The Gasoline Tax Among the States of the United States.

by

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Foreword

It shall be the purpose of this study to critically study and evaluate the reasons why the gasoline tax has spread to thirty-five states and why it is being advocated in many more, to ascertain how important a tax it is from the revenue standpoint, to find out how it is and from whom it is collected and also to find out how the proceeds are distributed, to discover what provisions are made for exemptions from the tax, to consider its incidence, to consider it as a means of reducing the tremendous consumption of gasoline, and, lastly, to formulate a model gasoline tax procedure of the various states.

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Errrata

P.29 " Georgia increased from two to three cents". Should be one to three cents.

Chapter I

"Origin and Purposes of the Gasoline Tax."

I Purposes of taxes.

Practically all tax laws that are passed by state legislatures or by Congress are aimed to raise revenue or serve as a means of social control. Conspicuous among the taxes for revenue, primarily, are the income tax, the general property tax, and the internal revenue duties, though in the latter case, such taxes have been used as a means to regulate the habits of the people. The gasoline tax has been used entirely for revenue purposes. However, it might be used for regulating the consumption of gasoline by the people.

II First proposals for gasoline taxes as sources of revenue.

A- Federal Government.

The first important proposal for a gasoline tax as a source of revenue was made by President Wilson in his address to Congress on December 7, 1915, when he said, " A tax of one cent per gallon on gasoline and naptha would yield at the present estimated production, $10,000,000."[1] At that time

1. Congressional Record-64th Congress, 1st Session, Vol. 53, Part I page 98

the United States government was having heavy expenses to meet. The European war had begun and there was a great deal of uncertainty, on the part of the government, as to how much revenue the tariff would bring in.

The above recommendation of the President was not seriously considered; however, it did provoke some interesting comment among a few papers, such as the Horseless Age, the oldest automobile magazine in America. This magazine replied to President Wilson and Secretary Mc Adoo in the following words: " What gasoline is to automobiles, oats are to horses, so let's tax oats, too, and see what revenue we can get from that source. A levy of three cents per bushel on oats would be the equivalent ad valorem to one cent per gallon on gasoline. As the production of oats amounts to about 1,153,000,000 bushels per year, according to the Department of Agriculture, the revenue to be derived from the tax which we propose would amount to $34,590,000, quite a tidy little sum and more than three times what the President hopes to get from his tax on gasoline."[2] This statement reflects fairly accurately the sentiment of the people on the occasion of the first serious proposal of

2. Horseless Age. V 36: 524-25 (December 15, 1915)

such a tax. Undoubtedly, many people felt that if revenue is wanted, even oats, horse feed, would yield more.

Again, in 1918, a tax on gasoline for revenue purposes was proposed.[3] This time it appeared in the House Revenue Bill of 1918 which provided for a two cent per gallon tax on gasoline. However, this provision was not included in the final draft of the Revenue Bill of 1918.

B Oregon in 1919.

During the same year, 1918, agitation for such a tax began in the State of Oregon. The people of Oregon, thru the initiative, decided in favor of a gasoline tax. And so the first gasoline tax law was placed on the statute[4] books of an American state in 1919 and became effective February 25, 1919.

C Reasons for consideration by states.

While the purpose of gasoline taxes was revenue, this revenue was to be devoted to road building and maintenance purposes. The automobile is a luxury of the Twentieth Century. Twenty-five years ago, the automobile industry

3. House Report #767, 65th Congress, 2nd Session.
4. Laws of Oregon, 1919, Chapter 159.

amounted to nothing. Mr. A. R. Hirsch, State Highway Engineer of Wisconsin[5] states that in 1904 there were in operation in America about 58000 automobiles. There were practically no motor trucks. In 1914, there were registered 1,711,339 automobiles and motor trucks. In 1919, there were registered 7,530,105 automobiles and motor trucks. At present, there are over 14,000,000 trucks and automobiles in use. In 1904, the rural highway expenditures of America are reliably computed to have been $59,527,000; in 1914, $240,264,000; in 1919, $389,466,000; and in 1923, $800,000,000. The road-bed for automobiles is furnished by the public. Automobiles for economical operation require a better type of road than the old horse drawn vehicle required. The figures plainly show that roads cost money. Someone proposed that the people who use the roads should pay for them. Furthermore, some maintained that many people who did not live adjacent to the roads used them.

As a result of changed conditions, there developed a newer theory of highway financing. The benefit district should not bear the whole cost of highways since the people living in the district do not secure the whole gain. License fees for motor cars were increased and funds secured in this way were devoted to highway purposes. But there is

5. Engineering News-Record 91:967 (December 13,1923)

a limit to the fair increase of license fees. If such fees are placed too high, they become an unfair burden on the parties who use their cars little and the burden becomes relatively light on cars that use the roads a great deal. A tax on gasoline measures far more accurately than a license fee the wear and tear on a highway from an automobile passing over the highway because the amount of gasoline consumed by a car does bear a close relation to the weight of the car, the speed at which it is traveling, and the distance traveled. These last named factors bear a close relation to the wear and tear on the road.

D Other states adopt taxes in 1919 and 1920.

Other states, recognizing the above arguments and others which will be more carefully considered in the next chapter, followed the example of Oregon and passed gasoline tax laws. North Dakota's statute was approved March 6, 1919, that of New Mexico, March 17; Colorado, April 9. The following year on March 23, Kentucky passed the gasoline tax law. In all of these states, revenue was the aim and that revenue was to be used primarily for highway purposes.

III Gasoline Tax as a means of social control.

There is another purpose for which a gasoline tax might be used. However, this use has never been mentioned in any arguments in favor or against gasoline tax measures. Geologists of the United States Geological Survey have reported that at the present rate of consumption the known oil supplies of the United States will last but little longer than twenty years. This possible shortage of oil in the United States is a serious economic and social problem. Many thoughtful men and women sincerely believe that the government should make an effort to stop the extravagant use and waste of oil products in the present and should attempt to save a part of the supply for the future. The important part of the oil product is the lubricants which constitute about five percent of the refined product. Lubricating oils can be secured from oil shales of which the United States has a good supply, but the process of manufacture is very expensive. The time has gone by when kerosene was the main product of petroleum. Today gasoline is the chief product. Production of oil continues to mount higher and higher to meet the demand for gasoline. The resources are being depleted rapidly. The question is, Will a gasoline tax reduce the consumption so as to allow partial conservation for the future?

Chapter II

"Arguments for and against the Gasoline Tax."

Any comparatively new tax that can sweep the country as the gasoline tax has must have some very strong arguments back of it. Such a tax will encounter opposition also. In the case of the gasoline tax, oil men whose product is taxed, automobile producers in whose product the gasoline taxed is used, highway engineers who are promoting highways for the public good, and the ordinary consumer himself are equally interested.

I Arguments for:

A Measures use of road.

Undoubtedly, the strongest argument in favor of the tax is that it measures the use of the road. There is a direct relationship between the use of highways by motor vehicles and the quantity of motor fuel consumed in furnishing the motive power thereof as well as a direct relation between the weight of motor vehicles using such highways and the distance which such motor vehicles will travel by such motive power per unit of weight. It is deemed that the weight of the motor vehicle and the distance traveled have a direct bearing on the damage to the highways and the wear thereof. The speed also has an effect on the wear.

The State of Maryland included such arguments as the above in the Preamble to the Maryland Statute.[6] Similar views were expressed by A. R. Hirsch, Highway Engineer of Wisconsin.[7] This same argument was used with great force in Mississippi, Connecticut, Kentucky, Washington, and many other states which reported to the Department of Highways of Nevada during the latter part of 1922, while that Department was studying the question of raising state highway funds by taxing gasoline.[8]

Mr. Hirsch in his article in the Engineering News-Record on " What Car Owners Should Pay for Road Building"[7] discussed the various types of taxes on cars and car owners and indicated what he considered fair. His contention was that the motor vehicle owners of each state should each year pay for their highway service one half of the total amount made available that year to pay the cost of the state highway program, after deducting from said amount the total amount made available to pay the cost of the state's highway program in the year 1904. This proposal means that the owners

6. Maryland Laws, 1922. Chapter 522.
7. Engineering News-Record 91: 967-8 (Dec. 13, 1923)
8. Public Works 54: 126-7 (April 1923)

of motor vehicles would pay one-half of the cost imposed upon government by their ownership of motor vehicles. Translated into national figures, this formula means that based on total highway expenditures of $200,000,000 in 1914 and $1,000,000,000 in 1923, the motorist should have paid $400,000,000 in 1923 for the use of highways. As a matter of fact, motorists only paid $200,000,000. The increased sum of $200,000,000 which owners of motor vehicles did not pay must come from taxes. Mr. Hirsch looks upon the gasoline tax as one source of this revenue. " There should be a valuation tax upon motor vehicles" he says, " if there is to be a valuation tax upon any class of personal property.[9]" However, he sees nothing fair about a horse-power tax. "Horse-power bears little or no relation to the speed, the weight, the value, or the use of a motor vehicle. There are at least thirty-two passenger car models on the American Market which have the same or less horse-power than the Ford. These thirty-two models weigh[9] from 1600 to 3500 pounds and retail at $500 to $2500." Licensing by weight he considers an attempt to classify the relative destructiveness of various cars and he believes in a graduated tax based on weight classification. But the best tax of

9. Engineering News-Record 91:968 (Dec. 13, 1923)

all is the gasoline tax because " the consumption of gasoline varies with the weight, speed, and the mileage of the motor vehicle."[9]

A great many writers on the subject and legislators believe, as has been noted above, that the advent of the automobile brought with it increased costs for road-bed and that the gasoline tax renders nearly perfect the compensation to be paid by motorists for the use of facilities provided at great cost for the class for whose needs they are essential. This argument has had great force with the rural population. The concrete and other hard surface highways which pass their farms cost a great deal of money and the farmers feel that the motorists get more good out of the highways than they do. Most farmers will admit that they get some benefit but not as much as commonly supposed. In South Carolina, the tax on gasoline was imposed by the Legislature at its Session in 1922 in response to the demand that the tax on real property be lessened and that the users of gasoline contribute to the construction and maintenance of the roads.[10]

9. Engineering News-Record 91: 968 (Dec. 13, 1923)

10. Public Works 54:126-7 (April 1923)

In Colorado, the argument that good roads were needed on account of automobiles and that the gasoline tax helped collect the cost of good roads from those who used the roads was used with much effect. There, the belief was held that the adjacent property pwner is not the only one who benefits.

B Helps put competition between railroads and busses on a fair plane.

The above argument on use has gained even greater strength with the spread of bus transportation. The rural population objects to paying for roads for busses to ruin. Railroads want to see bus lines taxed in every way possible so as to put competition on a fair plane. The railroads contend that they pay taxes to the state on their right-of-way and part of said taxes are used in such a way (for road purposes by State appropriation) as to furnish free right-of-way to their bus line competitors. The railroads also favor other special taxes on the bus line.

C Secures revenue from tourists.

In Oregon, some people argued that the gasoline tax has the advantage of procuring some revenue from the tourist who is exempt from motor vehicle fees. It is a fact that most states which tourists visit in cars for the purpose of enjoying scenery have such taxes. This same view must have been held in Washington. The law there provides that no tourist may bring into the state more than twenty gallons of gasoline, the amount for which he is exempt. The California State Automobile Association also used this argument in their campaign in favor of the gasoline tax.

D Convenient tax to pay.

Professor Seligman of Columbia University in a discussion on "The Tax Situation"[11] said, "A tax on spirits, on tobacco, or on gasoline is worth hundreds of taxes on multitudinous articles where the difficulties of collection are considerable. The economy of taxation is a canon not to be neglected." The costs of collection are low as is shown below in Chapter IV. If one is going to follow the Canons of Taxation of Adam Smith, one of which, Professor Seligman has just referred to, he should have to mention that the gasoline tax is an easy tax to pay. It is convenient. Payments are made a little at a time. In fact, it is more convenient to pay than any other form of motor vehicle taxation. The amount of the tax is certain. Legislators intend that this tax shall fall upon the consumer and some states provide that when gasoline is sold a separate bill for the tax or an itemized statement shall be rendered. Whether the

11. North American Review Vol.214:145-156 (Aug.1921)

legislators accomplish their aim will be more adequately considered in the chapter on Incidence.

E Liked by the people.

Consumers of gasoline generally seem to like the tax. At least, they do not object to it. Municipal and County Engineering, in editorial comment, reflects pretty well public opinion in regard to such taxes when they say, "A popular tax is an unheard of thing, yet the gasoline tax for highway improvement purposes arouses so little opposition, where it is properly formulated and administered and well understood, that it may fairly be called popular. *****Motorists generally say they don't mind paying the tax as long as the money goes for better roads. They regard it as an investment which will pay big dividends, as the highway system develops, in the form of reduced operating and vehicle upkeep costs."[12] The people want good highways. They realize that they will have to pay for them and the gasoline tax seems to be one of the most equitable ways to raise money for highway purposes. Arizona, Arkansas, Colorado, Connecticut, Kentucky, Maryland, Mississippi, North

12. Municipal and County Engineering 64:211 (June 1923)

Carolina, Pennsylvania, South Carolina, South Dakota, and Washington, thru their highway officials, reported that the tax was well liked in their states and that there was little or no opposition to it.[13]

F Established legally.

