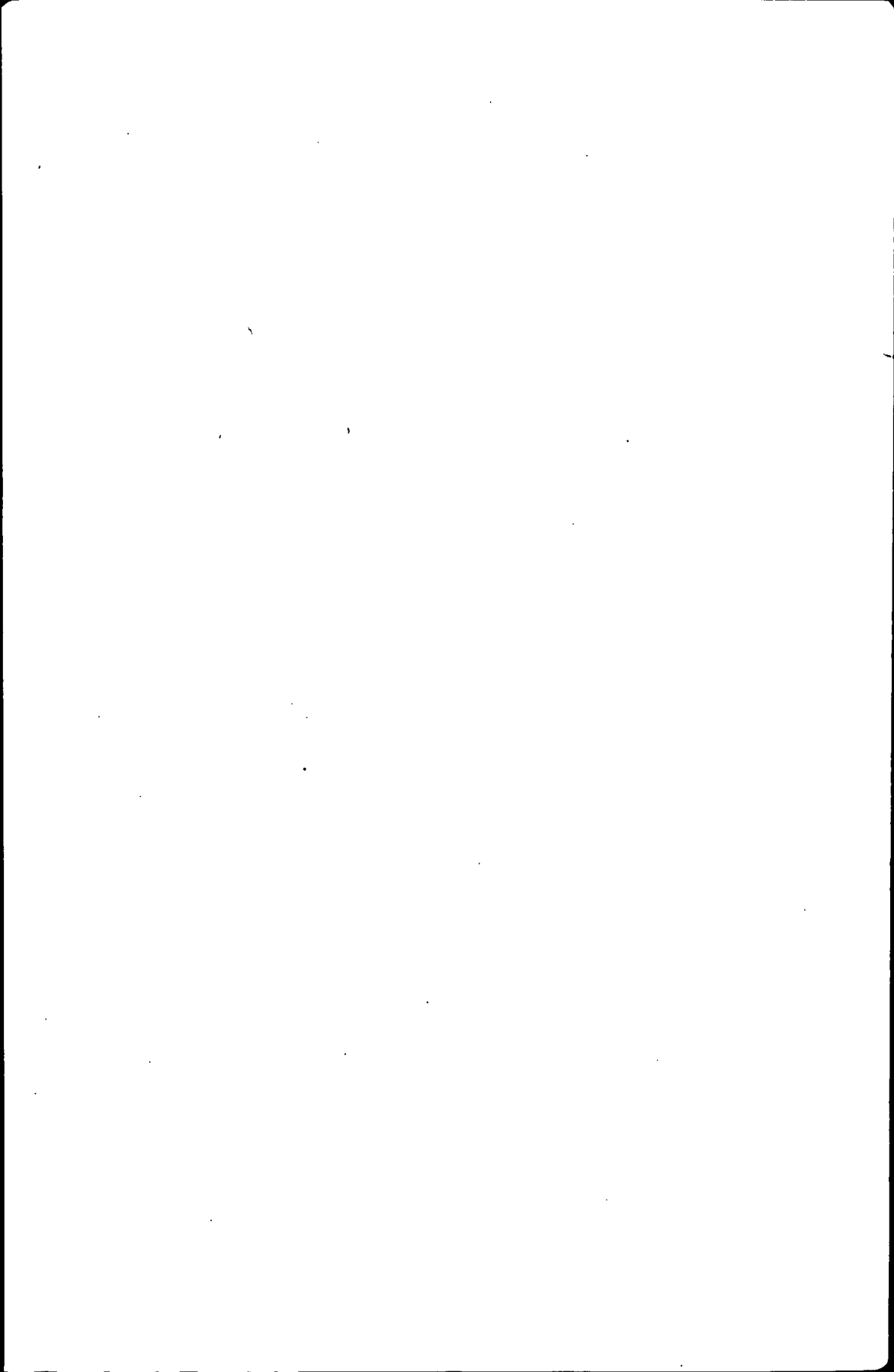
Year	Amount Due Depositors ^a (000)	Net Interest Income Before Taxes & Interest Paid Depositors ^b	Rate Earned on Deposits	
			Amount	% of 1934 Rate
1934	\$194,549	\$8,615,149	4.43%	100%
1935	204,451	8,315,745	4.07	92
1936	212,619	8,034,306	3.77	85
1937	219,586	7,971,143	3.63	82
1938	222,669	7,381,763	3.31	75
1939	224,310	6,976,767	3.11	70
1940	226,801	6,328,134	2.79	63
1941	227,731	6,286,896	2.76	62
1942	231,458	6,841,202	2.95	67
1943	249,164	6,294,313	2.52	57
1944	281,653	7,107,202	2.53	57
1945	324,613	7,831,201	2.41	54
1946	366,026	8,779,839	2.40	54
1947	388,240	8,833,005	2.27	51
1948	395,179	9,104,838	2.30	52
1949	397,682	9,387,925	2.36	53

^a Data from reports of the Bank Commissioner. Figures are the average of the amounts due depositors, January 1, and December 31, each year.^b Data from published reports of the banks. Income is after operating expenses, but before taxes and interest paid depositors.

Source: Mutual Savings Banks of Maryland.







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