The constitutionality of this tax has been established by the following decisions: Attitude Oil Co. v People, 202 Pacific 180; Amos v Gunn, 94 Southern 615; Askren v Continental Oil Co., 252 U. S. 444; Bowman v Continental Oil Co., 41 Supreme Court 606; In re opinion of the Justices 121 Atlantic 902; Pierce Oil Corporation v Hopkins 282 Federal 253; Standard Oil v Graves, 249 U. S. 389; Standard Oil Co. v Brodie,et al, 239 South western 753, State v Hart, 217 Pacific 45; State v Liberty Oil Co., 97 Southern 438.

II Arguments against:

A Disliked by oil men.

1. Unjust unless there be a general sales tax.

Arguments against this tax come from varied classes of people. The oil industry is naturally interested because one of their products, gasoline, is taxed. It cannot be said that there is uniformity of opinion among this group,

13. For these statements, see <u>Public Works</u> 54:126-127 (April)

tho there seems to be more outspoken opposition than advocacy. Their chief argument is that a sales tax on gasoline is unfair unless there be a general sales tax.[14] This argument is worth very little consideration. The comment of Professor Seligman, quoted before, would dispose of a great deal of its strength. A sales tax on a single commodity would not be as unequal in most cases on either consumers or business men as a general sales tax would be.

2. Should be resisted.

Another argument used by oil men and oil magazines is that the oil industry should resist gasoline taxes because it is just another tax placed on the industry and every tax successfully added makes it just that much easier to add some more taxes. On the other hand, Mr. Nicholas, president of the National Petroleum Marketing Association says, "The efforts of the jobbers should be concentrated on seeing to it that if such taxes and inspection laws were put in effect, they should be so framed as to make as little difficulty as possible in collecting them.****** Good roads are desirable from the oil man's standpoint and they help the market for gasoline."[15]

14. National Petroleum News 14:35 (Oct.11,1922)
" " " 15:80 (May 2,1923)

15. National Petroleum News 15:32 (Mar.14, 1923)

3. Spent in wrong way.

A very significant part of the objection on the part of oil men comes from the men in those states where a part of the proceeds of the tax goes in to the General Fund or some special fund other than the road fund. The objection to using funds secured by means of a gasoline tax for other purposes than roads is sound. The argument of discrimination, number one above, used as it often is when the proceeds are applied for general fund purposes, would not get far in court, but still it seems just. While one might not advocate a general sales tax, he might advocate one on selected commodities. Yet, if a state is going to tax sales of some commodities for general revenue purposes, there is no legitimate reason why gasoline should be selected alone even tho a gasoline tax is a good revenue yielder, except as the state by means of the tax wants to increase the price of the commodity, reduce the demand, and conserve a portion of the supply for the future. When the proceeds of the gasoline tax are used for a special purpose such as highway development, and when the tax is really paid by the man who gets the benefit, the consumer of gasoline, the tax should not be condemned and is not so condemned by most oil men.

4. Would increase number of state employees.

Michigan jobbers claimed that such a tax would increase the number of state employees. This argument is worth very little because the increase in number of employees is small and the actual cost of collection is small as shown below in chapter IV.

5. Hard to administer.

South Carolina oil dealers say the tax has been a source of confusion.[16] Federal authorities have refused to pay the tax on the ground it was exempt from state taxation; yet the State of South Carolina collects the tax from the oil companies regardless of whether or not the oil company can pass the tax on to the consumer. That the oil men can't pass the burden to the consumer in every case, as the legislators intended, is no proof that the tax is bad. However, many states either in original law or by amendment have made provisions for exemptions of the type mentioned.

6. Is a tax on essential transportation.

The South Carolina Petroleum Jobbers Association[16] also argue that a tax on gasoline is a tax on essential transportation. Motor trucks carry nearly half the freight of the country. To cause their owners to pay more for

16. National Petroleum News 14:35 (Oct. 11, 1922)

gasoline on account of a tax merely adds an additional burden on the already heavy load. In reality this gasoline tax should be no harder on trucks, than railroad taxes on roadbed are on railroads.

B Objected to by city tax payers.

Mr. John A Zangerle, auditor of Cuyahoga County, Ohio, is quoted as follows:[18] " To my mind, there is no justification for such an increased burden on automobiles. Nor is there any necessary connection or relation in the payment of a tax for gas consumption on the streets of a city, for the improvement of township roads or vice versa." This quotation is the only one discovered thus far that virtually says city people are paying too much for country roads when they are subject to a gasoline tax. City folks enjoy the country roads too much to complain much. This same Mr. Zangerle contends that abutting property really gets the bulk of the benefit and not the motorist.

" Motor fuel taxes discriminate against motor vehicles propelled by internal combustion engines and in favor of those driven by steam" says T. Wilbur Thornhill of Charleston, S. Carolina. This statement is true tho it

18. National Petroleum News 15:114 (Mar. 14, 1923)

is not of importance because the number of such cars is small. And further, no claim is made that the gasoline tax is perfect, but only that is less imperfect than any other measure of road use.[19]

C Disapproved by automobile men.

The Motor Vehicle Conference Committee representing the American Automobile Association, Motor and Accessory Manufacturers' Association, National Automobile Chamber of Commerce, National Automobile Dealers' Association, and the Rubber Association of America, while admitting that gasoline consumption taxes are somewhat in proportion to the use of the road and just on that score still object to them because they are additional taxes on automobile owners and not substitutes for existing taxes.[20] They also believe that the gasoline tax should be limited to raising money for maintenance and should not be used for original cost of building. They give no reason for the latter idea in the publication cited above, nor did they give any in private correspondence. They must fear that an attempt to cover cost of original building would cause a tax so high that it might reduce the sale of automobiles and parts. This point will be touched upon further in the chapter on

19. National Petroleum News 15:97 (Feb. 14,1923)
20. See Pamphlet, Special Taxation for Motor Vehicles.

Incidence.

The arguments for seem to be stronger than the arguments against. The arguments for come from a broader section of the population than do the arguments against. Those who are opposed are afraid of possible effects on their business and as far as numbers are concerned they represent a small part of the population. The gasoline tax continues to grow in favor and has been endorsed by the Michigan Committee of Inquiry into Taxation, reporting in 1923; the New York Special Committee on Taxation and Retrenchment, reporting Mar. 1, 1922; the Tax Investigation Committee of the State of Washington, reporting in 1922; the Joint Legislative Committee on Taxation of Iowa, reporting in 1923; and the Oregon Committee on Tax Investigation.[21] These indorsements are significant because they come from widely different parts of the country, and because they represent the judgment of practical legislators who have to consider the temper of the people and also the jusgment of expert tax authorities who were heard by or were members of these committees. These reports indicate the trend of the times.

21. Bulletin of National Tax Association
(April 1923)

Chapter III

" The Spread and Development of the Gasoline Tax."

Thus far the discussion has centered around the early start of this tax and the arguments which have made it so attractive that other states have adopted it. Now, a brief summary of the enactments by the various states will be made.

I More States Adopt

A Adoptions in 1921 and 1922.

At the beginning of the year 1921, gasoline taxes had been enacted in five states of the union; namely, Colorado, Kentucky, New Mexico, North Dakota and Oregon. The rate in all these states was one cent except in New Mexico where it was two cents. Eleven new states were added to the roll of states using this tax in the year 1921. The Governor of Connecticut approved a one cent tax on January 14; the Governor of North Carolina, a similar tax on March 3. These governors were soon followed by the governors of the states specified below in which states the governors approved gasoline taxes for the amount stated:[22] Montana, March 15, for one cent; South Dakota, March 12, for one cent; Arizona, March 17, for one cent; Arkansas, March 29,

22. All material on laws is taken from the Session Laws themselves unless otherwise stated. See Bibliography for laws.

for one cent; Pennsylvania, May 20, for one cent; Florida, June 10, for one cent; Georgia, August 10, for one cent. Louisiana and Washington also provided for one cent taxes the same year. The following year, 1922, saw South Carolina, February 23, provide a two cent tax, Mississippi, March 25, and Maryland, April 13, provided one cent taxes.

During the year, 1921, New Mexico's Legislature passed and the Governor approved, March 10, a new law to meet the requirements of the United States Supreme Court as per decision quoted later in this chapter. The rate was reduced by this same law from two cents to one cent. Oregon increased the rate there from one to two cents in 1921.

B Adoptions in 1923 and 1924.

However, the year, 1923 is the record breaker, both for new laws and rate increases. A two cent tax was approved in Alabama, February 10; a one cent tax in Wyoming, February 26; a two and a half cent tax in Utah, March 8; a one cent tax in Oklahoma, March 9; a two cent tax in Indiana, March 9; a two cent tax in Idaho, March 13; a two cent tax in Nevada, March 20; a one cent tax for 1923 and a two cent tax thereafter in Delaware, March 22; a one cent tax in Vermont, March 22; a one cent tax in Texas, March 24; a two cent tax in Tennessee, March 24; a three cent tax in Virginia, March 26; a one cent tax in Maine, April 7; a two cent tax in West Virginia, April 23 (became a law without the Governor's signature); a one cent tax for 1923 and a two cent tax thereafter in New Hampshire, May 4; and a two cent tax in California, May 30.

The significant fact about the enactments of 1923 is that so many states started with higher rates. Increases in rates were provided for by many state legislatures. Arizona, Arkansas, Florida, and North Carolina increased the tax rate from one to three cents per gallon; Colorado, Maryland, South Dakota, Washington, Montana, and Pennsylvania increased it from one to two cents. Oregon, South Carolina, and Georgia increased the rate from two to three cents. The Virginia law provided that the rate should be two cents at the beginning and three cents after July, 1923. In 1924, the rate was increased from one to two and one-half cents in Oklahoma and from three to four cents in Arkansas.

C Present Schedule of Rates

After all changes have been made by the various laws, the result as it is today is reflected in the table following:

Table I

Gasoline Tax Rates in Effect, August 1, 1924.

1.	Alabama	2¢
2.	Arizona	3¢
3.	Arkansas	4¢
4.	California	2¢
5.	Colorado	2¢
6.	Connecticut	1¢
7.	Delaware	2¢
8.	Florida	3¢
9.	Georgia	3¢
10.	Idaho	2¢
11.	Indiana	2¢
12.	Kentucky	1¢
13.	Louisiana	2¢
14.	Maine	1¢
15.	Maryland	2¢
16.	Mississippi	1¢
17.	Montana	2¢
18.	Nevada	2¢
19.	New Hampshire	2¢
20.	New Mexico	1¢
21.	North Carolina	3¢
22.	North Dakota	1¢
23.	Oklahoma	2½¢
24.	Oregon	3¢
25.	Pennsylvania	2¢
26.	South Carolina	3¢
27.	South Dakota	2¢
28.	Tennessee	2¢
29.	Texas	1¢
30.	Utah	2½¢
31.	Vermont	1¢
32.	Virginia	3¢
33.	Washington	2¢
34.	West Virginia	2¢
35.	Wyoming	1¢

Seven states have three cent taxes, sixteen have two cent taxes, two have two and a half cent levies, one a four cent tax, and nine have one cent taxes. The two cent tax is by far the most popular and the three cent tax is used by all but Kentucky, New Mexico, and North Dakota of the original states which started the use of this tax. The trend is toward the higher rates, and perhaps the prediction of Mr. Hirsch of Wisconsin[23] that a five or ten cent tax rate will be needed by some states will not be so far wrong.

Massachusetts adopted a two cent tax in 1923, which tax law has been set aside until the people can take a refer-

23. Engineering News-Record 91:968 (Dec. 13, 1923)

endum vote on it in 1924. Minnesota passed a law which provides for a vote in 1924 on an amendment to the State Constitution. The Governors of Michigan, Wisconsin, and Arizona have vetoed gasoline tax bills. The governor of Arizona signed the Highway Bill, but vetoed certain sections among them the three cent tax on gasoline. He thought the increase of the rate unnecessary and burdensome on the people under present conditions. The bill was published in the Laws of Arizona, 1923 and became a law. In Michigan and Wisconsin, the governors argued that a gasoline tax was a step towards general sales taxation which is unjust and further that it is unjust to select gasoline by itself for sales taxation.

II Legal Developments.

A United States Supreme Court.

This tax like all taxes has encountered a few legal difficulties in its development among the states. There would have been more cases, probably, had it not been for the early arrival of the matter before the Supreme Court of the United States. The first case to come before the Supreme Court was Askren v Continental Oil Co. 252 U.S. 444. Suit was brought in the United States District Court for the district of New Mexico by the Continental Oil

Company, the Sinclair Refining Company, and the Texas Company, for a temporary injunction to restrain the State, particularly Attorney General Askren, from enforcing the provisions of the law,[24] which provided for an excise tax of two cents per gallon upon the sale or use of gasoline and a license tax of fifty dollars per annum to be paid by the distributor and five dollars per annum to be paid by retail dealers therein. The temporary injunction was granted and a direct appeal was taken to the Supreme Court of the United States. The New Mexico act defined as a distributor: "Every person, corporation, firm, copartnership, and association who sells gasoline from tank cars, barrels, or packages not purchased from a licensed distributor of gasoline in this state." A betailer was " A person other than a distributor who sells gasoline in quantities of fifty gallons or less." Failure to comply with the Act was made punishable by fine and forfeiture of license. The oil companies involved conducted two classes of business (1) shipping into the state in tank cars and in barrels and packages containing not less than two five gallon cans, selling the contents in the State of New Mexico in the original unbroken tanks, barrels, and

24. Session Laws of New Mexico 1919 Chapter 93

packages; (2) shipping into the state in tank cars and selling gasoline from tank cars, barrels, and packages in such quantities as the purchaser requires.

As to the first class of business the Supreme Court held in the decision of Aug. 19, 1920, that the tax upon the sale of gasoline brought into the state in tank cars and the original package and thus sold is beyond the taxing power of the state; that the direct and necessary effect of such legislation was to impose a burden upon interstate commerce and was a violation of the Federal Constitution, as it provided for fees in excess of the cost of collection on which point the court had expressed an opinion in Standard Oil v Graves 249 U. S. Reports 389. As to selling gasoline in retail quantities to suit the purchaser, the court held that a business of this sort, altho the gasoline is brought into the state in interstate commerce, is properly taxable under the laws of the state. In this case the court was unable to determine from the bill the relative importance of this part of the oil companies' business as compared with that which is now taxable, so the court reserved judgment upon the question of whether the Act was separable and capable of being sustained so far as it imposed a tax upon business legitimately taxable.[25]

25. See Comment W.J.O'Leary in Public Roads 4:12 Sept.1921

The question of separability was decided by the court June 6, 1921 in Bowman, Attorney General of New Mexico v Continental Oil Co. 41 Supreme Court Report 606. Bowman who had succeeded Askren as Attorney General was substituted for Askren in the previous case. The amended bill of the Continental Oil Company showed that in addition to buying and selling gasoline it used gasoline at each of its thirty-seven distributing stations in New Mexico in the operation of its automobile tank wagons and otherwise; that under the terms of the New Mexico Act it was prohibited from using this gasoline except upon the payment of the excise tax of two cents per gallon. The Company urged that such a tax was void under section one of article eight of the state constitution because not levied in proportion to the value of gasoline; that the imposition of the tax denied the company the equal protection of the laws and amounted to a taking of its property without due process of law in contravention of the Fourteenth Amendment to the Federal Constitution; and further, was in violation of the commerce clause of the Constitution. The business of the Continental Oil Company for the years 1918 to 1920 amounted to 94.5 percent in bulk or from broken packages and 5.5 percent was sold in original containers. The company consumed eight percent of its total sales in its own business. Similar figures were presented for the other companies.

The Supreme Court held that the tax did not violate the provision of the State constitution which reads: "Taxes levied upon tangible property shall be in proportion to the value thereof and taxes shall be equal and uniform upon subjects of taxation of the same class." The Court held that a tax upon the sale or use of gasoline sold or used "in the state is not property taxation, but in effect, as in name an excise tax;" and since the tax operated " impartially upon all and with territorial uniformity thruout the State," it was "equal and uniform upon the subjects of taxation of the same class." The question of the severability of the annual license tax for each distributing station was decided against the state as the subject taxed was not in its nature divisible. The provisions of the New Mexico statute were declared not capable of separation as to confine then to domestic trade leaving interstate commerce exempt and so null and void. However, the court added that the State might impose a license tax upon the distribution and sale of gasoline in domestic commerce if it did not make its payment a condition of carrying on inter-state commerce. The New Mexico Legislature in anticipation of this decision in

1921 amended their former law so as to exempt interstate commerce and provided for the payment of the two cent tax previously enacted except where it affected interstate commerce and provided from the date of the 1921 law on that the rate should be one cent instead of two. These two cases have been considered at great length because they are the ones heard before the Supreme Court of the United States and furnish the precedent for nearly all the later cases in lower courts.

B Circuit Court of Appeals.

In Pierce Oil Corporation v Hopkins, County Clerk et al 282 Fed 253 heard in the Circuit Court of Appeals-8th Circuit, July 5, 1922, on appeal from the District Court of the United States for the western district of Arkansas, the court held that the Arkansas tax did not violate the Fourteenth Amendment to the Federal Constitution. The Oil Corporation claimed that it did because it made the oil company liable for the debt of another, the purchaser, when the seller, the oil company, had to pay the tax. The court held that the tax is not a levy against the seller, but is one against the purchaser and that the oil company is but the agent for the state in collection and except for the tax, the oil companies may charge suctomers whatever they please.

The court ruled again, following the decisions quoted above, that the tax is an excise tax on the privilege of selling goods within the state and it is within the power of the state to levy such a tax.

C State Courts.

In Altitude Oil Co. v People 202 Pacific 180, the Supreme Court of Colorado again holds that a gasoline tax is an excise tax and not a property tax and is in no sense discriminatory as the tax applies to all sales of that kind and affects all dealers in proportion to their sales. The Supreme Court of Florida rules the same way in Amos v Gunn 94 Southern 615. The Maine Supreme Sourt in an opinion for the legislature, In Re Opinion of the Justices, 121 Atlantic Reporter 902, says a property tax on gasoline would violate the consiitution, but an excise tax on the business of dealing in gas would be valid, provided the tax is not confiscatory. The Supreme Court of Arkansas in Standard Oil Co. v Brodie et al 239 Southwestern 753 syas in interpreting the statute," The thing which is really taxed is the use of the vehicle of the character described upon the public highway and the extent of the use is measured by the quantity of fuel consumed, and the tax is imposed according to the extent of the use as thus measured." The tax upon the article used does not constitute a tax on the article itself, for the privilege is not upon the article but upon the use of it on the public highway. The court further declares that the Arkansas law does not violate the "Due Process" clause of the Federal Constitution nor does it involve the payment of a fee, nor the performance of any unreasonable task.

The Louisiana Constitution of 1921, Art. 10, Sec 21 provided for a levy of a tax on gasoline. In State v Liberty Oil Co. 97 Southern 438, the district court held that Act #81, 1921 imposing a two cent tax on sales of gasoline, to be paid by dealers, is a license law and invalid under Act 10 Sec. 21 of the Constitution, which contemplated that the burden of the tax should be placed on the ultimate consumer. The District Judge, while holding part of the law unconstitutional, held that enough of the law was left to allow collection of taxes levied. The Supreme Court affirmed his decision on July 11, 1923. Act #137 of 1922 Session of Louisiana Legislature was enacted so as to make the gasoline tax law conform to the constitutional mandate.

III Development of tax as a source of revenue.

A Method of securing information.

The gasoline tax has turned out to be a good revenue producer. In order to secure the latest and correct data on both the yield of the tax and the costs of collection, the following letter was written to the proper administrative official of each state. The letter to Pennsylvania will serve as an example of the form and the type of reply received.

Lawrence, Kansas,
August 1, 1924.

Auditor General
State of Pennsylvania
Harrisburg, Pennsylvania.

Dear Sir:

I am making an investigation of the Gasoline Tax among the states of the United States, and desire to get the correct and latest material on receipts and costs of collection.

Would you kindly fill out the blanks indicated below and return this sheet in the self addressed envelope enclosed? A prompt reply would be appreciated as I should like to have this material in shape by August 10th. If you care to add any additional comment other than that suggested by questions, it will be valued. Thanks for this service.

Very truly yours,

Edmund P. Learned
Instructor in Economics
University of Kansas.

Year*	Gross Receipts	Costs of Collection
1921	835,322.79 (Sept. 1921 to Dec. 1921 Incl)	
1922	2,683,526.68	
1923	5,490,522.32	
1924-to July 1,	3,991,290.94	

N.B. Our Gasoline Tax Law became effective September 1,1921 and was One Cent a gallon up to June 30, 1923. From July 1, 1923 to June 30, 1925, the tax is two cents a gallon. In reference to costs of collection, I beg to state that we are unable to give you this figure as thetax is collected by the Auditor General's Department along with other taxes and no separate record is kept of the cost of collecting gasoline taxes. The delay in furnishing this information is due to the fact that returns for the three months ending June 30, 1924 were not due until the last day of July and we were unable to compile the data for the last six months before this date.

* Please indicate the period of your fiscal year.

Thirty states replied to this letter and the results on receipts are tabulated in the Tables following.

B Comment on results.

As would be expected, replies from this kind of a letter would vary. All states would not have the information in the same form or for exactly the same period. A number of the states which have had the tax since 1921 or longer failed to give, as requested, the revenue for the earlier years. Some of such data have been secured from other sources as noted on the table. Many others who introduced the tax in 1923, instead of giving the revenue for the calendar year 1923, and then, for the first six months of 1924 gave it as a total either from time of adoption to July 1, 1924 or for the first year of its operation. In such cases, the figures are placed in the 1923 column and a notation made in the foot notes. This table does show quite conclusively that the gasoline tax brings in a good sum of money as revenue. It plainly shows a steady increase in revenues and larger increases wherever the rate has been increased. Arkansas, North Carolina, Oregon, Pennsylvania, and Washington are conspicuous examples of the latter increase, while Kentucky shows a steady growth of revenue with increased use of gasoline. The figures for North Dakota are very interesting. One almost wonders whether gasoline tax revenues could be used in that state as an index of prosperity. C. E. Cooper, Deputy Controller of California, writes under date of August 5, 1924, "The State of California has not yet had this law in operation for a period of one year, but we expect to collect between Thirteen and Fourteen Million Dollars, gross annually."

Table II

Gasoline Tax Yield by Years Among the Various States.

State	1919	1920	1921	1922	1923	To July 1. 1924
1. Alabama[1]					1,346,989.87	
2. Arizona[24]			87,928.35	174,606.36	422,692.72	334,768.59
3. Arkansas[2]				208,075.98[3]	1,176,798.93	956,277.55
4. California[4]						
5. Colorado						
6. Connecticut[5]			222,000.00	734,000.00	880,000.00	348,000.00
7. Delaware[6]					88,579.00	120,385.22
8. Florida[7]				693,221.41[3]	3,252,675.11	
9. Georgia[8]				793,188.55	962,986.58	1,527,500.24
10. Idaho[9]					369,487.19	169,123.68
11. Indiana[10]			[illegible]	[illegible]	4,554,544.18	
12. Kentucky[23]			411,938.95	448,193.42	586,188.06	756,929.84
13. Louisiana				536,794.97	754,437.85	429,642.50
14. Maine[11]					451,446.70	
15. Maryland						563,944.46
16. Mississippi						
17. Montana			173,168.09	248,652.11	441,258.04	190,001.39
18. Nevada[12]					120,929.12	72,902.73
19. New Hampshire[13]					313,825.20	
20. New Mexico				183,088.79[3]	152,950.43	
21. North Carolina[14]				778,496.68[3]	3,979,855.40	
22. North Dakota		362,872.08	174,950.95	128,165.00	193,605.90	442,967.14
23. Oklahoma						2,002,567.61
24. Oregon[15]	342,965.52	464.083.55	1,004,375.64	1,182,357.66	2,046,950.70	910,837.43
25. Pennsylvania[16]			835,322.79	2,683,526.88	5,490,522.32	3,991,290.94
26. South Carolina						
27. South Dakota				456,232.83	655,331.01	489,644.22
28. Tennessee[17]					812,356.68	731,110.23
29. Texas[18]						
30. Utah[19]					807,549.20	
31. Vermont[20]					193,379.00	
32. Virginia[21]					2,986,883.96	
33. Washington			411,848.63	948,546.00	1,187,370.91	1,396,906.26
34. W. Virginia[22]					907,010.28	
35. Wyoming						

1. Figures for year March 1923 to March 1924. Law effect March 1923. Total from Mar 1923 to July 1, 1924. 1,886,568.03
2. Figure for 1923 is for April 1, to Dec. 31, the period of three cent tax. A four cent tax is in force after Jan. 1, 1924.
3. Taken from table given by J.W.Martin in Bulletin National Tax Association. Dec. 1923 p 84.
4. See comment in discussion.
5. Figures for 1921 are from Sept. 1, to Dec. 31. period tax was effective. Figures for 1924 are to June 1.
6. Figures for 1923 from April 22, to Dec. 31. One cent tax the first year, two cents since Jan. 1, 1924.
7. Figure given for 1923 is really revenue from July 1, 1923 to June 30, 1924, the period of the three cent tax. Prior to that time and since 1921, the rate was one cent per gallon.
8. Three cent tax in Georgia in part 1924.
9. April 1, 1923 to Dec. 1923 is the first period. Jan. 1, to May 31, for 1924.
10. The figure for 1923 dates from June 1, 1923 to May 31, 1924, the first year of the tax in Indiana.
11. Period for Maine was July 1, 1923 to June 30, 1924 or first year of tax.
12. 1923 period for Nevada is Mar. 20, 1923 to Dec. 31, 1923, period tax was effective.
13. Period includes July 1, 1923 to June 30, 1924. First half of this period had a one cent tax, balance two cents.
14. Period for 1923 includes July 1, 1923 to June 30, 1924, period three cent tax was effective.
15. Figure for 1924 down to May 31.
16. Figure for 1921 is from Sept. 1921 to Dec. 1921 incl.
17. Tax effective nine months in year 1923.
18. "Law putting 1 cent per gallon on all gasoline went into effect April 1, 1923. Monthly tax amount to about $250,000." Auditing Division—Comptrollers Department.
19. Figure includes Mar. 8, 1923 to July 1, 1924.
20. Figures for first year of operation April 1, 1923 to April 1. 1924. The month of April 1924 yielded $10,017.00 and the month of May $22,135.00.
21. Communication did not state, but author thinks this covers June 27, 1923 to July 1, 1924.
22. Period July 26, 1923 to May 31, 1924.
23. Period of Fiscal year July 1, to June 30.
24. Figures for 1921—June to December, incl.

Table III

Estimated Income From Gasoline Taxes for 1924.

State	Estimated Revenue
1. Alabama	1,250,000
2. Arizona	600,000
3. Arkansas	2,000,000
4. California	12,000,000
5. Colorado *	2,000,000
6. Connecticut	900,000
7. Delaware	300,000
8. Florida	3,000,000
9. Georgia	3,000,000
10. Idaho	400,000
11. Indiana	5,000,000
12. Kentucky	1,500,000
13. Louisiana	900,000
14. Maine	400,000
15. Maryland	1,500,000
16. Mississipps *	600,000
17. Montana	500,000
18. Nevada	175,000
19. New Hampshire	400,000
20. New Mexico	200,000
21. North Carolina	3,500,000
22. North Dakota	500,000
23. Oklahoma	4,000,000
24. Oregon	2,500,000
25. Pennsylvania	8,000,000
26. South Carolina *	2,000,000
27. South Dakota	600,000
28. Tennessee	1,500,000
29. Texas	3,000,000
30. Utah	700,000
31. Vermont	200,000
32. Virginia	3,000,000
33. Washington	2,500,000
34. West Virginia	1,000,000
35. Wyoming *	200,000

* From estimate of Charles e. Bowles in Oil and Gas Journal 23:#12 A page 92.

Chapter IV.

"Administration of the Gasoline Tax."

The gasoline tax has to be collected by someone in official capacity in the various states. As will be shown, presently, there is little uniformity between the states as to which officer shall collect the tax. Another provision of the laws which shows some variation is the party from whom the tax shall be collected. The rate of the tax and the time of payment are provided by the laws but have to be administered by the officers and will be discussed here. The administratiive officers are authorized by law in most states to provide certificates, licenses, and record sheets to those from whom they collect the tax and in many cases to place distributors or dealers under bond. If the distributor or dealer fails to make reports and payments properly, penalties are provided by law, such penalties being handled by the administrative officer or some special officer.

I State Officer Responsible for Administration.

Table IV below will show the State office Responsible for Administration in each of the states having the gasoline tax.

Table IV

A

State Office Responsible for Administration of the Gasoline Tax.

State Office	States
State Tax Commission or Tax Commissioner	Alabama Kentucky Nevada North Dakota South Carolina West Virginia
State Auditor	Arkansas Indiana Maine Mississippi New Mexico Oklahoma Pennsylvania South Dakota
Secretary of State	Arizona North Carolina Oregon Utah Vermont Virginia
Comptroller	Florida Georgia Maryland Texas
State Tressurer	Delaware Wyoming
Commissioner of Motor Vehicles	Connecticut New Hampshire
State Oil Inspector	Colorado
Supervisor of Public Acc'ts	Louisiana
Commissioner of Law Enforcement	Idaho
Comptroller and Comm. of Finance and Taxation	Tennessee
Director of Licenses	Washington
Board of Equilization	Montana California

B Comment on Administration.

The above table taken by itself, will not tell the whole story in regard to the administrative officer in each state for in many cases other officers cooperate. In Arkansas, all reports are made to the State Auditor who is primarily responsible, but all money is paid to the State Treasurer, and the State Oil Inspector is expected to examine records of manufacturers and wholesalers quarterly. The California law requires that every distributor shall secure a license from the State Board of Equilization which license shall be valid until revoked. This board inspects the records of the distributor and assesses the taxes which are paid to the State Comptroller. In Kentucky, the State Tax Commission furnishes all blanks, forms, books, and reports, but the report is made and tax paid to the county court clerk of each county. Montana requires the report to be made to State Board of Equilization and tax to be paid to State Treasurer. New Mexico provides that license to do business shall be secured from Secretary of State, but actual administration of tax is in the hands of the State Auditor. The Secretary of State administers the tax in North Carolina and makes the payments to State Treasurer. In North Dakota, the State Tax Commissioner assesses the tax on the basis of figures furnished by the StateChemist, formerly handled by State Oil Inspector, and the tax is paid to the State Treasurer. The oil inspectors of Oklahoma furnish the data for the State Auditor who administers the tax. The figures for basis of assessment in South Carolina come from the Commissioner of Agriculture, Commerce, and Industry who turns them over to the Tax Commission who assesses the tax which is paid to the State Treasurer. The State Auditor of South Dakota assesses thetax. Payment is made to the State Treasurer. Under original law of South Dakota the State Inspector of Petroleum Products, the Attorney-General, and the State Sheriff were included among the administrative officers. Too much division of labor probably accounts for the change in the later act. In Tennessee, the Commissioner of Finance and Taxation furnishes the forms and makes the inspections while the tax is paid to the State Comptroller. Washington provides that the Director of Licenses shall assess the tax and that the payment shall be made to the State Treasurer.

C The officer who should be responsible.

The duties of the administrative officers in each state usually are the preparation of correct forms and blanks for reports, inspection for assessment purposes and the checking up of law violations, the collection or receipt of tax payments, and the distribution of the prodeeds according to law. It is plainly evident that there is no uniformity among the states on which State officer should be primarily responsible. This is to be expected and need not be condemned. Duties of the same state office, in title, vary from state to state. One office in one state may perform the functions in its jurisdiction which are performed by an entirely different office in another state. That division of responsibility as applied in one state may be as wise as in another. The real test as to whether one office or another should handle the administration of the tax should be how well the office succeeds in its task. Is the tax administered in a convenient way for all concerned, and is it done with a minimum expense? Responsibility should not be so divided that no one officer is really responsible. As has been noted above, states have changed the administrative officers in some cases in order to secure more efficient administration.

II Class of Business from whom the tax is collected.

Who shall pay the tax the manufacturer, original importer, distributor, wholesaler, retailer? The method used varies from state to state. Table V below shows in tabular form the Class of Business from which tax is collected.

The laws of the various states use the term dealer and distributor in a number of different ways. The distributor may mean original importer or manufacturer or the retail dealer who sells for purposes of use and not resale, or the term dealer may mean the same thing. The interpretation or definition of terms as used in the State Statute governs the classification. As will be shown following the table, even this classification needs considerable explanation.

A

Table V

Class of Business from which Tax is Collected.

Class of Business	States
Importer or Manufacturer	Arizona Arkansas California Connecticut Delaware Florida Georgia Idaho Louisiana Maine Maryland Montana Nevada North Dakota Oregon South Dakota Tennessee Texas Utah Vermont Virginia Washington West Virginia Wyoming
Retailer	Colorado Kentucky New Hampshire North Carolina Pennsylvania
Wholesaler or Retailer	Alabama New Mexico South Carolina Indiana Mississippi
Next Recipient after Inspection.	Oklahoma

B Comment on Table.

The Alabama law provides that the tax shall be laid on every distributor and retail dealer; provided, however, that the tax be paid only once. The distributor is defined as a wholesaler, and retail dealer as one who sells from broken packages. Every distributor and retail dealer must register with the State Tax Commission and also keep books, documents or papers to show clearly amount of sales of gasoline. In the case of Arkansas, manufacturers and wholesale dealers are supposed to pay the tax, tho the wholesaler need not pay the tax upon such gasoline as he may have purchased from an Arkansas manufacturer. The wholesaler is also an importer of gasoline. The State Oil Inspector examines the records of every manufacturer and wholesale dealer quarterly and sends copies of the report to the Auditor and the Treasurer of State. The California law levies the tax against the distributor. Said term is broadly defined so as to include all importers, manufacturers, wholesalers, and retailers. The bulk of the tax is collected thru the importer and the manufacturer. Delaware uses the term dealer in her statute, but defines dealer as importer or manufacturer. The Kentucky law provides that retail distributor shall pay the tax; however, thru agreement with administrative authorities, much of the tax is collected thru wholesalers of gasoline. Either wholesaler or retailer may pay the tax in Mississippi tho retail dealer shall not be required to pay tax on gasoline to be re-sold by him at retail when it may be paid by the distributor; nor shall distributor pay such tax when retailer pays it. North Carolina puts the tax on the retailer unless wholesale dealer shall have paid voluntarily. Oklahoma is in a class by herself. She provides that the Oil Inspector shall inspect the gasoline either imported or manufactured in the state. The company selling such product shall inform the Inspector who the consignee is. The Oil Inspector notifies the State Auditor who the consignee (the first recipient after inspection) is and that party then becomes liable for the tax.

C The class of business from whom the tax should be collected.

The bulk of the states collect the tax from the importer or manufacturer. In only five states does the law provide that the retailer pay the tax and in one of those, Kentucky, actual procedure allows the wholesaler to assume payment. The practice of those States which collect from importer and manufacturer is the best. Importer in such cases should include any person, firm, copartnership, corporation, or other business association, who imports or causes to be imported into the State gasoline, distillate, benzine, naptha, liberty fuel, and such other volatile and inflammable liquids produced or componnded for operating or propelling motor vehicles. The manufacturer would be defined as any person, firm,corporation, copartnership, or business association who produces, refines, manufactures, or compounds such fuel in the state. Of course, any fuel to be sold in interstate commerce would be exempt. Such a classification would get for taxing purposes all fuel subject to the tax except that brought into the state by the consumers themselves. The amount of fuel coming in in that way is very small. Such a method of collecting the tax has many advantages. It reduces the number of accounts to be kept by the state administrative office and also reduces the amount of inspection work on the part of that office. The importer or manufacturer is the "point of greatest concentration" of the product taxed. It is far easier to tax the first sale in the state than the last sale. Looked at from the social point of view, less total effort is spent in preparing reports by importers and manufacturers than would be spent if each retailer had to report his sales. Society gains because less labor is spent in producing the object desired.

III Reports and Penalties.

A Reports and Payments.

Five states California, Montana, Tennessee, Georgia and Pennsylvania, require quarterly reports of gasoline sales. All other states require monthly reports of sales. In California, reports are made within twenty days after the close of the quarter and in the other states named, quarterly within thirty days after close of quarter. All states require the payment of the tax with the report except Connecticut, Maine, New Hampshire, South Carolina, and California. Maine, New Hampshire, and Connecticut require reports on the fifteenth of the month and payments on or before the first of the month following report. In California payment of tax is due within forty days after the close of a quarter. South Carolina requires the report on the twentieth of the month. Payment of the tax may be made then or later. On the twenty-fifth of the month, the list of taxes due is turned over to the State Treasurer who proceeds to collect delinquent taxes. In Colorado the tax is paid when the inspection fee is collected. The material on Louisiana reports and payments was not available. The following table gives the data for the balance of the states.

Table VI

Date Report and Payments are Due on Gasoline Tax.

Tax among the states*

Date of Report and Payment	States
Report 1st of month Payment at report	Kentucky
Report 5th of month Payment at report	Florida
Report 10th of month Payment at report	New Mexico South Dakota
Report on or before 15th of month. Payment at report.	Arizona Idaho Indiana Maine Nevada Oklahoma Oregon Texas Utah Washington Wyoming
Report on or before 20th of month. Payment at report.	Alabama Arkansas Mississippi N. Carolina Virginia
Report on or before last day of month Payment at report.	Delaware Maryland Vermont W. Virginia

* The report is for sales of the preceding month.

B. Penalties for failure to report and pay.

Table VII

Penalties for failure to report as provided by laws of various states.

Fine	State
\$0--\$100	New Hampshire North Carolina South Carolina
\$0--\$500	Nevada
\$0--\$1,000	Arizona Colorado Delaware Maryland Montana Oregon Pennsylvania West Virginia
\$0--\$2,000	Connecticut Maine
\$25--\$100	Mississippi
\$25--\$500	South Dakota
\$25--\$1,000	Arkansas
\$50--\$200	Alabama * Kentucky
\$50--\$500	Oklahoma
\$100--\$500	North Dakota
\$100--\$1,000	Indiana New Mexico
\$500--\$1,000	California Wyoming
\$500--\$2,000	Vermont
\$500--\$5,000	Florida

* Fine for failure to allow inspection.

Additional jail sentence is imposed by several states. North Carolina, Arizona, Delaware, Maryland, Montana, Oregon, Pennsylvania, West Virginia, California, Wyoming, Indiana, and Nevada provide a maximum jail sentence of six months. The South Carolina law fixes a sentence not to exceed thirty days; the South Dakota law, sixty days; Oklahoma law, ninety days; and North Dakota law, one year.

Not all states make failure to pay or report a misdemeanor and punishable by fine or jail sentence or both. But most all states fix some penalty and some provide penalties other than fines. Alabama, for instance, provides that if the monthly return is not made, the State Tax Commission shall secure the information and assess the tax plus 25%. California adds 25% of the tax due to the assessment and then collects 7% interest per annum on this sum till paid. Utah provides a similar penalty with 12% interest per annum. Colorado, Florida, Pennsylvanis, South Carolina, and West Virginia add 10% of amount tax due to the bill. Colorado in addition to the 10% penalty charges on the whole sum 2 % a month. Kentucky adds a 20% penalty. In Tennessee, 50% of tax is added and 6% interest is charged on this sum. Idaho, North Carolina, and Virginia charge double the assessment in case of neglect to return report, provided it is willful neglect. Mississippi, New Mexico, and North Dakota add a 5% penalty. Texas adds one cent per gallon extra for the number of gallons sold during the month in which the dealer failed to report or pay. Ten percent a month is added upon the full amount thereafter, until paid. Oklahoma merely charges 18% interest on what is overdue. In Alabama, Colorado, and Mississippi, the delinquent dealer may be enjoined. License to do business may be revoked in California, Florida, New Mexico. No license may be issued to a delinquent dealer in Utah. It is unlawful to continue in the business of selling gasoline in Wyoming if the dealer has not paid the tax, Colorado and Wyoming provide that the court may appoint a receiver for the business if the tax is delinquent. Failure to register subjects a dealer in Kentucky to a fine of not less than $50 nor more than $200. Every week that he remains unregistered constitutes a separate offense. For delinquency, in Louisiana, 2%per month on amount of tax is added and also 10% attorney's fees on the sum of both the tax and the penalties, in all cases wherein attorney is called on to assist in collection. North Dakota has a rather complicated penalty schedule. Taxes unpaid for thirty days become delinquent. Penalty of 5% immediately accrues, with 1% for each month the tax continues unpaid.

Such claim constitutes a lien on property. For failure to furnish data upon demand to the State Chemist, a penalty of 10% of the tax is added to it after assessment. Failure to make return of information is punishable by a fine of not less than $100; and each day's continuance of the failure shall constitute a new offense. South Dakota fixes a fine of $10 for each day's delay in making report and remittance.

IV Costs of Collection.

Another important thing about any tax and one that often reflects efficient administration is the cost of collection. Our inquiry, directed to the administrative officer of each of the states, included an item on costs of collection. The replies do not lend themselves very well to tabular presentation, so they will be given in running account. The Alabama State Tax Commission thru, F. C. Marquis, Associate Member, reports that they collected $1,886,568.03 in gasoline taxes from March 1923 to June 1924 at a cost of collection of $16, 698 or at a cost of less than one per cent. From April 1 to Dec. 31. 1923, Arkansas collected 1,176,798.93 at a cost of $11,800.72 and in the year 1924, they collected in excess of $955,000 at a cost of 7,059.62. Mr. Cooper of California says,"The cost of collection is very nominal, being simply the cost of assessment roll of 150 pages, the notices to distributors, postage, etc. The State Board of Equilization makes the Assessment without extra help, and the State Controller's Office collects such assessment through its Franchise Tax Department, without extra help."[26] Robbins B. Stoeckel, Commissioner of Motor Vehicles of Connecticut says, "The work of collection is so interwoven with the licensing of stations that the cost of collecting the tax is necessarily approximated, and is probably about 2%." Delaware reports costs of $35.00 for eight months in 1923 and $30.00 for six months of 1924. During that time they have collected over $200,000 in taxes. Florida has an annual charge of $3600 which for the amount collected is slightly better than one-tenth of one percent. Idaho reports costs of collection of $6,580.94 in 1923 and $3,167.16 for 1924 which is slightly less than 2% of amount collected. Indiana spent $6,460.96 to collect 4,554,544.18 from June 1, 1923 to June 1. 1924. Louisiana appropriates $7,500.00 per annum to cover cost of collection of gasoline tax. Maine spent $148.86 in a year to collect a tax of $451,466.70. Aileen Walker, State Treasurer of Montana reports that the cost of collection is about one-sixteenth of one percent.

26. Private Correspondence. All quotations on costs from same source.

N. B. Milligan, Secretary of the State Tax Commission of Nevada, says, "No account of the cost of collection as the additional clerical work and printing paid for from support fund of Tax Commission. Future audit and clerical work require some cost; this will be provided for 1925 legislature." W. N. Everett, Secretary of State of North Carolina, says: " Due to the fact that this tax is paid direct to us by the big companies, the total cost of collection is approximately $5,000.00. If it had to be collected from the distributors at the curb, it is hard to tell what the cost of collection would be." North Carolina used $5,000 in collecting nearly $4,000,000 during the fiscal year ending June 30, 1924. Oklahoma reports cost of $12,000 to collect better than $2,000,000. The figures for Oregon indicate a cost of from one-fifth to one-fourth of one percent. South Dakota finds the tax collection cost to be less than 1%. Tennessee collected $812,356.68 at a cost of 10,854.32 in 1923 and $731,110.23 thus far in 1924 at a cost of $6,719.22. Charles Heiner, Deputy Secretary of State of Utah, reports that $100 per month for services of one clerk constitutes the total cost in Utah. "The cost of collection in Vermont has been less than $3oo from April 1, 1923 to Aug. 5, 1923 according to A. H. Grant, Secretary of State.

" The cost of collection has been comparatively small" in Virginia, according to the Secretary of the Commonwealth. \$7500.00 a year is the cost in West Virginia. Georgia officials claim they have no cost of collection as two clerks work harder than formerly. New Hampshire claims to have no additional costs, North Dakota says the costs are low and New Mexico, Washington, and Texas did not report, tho N.K. Broun[27] reports that New Mexico collected, in 1922, \$130,000 from distributors at practically no additional expense. No separate account of collection cost kept in Maryland. The costs of collection in Arizona vary between \$1500 and \$3500 per year.

A large number of the states report no cost of collection. Of course, no tax can be collected with no cost. Even tho there may be no additional expenditure and even if clerks do work a little harder, yet there is cost. That cost may be charged against other taxes. The time spent by any clerk on gasoline tax business is gasoline tax cost of collection. This time or sum may be so small that it is not worth keeping account of. An examination of the data presented shows that this tax does not have a high cost of collection. In very few cases does it exceed one percent and in most cases in considerably less than one percent. It is an economical tax to collect.

27. Engineering and Contracting 59:530 (Mar. 7,1923)

Chapter V

"Exemption from Gasoline Tax and Distribution of Receipts."

Two of the most important problems in connection with the gasoline tax as it is found among the various states are the question of who and what shall be exempt from the tax and what shall be done with the proceeds of the tax once they are collected. The problem of exemptions will be first considered. Under that head, the type of exemptions and whether there should be exemptions at all will be discussed. Then the important matter of the distribution of the proceeds will be considered. That subject is the most important one in connection with gasoline taxes.

I Exemptions

A. Sales in interstate commerce.

All states exempt gasoline brought into the state and sold in the original package or container. This policy is in line with the decision of the United States Supreme Court in the case of Bowman v Continental Oil Company, quoted above in Chapter III.

B. Other classes of sales.

In some states, the law is entitled an act to tax motor fuel. When the title of the law is so stated, the law provides exemption for kerosene oil, distillates, fuel oil, gas oil, crude oil, smudge oil, and residium. Such exemption is provided in Alabama, Colorado, and Florida.

Arizona exempts gasoline or other distillates of crude petroleum purchased for any other purpose than use in motor propelled or motor driven vehicles. The Arizona law further exempts gasoline used in farm tractors, farm machinery and implements, and such motor propelled or motor driven vehicles as run only upon rails or trakks. The California law provides for practically the same exemption by saying that only the fuel used in motor vehicles operated upon the state highways is taxable. In Idaho, any person who shall buy and use any motor fuels for purposes other than the operation of motors, motor vehicles, tractors or other engines shall be reimbursed the amount of the tax paid by him. The New Hampshire law says that whenever any person shall purchase any fuels for any purposes other than for the propulsion of motor vehicles upon highways, he may be granted a refund of the tax paid. Delaware provides that any person buying motor vehicle fuel for purpose of operating or propelling stationary gas engines, tractor used for agricultural purposes, motor boats, air planes or air craft, or any person who shall purchase any of the fuels for cleaning or dyeing, or for commercial use except in motor vehicles operated on the highways of the state, shall be reimbursed for the tax paid thereon. Practically the same wording is used in the statutes of Indiana, Nevada, South Dakota, Maryland, Virginia and Washington, tho the last two do have slight variations. The Virginia law allows exemptions only when purchase is in lots of five gallons or more. Virginia further exempts the gasoline used in motor equipment belonging to the cities and towns and used exclusively in municipal activities. The State of Washington has an interesting exemption which provides that a tourist or a traveller, coming into the state in a motor vehicle, may transport for his own use only, not more than twenty of gallons of liquid fuel at one time, to be used in his own machine.

Mississippi, Montana, North Carolina, Pennsylvania, West Virginia, South Carolina, Texas and Vermont make no exemptions at all, except for sales in inter-state commerce, North Dakota exempts gasoline used for household purposes. Gasoline for use in road rollers, street sprinklers, fire engines, fire department apparatus, police patrol wagons, ambulances owned by municipalities or hospitals, agricultural tractors, and such vehicles as run only on rails or tracks is exempt from the tax in Connecticut.

C. Method of Administering exemptions

Two important problems arise in connection with exemptions. Shall the exemption be made at the time of purchase of gasoline or by means of a refund?

Most of the states which allow exemptions from the tax for gasoline used in certain ways provide that the purchaser shall pay the tax and apply later to the proper state authority for a refund. This method is followed by California Delaware, Idaho, Indiana, Nevada, New Hampshire, Oregon, Virginia, Washington, Maryland, and South Dakota. Usually, the purchaser presents the original invoice and other affidavits properly singed and duly witnessed, as to the purpose of such use of gasoline to the administrative officer of the state, who on presentation of such papers makes the actual refund. Another method of providing the refund and making the exemption is described in a letter of V. E. Funk of Lexington, Kentucky, to John D. Williams, Director of the Indiana Highway Commission,[28] "-----In regardsto the rebate on taxes paid for gasoline exempt from taxation, this could be taken care of by theconsumer filling out proper forms to the retailer as for what purpose gasoline is to be used. This in turn should be filed by the retailer with the proper state official for his rebate." This latter method is one in which

28. Engineering and Contracting 59:530 (Mar.7,1923)

the retailer virtually allows the exemption and merely presents the proper forms to the State authorities so as to receive a refund or to reduce the amount of the tax due on his sales.

Of the two methods of making exemptions described, the former is the better. By the latter method, there would be danger of collusion between the retailer and the purchaser for the purpose of avoiding the tax. There is a distinct advantage in having a state office pass on exemptions and refunds. The local retailer would have no troubles with his customers over exemptions. A disinterested party, the State officer,could decide the matter better than the local retailer who might desire to do as the customer desired in order to keep his patronage. The state officer has only the facts to face and no local problems or competition. A state officer can and probably will adopt more uniform practices than local retailers would. Unless purchases are in excess of ten gallons, no exemption should be allowed. If the amount purchased is greater than that amount, let the purchaser apply to the state officer for the refund. An additional advantage of the method of applying to the state officer for refund is that many people would not take the trouble to secure the refund. This would not seriously injure the gasoline consuming public either. Those persons who use a great deal of gasoline in uses that are exempt would probably secure the refund, but those who use little gasoline in such ways and whose refund would be small, probably would not bother.

D. Should there be exemptions?

This is the most important question in regard to exemptions from the tax. The argument of those who contend that no exemptions are necessary is that the volume of such exemptions is so small that it is not worth while to bother with them. Furthermore, the policy of no exemptions limits the possibility of evasion of the tax thru false statement in regard to the use of gasoline. Another argument that could be advanced in favor of no exemptions is that no gasoline should be exempt because conservation, not so much consumption, is desired. The tax might reduce consumption.

On the other hand, many people argue that there is no relation between the amount of gasoline used in a dry cleaning establishment and the use of roads. The main argument in favor of a gasoline tax has been that it measures better than anything else the use of the road. Why, then, tax gasoline that is used in ways that do not affect the roads?

As long as most of the gasoline is used in vehicles that travel the highways of the state there should be no exemptions on sales of gasoline except those in inter-state commerce. This method will eliminate most of the possible evasion of the tax, and also some administrative effort. Since the amount of these exemptions is small, the payment of the tax by all will work no substantial injustice on gasoline consumers.

II Distribution of the Proceeds.

Another important problem of the gasoline tax is the problem of the distribution of the revenues from the tax. The method of distribution is important because it has much to do with the popularity of the tax. Here, one encounters the political influences in the framing of gasoline tax legislation. Table #VIII below shows the general distribution of funds collected by gasoline taxes.

A. Table VIII

Parties to Distribution of Gasoline Tax Revenues.

Distribution	States
All to State Highway Fund	1. Connecticut 2. Delaware 3. Idaho 4. Kentucky 5. Louisiana 6. Maine 7. Maryland 8. New Hampshire 9. North Carolina 10. Oregon 11. South Dakota 12. Tennessee 13. Utah 14. Vermont 15. Washington 16. West Virginia
Part to State Highway and part to County Highway Funds	1. Arizona 2. Arkansas 3. California 4. Colorado 5. Florida 6. Indiana 7. Mississippi 8. Nevada 9. Oklahoma 10. Virginia
Used for other purposes, in part at most, than road building.	1. Alabama 2. Georgia 3. Montana 4. North Dakota 5. Pennsylvania 6. South Carolina 7. Texas 8. New Mexico
All to County	1. Wyoming

B. Proceeds to State.

Very little comment is needed in regard to that group of states where all the proceeds of the tax are placed in the State Highway Fund. The Connecticut law provides that the proceeds shall be expended under the direction of the State Highway Commission for Public Roads. Delaware gives all the revenue to state highways except $3000 which the State Treasurer retains for refunds provided by the exemption clause. In Kentucky, the proceeds of the tax are credited to the State Road Fund, for construction and maintenance, except one percent of collections which may be retained by county clerk for services in collection. In Louisiana, enforcement expenses not to exceed $15,000 annually may be appropriated by the legislature. The remainder of the receipts from the gasoline tax constitutes the General Highway Fund. Maine allots fifty percent of revenue for the maintenance of state and state aid highways and bridges; the balance is added to a fund for the construction of third class highways. In Maryland, tax proceeds are distributed according to the appropriations of the legislature. New Hampshire funds are for the maintenance of highways. The Utah law states that the net proceeds of license taxes shall be paid quarterly into the State Highway Maintenance Fund. Before any of the proceeds are paid into this special fund, enough of the proceeds to pay interest and sinking fund charges on state road bonds must be set aside. The gasoline tax in Utah does not have to bear the whole burden of the interest and sinking fund charges but just enough so that with any other funds available there will be a sufficient sum of money to pay all charges on state road bonds which shall become due during the calendar year. After deduction for costs of collection, the Vermont law puts the balance of the money to the credit of a "Surface Fund" or a "Dust Laying Fund" to be expended under the supervision of the State Highway Board in re-surfacing the main thoroughfares and state roads. All gasoline taxes collected under the West Virginia act are paid into the state treasury for re-construction and repair of roads and highways, and for payment of the interest on state bonds issued for road purposes. States in this group which have not been mentioned in the discussion simply put the proceeds of the tax in the state highway fund and add no qualifying clauses.

C. Proceeds to State and County

1. Methods of Distribution.

The next large group of states are those that divide the yield of the tax between the state and the counties.

The Arizona laws provides for distribution of fifty percent of the tax collected to the county in which it is collected. The half to the counties is paid to the county treasurers in proportion to the amount of such tax received from the respective counties. The other fifty percent is paid to the State Treasurer, twenty-five percent of which the Treasurer credits to the State Highway Department and seventy-five percent to the County Highway Seventy-five Percent Fund. The State of Arizona supervises the expenditure of half of the tax proceeds, the part which is in the State Highway Fund and that which is in the County Highway Seventy-five Percent Fund. Under the one cent tax law in Arizona all the money went to the State Highway Fund. In Arkansas, seventy-five percent of the receipts is credited to a fund designated as the County Highway and Improvement Fund and twenty-five percent is credited to the State Highway Improvement Fund. The County Fund is distributed according to the percent which the population of each county bears to the total population of the state. In California, half of the money is paid into the State Highway Maintenance Fund and half is paid to the counties in the proportion which the number of vehicles registered there bears to the total number registered in the state, for a special road improvement fund. Colorado keeps half the revenues for the State Highway Fund and the balance is apportioned on the first day of January and July among the several counties of the state according to the mileage of state routes and state highways. Two-thirds of the proceeds in Florida goes to the State Road Department for construction and maintenance of state roads, and one-third goes to the counties for similar purposes. The original law of Florida gave all the revenue from the gasoline tax to the State Road Fund. In Indiana, the proceeds of the tax are paid into State Highway Fund. In October, 1923, $500,000 was paid to the counties, and in October 1924, and annually thereafter $1,000,000 will be paid to the counties. The share to the counties is divided as follows: one-half divided equally among the counties, one-half divided in the proportion which the number of miles of free gravel or macadam and county unit roads in the county bear to the whole number of such roads in the state. Mississippi divides the gasoline tax yield as follows: Forty percent of the funds received is credited to the State Highway Fund for construction and maintenance. Sixty percent of the total amount received from each county is returned to the county treasurer for the county road fund. This distribution is made by the Auditor of Public Accounts on or before the fifteenth of the month succeeding receipt of taxes. The

The Nevada law appropriates $60,000 annually to the State Highway Fund and divides the balance among the counties by prorating it according to the number of motor vehicles holding state licenses. The latest law in Oklahoma provides that the proceeds of one cent of the two and a half cent tax shall be distributed quarterly to each county in the percentage which population, valuation, and area of each county bears to that of the entire state. The money thus distributed is to be used for permanent roads and bridges and is to be spent in a way approved by the State Highway Commission. The other one and a half cent of the tax is to be credited to the State Highway Fund for construction and maintenance. Seventy-five percent of this latter amount must be used for new roads. The Virginia law appropriates two-thirds of the revenue for the construction of roads and bridges in the State Highway System and one-third to the counties for roads and bridges in the County Highway System. The share to the counties is distributed upon the same conditions as state aid money, except that the counties need not match said sums or any part thereof.

2. Comment on methods.

There are about five distinct ways of measuring the amount to go to the counties. One method is by returning to the counties an amount in proportion to the amount of the tax collected in the county. This procedure commends itself under the argument that the people who pay the tax will get a share of the benefits on the roads near home. This is also an easy method of distribution. It may be presumed that if there is a large tax collected in a county, there is much gasoline used in cars and trucks and there is a real need for good roads. If the funds distributed to the counties are used for maintenance, chiefly, then this method is a good one for determining the need of each county for funds because the amount of gasoline used in cars and trucks does bear a direct relation to the wear and tear of the road.

Another method is distribution on the basis of the percent of the population of the county to that of the state. No doubt, advocates of this method expect the results to be nearly the same as under the first method. A dense population has greater traffic needs than a small one. A dense population would furnish a good share of the tax because in such a place automobiles are many and the need for gasoline is large. This statement needs qualification, tho, in the main, it is true. It is conceivable that a population might be very dense and still quite poor. In such cases the ownership of automobiles might be limited. The argument on population distribution would then lose some of its strength.

But if the funds of the county were used for maintenance on the state roads, then, even with a poor population this procedure would work desirable results for it would provide funds for maintenance which probably would not be provided by the people themselves.

Other states distribute the share of the counties in the proportion that the number of registered motor vehicles of the county bear to the total number registered in the state. By this plan, the revenues are returned to the counties from which they come, except in the case of communities that have many cars but do not use them much. Justification for this way of distributing funds to the county may be upheld by the same arguments that were used for the methods already described.

Several states distribute funds to the counties in the proportion that the mileage of roads or state roads in the county bear to the total mileage of state roads. Under this method, very different results take place than under the previous methods. If the more densely populated counties and those with the most vehicles have also the largest mileage of state roads, then, results will be approximately the same as under the other methods. But if the state highway department is attempting to develop a state systen of roads, state roads in order to connect "key points" in the system may pass thru some counties where the population is not dense, where the number of motor vehicles is low, and where the valuation of property is low. This procedure secures desirable results under some circumstances. It helps the counties with low valuations and little ability to provide funds to build good roads to get funds to do their share in developing good roads in the state. There are counties in Middle and South West where the total assessed valuation is not high enough with the highest legal tax rate allowed to provide enough funds to build a mile of real good road. In such cases as these, a distribution of the kind described in this paragraph, would produce the desired results. However, this method will encounter opposition from the class of people who object to paying a special tax such as the gasoline tax, and seeing it expended in a way from which they receive no apparent benefit.

Indiana, as noted above, divides annually after October 1924, one million dollars among the counties. Half of this sum is divided equally among the counties and the other half in the proportion that certain types of roads in the county bear to the total of such type of roads in the state.

The division on the basis of equality among the counties will not produce amounts for the counties in proportion to the amount their residents paid in. But it will help the counties with low incomes from other taxes. It helps create equality of opportunity among counties for road work. Everyone is familiar with the phenomena of good roads in one county and poor roads in the next county. The first county may be wealthy in its tax resources and the other poor. If both counties share alike in the county distribution of gasoline tax proceeds, the second county has a better chance to provide good roads than it would otherwise have. The distribution of the other half on basis of mileage of certain types of roads serves as a spur to the counties to develop those types of roads. It is an indirect means of subsidizing and if that is the purpose of the legislature, it is legitimate. Oklahoma is trying to combine several factors, population, valuation, and area. A county might have a relatively small population and still have a large area and even a high valuation and thus be able to get a good share of the tax. This would be possible in Oklahoma, tho one would ordinarily expect a large population and a high valuation to go together. The area element may be significant. A large county needs more roads than a small county. A large county is usually one of small population and sometimes of low valuation. There is an attempt thru the use of area in determining distribution to help counties that might be at a disadvantage because of their size. Probably the combination of three factors in Oklahoma is a result of political pressure. The counties with a large area need extra help. The representatives of counties with large populations and high valuations want as large a share of the tax proceeds as possible because they feel that their constituencies have paid the bulk of the tax.

Which of the various methods of distribution to the counties is best? Like all economic questions, the answer to this question will depend on the circumstances. If the money distributed to the counties is to be used for maintenance, one answer may be given; if it is to be used for new construction, a different answer may be given. If the money is used for maintenance, primarily, several methods will serve. A state could use distributions on basis of amount of tax collected in each county, on basis of percent of population of county to that of the state, on basis of number of vehicles registered from the county compared with total number registered in the state, or on basis of the proportion of mileage of roads in the county to be maintained to the total mileage in thestate to be maintained. The last method is best if the purpose is maintenance. But if a good share of the money is to be used by the counties in new construction or in building improved types of roads, then, some other method is desirable. If there is a great deal of difference in the ability of counties to raise funds because of differences in taxable resources, then, distribution on basis of equality or area will be all right. Or if the legislators desire to encourage certain types of roads, they should enact in their law the method of Indiana.

The bulk of the funds distributed to the counties should be for maintenance purposes. A small part might be used for new construction or for payment of interest and sinking fund charges for bonds, the proceeds of which are used for new construction. A combination of methods will produce the most desirable results. Whatever share of the tax that the state distributes to the counties should be in the proportion that the area, the registration of the motor vehicles, and the mileage of roads of the county bears to the total area, registration of motor vehicles, and mileage of roads of the state. Suppose a state had a two cent tax. Let one-half of the revenue be credited to the State Highway Fund, and the other half to be distributed to the counties by the method described. The administrative officer of the state should divide the total sum to be given the counties into three parts. One part should be distributed on the basis of the area of the county to that of the state, one part on the basis of the number of motor vehicles registered from the county to the total number registered in the state, and one part on the basis of number of miles of road in the county to the total number of miles in the state. The share of any one county, then, would be the sum of these three parts. Once a year, the proportions should be revised. Area will be the same, but the other two factors will change from year to year. This method has much to commend it. In two ways, it measures the need for maintenance, by the number of vehicles registered from the county and by the number of miles of road in the county. The advantages of these two methods have been considered before, so will not be repeated here. The area item takes account of the larger counties which have more roads to maintain and usually have less ability to maintain them. It also helps such counties secure a larger share with which tod evelop new construction. One might expect the mileage of roads item to help the large county secure a larger share of the funds, tho this is not generally the case, for a small, densely populated county will have more roads per square mile to maintain. Area as a basis of distribution is better than equality among counties in division of proceeds because it emphasizes size which is important. The item on number of motor vehicles will insure in most cases that the counties which pay a large part of the tax will have some of it returned to their counties. Taken all in all, this method should result in a distribution that will encourage proper maintenance and development of both state and county highways. All the states are not alike and it is very probable that methods will vary from state to state. The method should be judged by how it meets the need of the particular state.

Before proceeding to the next phase of the problem, attention should be called to the tendency on the part of states when increasing the rate of the gasoline tax to divide the revenue between the county and the state. Many states under a one cent gasoline tax law gave all the proceeds to the state highway fund. But with an increase of their rates to two or three cents, they made a division of proceeds between the state and the county. This is a reflection of both county politics and the will of the people. County commissioners and county courts have always been more or less jealous of their power over the roads of the county.

In many cases, they have resented usurpation, as they think of it, on the part of the state and the state highway Commission. They prefer to spend the county road funds in a political way. On the part of the people, the argument is different. They are altruistic enough to pay a one cent tax on gasoline and are willing to let the state highway department use all the proceeds in the way the engineers think best even tho the money may not be expended in their own county. But Before they willingly pay two, three, or four cent taxes, they want to see provisions made for spending dome of the revenues near home. So a number of states have given the counties a part of the revenue coming from increased rates.

D. Proceeds for other purposes than roads.

Eight states use the gasoline tax revenues for other purposes than road use. Alabama places one-half of the revenues to the credit of General Fund of the state and the other half is divided equally among the counties for their road and bridge funds. Georgia credits one-third of the yield to the General Fund of the state, one-third to a special fund of the State Aid Road Fund, and one-third to the counties. The third to the counties is divided on the basis of the pro-rata part of the State Aid System road mileage. Montana's latest law places forty percent of the revenue to the General Fund of the state, twenty percent to the State Highway Fund, and forty percent to the counties, equally. The county share is to be used for road maintenance. The older law in Montana gave two-thirds of the tax to the General Fund and one-third to the counties in proportion to the total number of teaching positions in which teachers were employed in public schools at least six months during the preceding year. In North Dakota, all net proceeds of the tax are credited to the General Fund of the state. Pennsylvania really has two gasoline taxes in force. One for one cent per gallon is divided as follows: Fifty percent of the tax is given to the county where the tax was collected and is to be used for the construction and repair of highways, and for payment of interest on county bonds issued for road purposes. The remaining fifty percent of the one cent tax and in addition a one cent emergency tax are paid into the General Fund of the State Treasury. This one cent emergency tax is repealed automatically at the end of the year 1925. The South Carolina law provides that one-third of the revenue shall be credited to the General Fund for defraying the ordinary expenses of state government, one-third shall be distributed to the counties on the basis of valuation and this sum is to be used by them exclusively for construction and maintenance of roads, and the remaining one-third shall be held by the State Treasurer to the credit of the State Highway Department for maintaining and improving roads which are now or may hereafter be incorporated into the State Highway System without reference to county lines. In Texas, funds derived from the gasoline tax are appropriated for the biennium beginning September 1, 1923 as follows: One-fourth to be available for the Public Free School Fund and the remaining three-fourths to be available for the construction and maintenance of the public highways of the state as designated by the State Highway Commission. The proceeds of the tax in New Mexico go to the State Road Fund with the exception of $15,000 which is credited to the State Fish Hatching Fund.

E. Proceeds to the Counties.

Wyoming credits the receipts of the tax to the State Highway Fund, after which they are apportioned among the several counties of the state in proportion to the number of miles of designated state highways therein. These funds are to be used for maintenance and repair of state highways.

F. Conclusion on Distribution.

What conclusions can be drawn from the discussion on distribution? The following seem to be sound: First, all funds should be used by the state and spent on state roads and under the direction of the state highway commission, if the tax rate is only one cent per gallon. This is reasonable because a one cent tax in most states will not yield enough revenue to justify its distribution in small sums to the counties. The sums obtained by counties would be so small that they would be spent in a small way and might even be wasted. If the state keeps the whole amount it can spend it in a way that will accomplish something. Second, if the tax be more than one cent per gallon, the counties should receive a share of the yield. Their quota should be determined on some such basis as was described above. States have done this because they had to in order to get the law passed, but it is justified on other grounds, The higher rates yield enough so that the state has a good sum for state highways and the counties may have a good share for county projects. This method gets some of the money expended in the regions from which the tax comes. The people who pay get some benefit and that is what they want. Exception might be taken to this point in the case of states where the yield under an increased tax would be low. There all the proceeds should be kept by the state so that the money may be wisely spent and not wasted as it would be if it were divided into small sums. Third, funds secured thru gasoline taxation should not be used for general state purposes, but only for road purposes. Most of the states that have passed gasoline tax laws did it to secure funds for road building and road maintenance. Gasoline was selected as the best commodity to tax to raise funds for such purposes because it measures better than anything else the actual use of the road and the benefit to the motorist. When states adopt excise taxation as a principal source of revenue, then this objection will not be sound. States are not adopting excise taxes on a wide scale to replace the broken down General Property Tax. They are changing the property tax so as to make it work and are introducing the income tax and corporation franchise taxes. Some one may say that the gasoline tax is like the corporation franchise tax in that it is a payment for a special privilege. The franchise tax is a payment for the privilege of doing business as a corporation; the gasoline tax is virtually a payment for the privilege of having and using good roads. In the case of the gasoline tax, the benefit from it comes in the way the proceeds are spent; this is not true of the corporation franchise tax. States should use the gasoline tax for road purposes, at least, until they change their type of revenue system. The tax is popular when the proceeds are used for better roads, but it encounters objection when used for other purposes. Fourth and last, the funds distributed to the county should be spent by the county under the supervision of the state highway department. This will insure non-political and wise expenditure because the highway department will ordinarily have more capable and efficient engineers than the counties. The success of the tax depends very largely on the distribution of the proceeds.

Chapter VI

" Incidence of the Gasoline Tax."

The incidence of the gasoline tax is rather a complicated question. Does the consumer pay the tax as the legislators intended, or does the producer of gasoline or automobiles bear a good share of the burden? The general concensus of opinion, whether in article, editorial comment, or law is that the tax is borne by the consumer. Is that opinion correct?

I On the consumer?

Is the tax borne by the consumer? The answer is, in the main, yes. But one can offer little convincing proof in the way of figures, for along with the increased use of gasoline taxes has come the increase in the production of gasoline and the decline in price with which most people are familiar. This fact has further complicated matters. To determine whether the comsumer bears the burden of the tax or not requires an analysis of the supply and the demand for gasoline.

Examine the attitude of the seller of gasoline. The state comes along and places a tax on gasoline with the intention, generally, that the consumer will pay the tax and bear the burden of it. The seller of gasoline is an agent of the state for collection purposes. When a purchaser of gasoline stops at a service station, the seller will say that his bill for ten gallons of gas is so much plus the tax which the state now levies. Several states, as has been noted before, require that the price for gasoline and the amount of the tax be stated separately. If the consumer buys the gasoline, pays the regular price plus the added tax, and buys in the same quantities as before, the dealer neither gains or loses and the customer plainly pays and bears the burden of the tax. The question is, Will the consumer buy as much as before at the increased price which includes the tax? Oregon reports 31,949,653 gallons taxed in 1919; 45,100,330 in 1920; 50,967,323 in 1921; 57,172,772 in 1922; and 72,789,723 in 1923. During this same period, the gasoline tax was increased from one to three cents per gallon. The gasoline tax did not check the increase in consumption in Oregon. Under the three cent tax law, the consumption was more than ever before, but this was not due to the tax but to the great decline in price in 1923. Figures on oil production and consumption published in practically every number of the National Petroleum News and the Oil and Gas Journal show that the consumption of gasoline is not declining, but increasing. This was true even before the price decline of the past two years. The demand for gasoline on the part of automobile consumers is relatively inelastic. There are a few motorists who say they will not buy gasoline with a tax of two or three cents added, but that number is very few. Most motorists realize that refusal to pay the tax and to bear the burden of it by not buying gasoline gets them nowhere. They cannot use their car without gasoline and all of the time that it is not being used depreciation and danger of obsolence continues. The burden of the tax is far less than the burden of these items. There is another class of people who try to dodge the burden of this tax by going outside the taxing district to purchase gasoline. Such folks, and they are usually owners of pleasure vehicles, figure that they take rides for pleasure anyway and that the route chosen might just as well be one that leads to a service station outside the taxing district so that they can save the payment of the tax. This number is also very small. If it were large, the problem would arise of whether the sales of gasoline would be so reduced within the taxing district that the dealers would raise the price by more than the amount of the tax so as to make the same amount of profit per gallon as before. If this condition existed, they would probably increase the price of gasoline. If the number of people who purchased outside of the taxing district were large enough to justify an increase of price within the district, those same purchasers of gasoline would increase the demand for gasoline outside of the district and might cause an increase of price due to increased demand. Whether the price would increase outside of the district would depend on the available supply of gasoline and on whether gasoline were produced under increasing, decreasing, or constant costs.

It is a safe conclusion that the consumer generally pays the tax and bears the burden of it. Most folks who buy gasoline pay the price asked without question, and if a tax is included in the price or added to the price, they pay that figure without comment. If they think about it at all, they hope that they will get more mileage per gallon of gas because of the good roads provided with the proceeds of the gasoline tax. When the day comes that they will need less gasoline to travel the same distance, then the question becomes pertinent, Will the oil companies bear the burden thru reduced sales? The consumer will still bear the burden thru the increased price as long as the demand for gasoline is inelastic and supply is produced under increasing costs. In Utah and Oklahoma, where the tax is two and half cents per gallon, there is a strong possibility that the price for gasoline is increased by more than the amount of the tax. In five gallon lots, the price for gasoline with the tax added would be in half cents. Most dealers would just add the extra half cent to the price to make it an even figure. If competition were brisk, some dealers might bear the half cent of the tax and pass the two cents on to the consumer. Or they might add the extra half cent in five gallon lots, but not for ten gallons. This would be a means of encouraging ten gallon purchases. The consumer pays the tax whether it be one cent or three cents. He does not pay more than the amount of the tax in most cases. But if the rate increases to five cents or more, there might be a reduction in demand large enough to cut down producers profits. If such were true it is very probable that the consumer would pay a higher price for gasoline than the amount of the tax would justify.

Is the purchaser of gasoline able to charge more for the goods and services which he produces because he has to pay a gasoline tax? People who use automobiles for commercial use might be able to pass a good share of the burden on in the form of higher prices for their commodities and services. Whether they can do that or not will depend upon the demand and supply for those goods and services. Most of the gasoline is used in pleasure cars. The owners of those cars cannot demand higher wages because of the gasoline tax. They must foot the bill. If they get no larger incomes, how do they pay the tax? They do it by reducing the expenditure for something else. The tax burden amounts to from $5--$15 per year per car, depending on the rate, the type of country, etc.[29] This is not a large amount, but it must be paid. In many cases, this burden, like the cost of automobiles, is reflected in a difference in housing facilities. Since the advent of the automobile people have been living in smaller houses. This is due in part to the increased expense of houses but also to the fact that people prefer the luxury of a car to that of a house. As is commonly known, many individuals mortgage their homes in order to secure funds to buy a car. This same class of people is living in more cramped quarters in order to save money to operate a car. One does not need a spacious home if he can get out in an automobile and get fresh air. Another class is undoubtedly making a saving on clothing in order to have funds for gasoline. A saving can be made here as folks who use their cars a great deal do not need as good clothes for car wear as they might

29. Figures secured from Society Automotive Engineers Journal 8:276 (March 1921) and <u>Facts and Figures of Automobile Industry</u>

need without a car. Other individuals are saving money on recreational activities and use that money for car expenses. Instead of attending shows, musicals, etc. as they did before they owned a car, many people are spending that time in pleasure riding and trips. Or instead of spending money for travel magazines or books to get vicarous experiences, they are actually taking trips and rides. The scenery is free but it does take money to reach it. Whatever additional cost the gasoline tax is to the consumer is covered by a change in the direction of his expenditure. He is substituting the luxury of a car for some other luxury and he is satisfied with less expensive clothes and home.

Engineers and consumers hope that the gasoline tax will be a "burdenless tax." Improvement in the roads will so increase the mileage per gallon that the tax will cost the consumer nothing. This would be a case of what Professor Seligman calls "transformation" of a tax. In time, the tax will be practically burdenless but for the present the consumer pays the tax.

II On the producer?

A number of groups of producers seem to think that the incidence or burden of the gasoline tax is on themselves and not on the consumer of gasoline. Their views merit brief consideration. Chief among the complainers are the producers of gasoline and then the producers of automobiles.

A. Of gasoline?

Mr. Charles E. Bowles has put up a very interesting argument on incidence in the Oil and Gas Journal for August 16, 1924.[30] He says," The sooner the oil industry recognizes the strategic significance of a legislature's raising $10,000,000 from 1,000,000 motorists and then keeping the motorists from paying the $10,000,000 by keeping the price of gasoline from going up, to say nothing of trying to put it down, the sooner the industry will recognize the tremendous strength of a State legislature's position when it goes out on a program of bringing about cheaper gasoline at the same time that it levies a tax on gasoline. If by regulation, State operation of filling stations or otherwise,a situation can be created that will force the oil industry to'absorb the tax' of 1,2,or 3 cents a gallon, the 15,000,000 motorists of the United States will naturally be relieved from paying the tax. The oil industry will pay it.

" If the legislatures of our 48 States pass laws taxing gasoline an average of 2 cents per gallon and we use

30. Oil and Gas Journal, 23:#12a, page 20(Aug 16,1924)

6,000,000,000 gallons a year, the tax will amount to $120,000,000 a year.

"It is perfectly obvious that if the price of gasoline can not be raised 2 cents a gallon and the $120,000,000 collected from the public and returned to the oil industry, then the $120,000,000 will have to be borne by those who sell the gasoline whether they be great oil companies that own production, pipe lines, refineries and filling stations, or whether they buy gasoline to sell at a profit and have no further interest in the petroleum industry than as 'merchandisers of gasoline'."

Mr. Bowles' arguments deserve consideration. He states in his article that he knows there has been over production of oil in the last two years, yet he hints that the reason for the decline in price has been due to the activity of certain governors and mayors in underselling oil companies. Why doesn't he recognize the facts as they are? In the year 1923 the pipe line companiew in the Mid-Continent Field prorated runs for the purpose of reducing the supply of gasoline so that the price could be maintained. He probably, knows as the National City Bank letter for August 1924 pointed out, that this scheme did not work. So today the big oil companies are running the price down as low as they dare in order to freeze out the small independent. Their purpose is to cut down production so that they can maintain the price. The real reason that governors and mayors are "hurting" the oil industry is because these officials know that competition is not working well and that the oil companies are attempting to attain monopoly. From the standpoint of conservation of oil resources, the policy of the city and state officials is wrong. However, they are combatting monopoly tendencies and they are doing what they think their oath of office compels them to do.

It is not the fault of governors that the price of oil and oil profits declined, but the fault of the oil industry itself. The governors may have brought down the price sooner than it would have been reduced by the oil companies but that is all they did. The flood of oil from California demoralized the market in 1923. Low prices resulted. In the oil industry, a low price does not reduce the supply as it does in most industries. The folks who own the wells pump just that much harder so that their total profits will not be reduced. If one man stops pumping and another man continues pumping from the same pool, the first man is very apt to resume pumping for he knows that the other fellow may pump out a great deal while he is waiting for the price to rise.

It is unfortunate that so much oil is being consumed. Yet the public cannot look to the oil men for conservation. Those engaged in distribution would favor it and those engaged in production would oppose it. In both cases, the greed for profits is the explanation.

If the state can create an artificial situation, such as Mr. Bowles describes, perhaps for a short time the incidence of the gasoline tax might be on the oil industry. But this is not likely to be a permanent condition. 'Tis true that the supply of gasoline might be produced for some time at a loss, but at will not be produced continually at a loss. The supply is being depleted. As time goes on and it becomes more difficult to produce the supply, the price will rise. Even today, it is doubtful if the oil men bear any share of the gasoline taxes. The oil men set the price of gasoline as low as they can and then add the tax to that. It is true that the profits of the oil industry have been reduced by the low price of gasoline, but that low price is due to conditions within the industry and not to the gasoline tax. Mr. Bowles expects gasoline tax rates to be fixed at three cents generally. His fear is that the industry will not be able to pass that large a burden to the consumer. His real fear is of the demogogic type of politician. However, with our present Federal Constitution and our present economic organization, it is not likely that the oil industry will suffer long, if at all from gasoline taxes.

B. Of automobiles?

When the arguments of the automobile men against the gasoline tax were considered, it was indicated that a part of their objection might be caused by fear of the incidence of the tax. In other words, will a gasoline tax so increase the costs of operation of a car that a smaller number of cars will be sold? If so, the tax would effect automobile producers. Until the saturation point is reached, it is probable that car manufacturers would be able to shift any such burden to the consumer. Then the consumer might have two burdens, that of the tax itself and that of a higher price for automobiles. As yet, however, there are no indications that the demand for automobiles has been effected. All the big automobile producing companies continue to increase their output. The added cost of the gasoline tax is so small that any effect on demand for automobiles would be so little as to be negligible. Furthermore, such a tax would only reduce the demand of the marginal buyers. Rather than go without a car, these people would make sacrifices as indicated above. The incidence of the gasoline tax, then, seems to be on the purchaser of gasoline.

Chapter VII

"Conclusions."

The material in this chapter naturally divides itself into three parts: First a discussion of the gasoline tax as a source of highway revenue; second, a discussion of the possibilities of a gasoline tax as a means of promoting conservation of oil; and third, a proposed model gasoline tax law. It is not the purpose of this section to make a recapitulation of the conclusions of each chapter but to elaborate the broader and more general conclusions that follow from the study taken as a whole.

I Gasoline tax as a source of highway revenue.

A. Relation to highway finance.

The two main problems in connection with the movement for good roads have been how to secure funds to pay for the original cost and also how to secure funds for proper maintenance. New roads may be built on cash or on credit. If paid for in cash at construction, the state has to levy taxes at once to secure the funds; if paid for by means of credit obligations, the state may postpone payment for awhile but they will eventually have to provide funds to liquidate the credit obligations. In either case, government officials are confronted with the problem of deciding from what source the funds will be raised.

Part of the funds for construction should come from the benefit district. It is only fair that those people who benefit from the convenience of the highways and from increased property values should pay a share of the cost. But others who use the road should pay for the benefit they receive. More people who do not live adjacent to it use it than those who live on the road. The best way to get these people to pay their share of the cost is to levy a gasoline tax. The fact that the consumption of gasoline in automobiles does bear a relation to the wear and tear on the road is well established. The gasoline tax is justified as a means of securing funds for maintenance from those folks who make the repairs and renewals necessary. But since the automobile has caused a demand for a better type of road than formerly, the gasoline tax as a means of raising funds to provide such roads is justified. The principle of the use of the gasoline tax for maintenance purposes is quite generally approved, tho many who approve its use in this way oppose it as a means of raising money for construction purposes. The argument that tourists who help wear roads out also help pay for their upkeep by paying the tax on gasoline is a very popular and sound argument. Some tourists go out of their way many miles to be able to travel hard surfaced highways. Since this is true, states need have no moral qualms about using a part of the proceeds of the tax for construction. The tourists are glad to have these highways and do not object to paying an infinitesimal part of the cost.

Two problems still remain in connection with the construction phase of the matter. They are: What division of government should have charge of construction? Shall the money received from the tax be used directly for construction purposes or shall it be used to pay interest and retirement charges on bonds? Most of the money for construction should be spent by the state under the supervision of the highway department or commission. Any share that the counties receive should be spent primarily for maintenance and whatever they have left after that should be spent for construction, but under the supervision of the highway department. This policy will eliminate much graft and "jobbing" of contracts and will provide for wiser expenditure of funds because of the more expert advice of the highway engineers of the state. No definite answer can be given to the second question. If a state pays cash for its roads, it eliminates the interest burden of bonds, but does not get as great a mileage of roads. If bonds are used to provide the funds for construction on state roads, then the state's share of the proceeds, or as much of it as is needed, should be used to pay interest and retirement charges on these bonds. Any amounts that the counties have in excess of the maintenance requirements might be used in the same way. A lengthy digression is not in point here, but it should be added that if bonds are issued either by the state or the counties, those bonds should have a short term and should be a serial issue.

It is not the purpose of this discussion to cover the field of highway finance, but only to show the relation of the gasoline tax to that larger problem. The gasoline tax should be used first as a means for securing maintenance funds and, second, as a means of getting construction funds. How much should be spent for construction will depend on the people of the particular state and the rate that they are willing to pay.

The most significant argument against gasoline taxes comes from the National Automobile Chamber of Commerce and associated organizations that make up the Motor Vehicle Conference. This group contend that the prodeeds of the tax should be used for maintenance only and that this tax should be used only when some other tax on motor vehicle owners has been repealed. The first part of their argument has been adequately considered. The Maryland Statute provided that if the yield of the gasoline tax exceeded a certain sum, the governor was authorized to reduce the registration fees for motor vehicles. But very few states have made this provision. In England there was some talk of a ten cent per gallon gasoline tax.[31] This high tax was to replace all existing taxes on motor vehicles. It would take nearly a ten cent gasoline tax rate in the states of the United States if the gasoline tax were to replace all other taxes on motor vehicles or motor vehicle owners. Would those who uphold the view, stated above, favor complete abolition of all taxes if it meant a ten cent gasoline tax? Very likely not! What they want is reduced taxes on motor vehicles. The question might better be raised as to whether or not there should be an increase in taxes on motor vehicles so as to keep many people from buying. Perhaps the automobile is causing social harm and it would be a good thing for the state to check its increased use, if possible.

The arguments of the oil men are quite narrow and selfish and do not deserve as much consideration on the part of the public as do the arguments of the Motor Vehicle Con-

31. Engineering News Record 90:505 (March 15, 1923)

ference.

The gasoline tax has proved to be a good tax. It is fair to the people who use the roads and it is a good revenue producer. At present, the two cent rate is most popular and probably most fair. The three cent rate is increasing and in a few years will be used more than any other rate. The rate may go as high as five cents in some states. That is a very high tax, if expressed as an ad valorem tax. If the people really want it, they should have it.

B. Problems of Administration.

The administrative problems will not be considered again at great length. What seems best on the basis of the material in Chapter IV will be placed in the Model Gasoline Tax Law. The tax should be collected from the importer or manufacturer because this is the point of greatest concentration, these producers have better credit than retailers, and fewer accounts need be handled by the state office.

The State Tax Commission should be the main administrative office. This office is selected because it is felt that the Tax Commission will know more about tax problems and procedure than any other State Officer. The tax commissioners should establish rules of procedure, provide forms for reports, make inspections, and assess the tax. Payments of the tax should be made to the State Treasurer.

The other problem that deserves a brief review is the one on exemptions. Exemptions should not be made except for sales in inter-state commerce. The justification for this is that the burden will not be very heavy on those who might be exempt, and even if it were, it is further justified because it might help promote conservation.

II Gasoline tax as a means to promote conservation.

In the first chapter, the suggestion was made that the gasoline tax might be used as a means to promote conservation. Now, at the close of the study, a partial answer must be made to that suggestion.

If the gasoline tax is to be effective in promoting conservation, it must cause a decline in consumption. The burden of the tax on the marginal consumers must be so heavy that they will buy less gallons or quit buying entirely. The present gasoline taxes have not caused a decline in consumption. The consumer has assumed the added burden from the tax source by sacrificing somewhere else. These taxes have not only failed to reduce consumption, but have not checked the upward tendency of consumption. As was pointed out, in the chapter on Incidence the tax rate would have to be high before any appreciable effect on demand would be noticed.

If the tax rates were placed at a high figure and the present methods of collection thru the producer were followed, it is quite probable that new cases would come before the Supreme Court of the United States. Certainly, the oil companies would contend that a high tax was confiscatory and in violation of the Fourteenth Amendment to the Federal Constitution. The Supreme Court has ruled on this question, but whether they would rule the same way in regard to a high tax is not known. The state court that said that the state used the oil company as an agent and that this agency was not unreasonable burden on the oil companies might reverse themselves. The chief difficulty would be in securing the passage of legislation that would authorize a tax high enough to do some good. No legislature would dare pass it and if they did, it would be repealed at the next session. The gasoline tax will be of little value for purposes of conservation at present. From a conservation point of view the policy of the government has been wrong. The government should have kept the ownership of oil lands or retained the oil rights of land, alienated. Or they should now establish strict regulation of the industry, a thing that would be difficult at this late date.

III Model gasoline tax law.

The substance of the law below represents a composite of the procedure of various states. Parts of the "model law" are taken verbatim from the Statutes of Maryland, Virginia, West Virginia. Most of the content of the law is not original. The only claim for originality is in the matter of distribution of revenues and in the combination of methods and procedures.

An Act to levy a tax upon gasoline; to provide for its collection; to appropriate the revenue raised by the same; and to prescribe penalties for violation of any section.

Whereas, The present system of charging license fees for registration of motor vehicles was designed in part to equalize the burden of maintaining and reconstructing the public roads and highways of the State of-------------by imposing said burden upon those deriving sepcial benefits therefrom; and

Whereas, The funds raised by that method are not adequate for said purpose and the additional purpose of new construction; and

Whereas, The method of raising revenue as outlined in this Act will more equitably distribute the burden than any other additional taxes; and

Whereas, It is deemed that there is a direct relation between the use of highways by motor vehicles and the quantity of motor vehicle fuel consumed in furnishing the motive power thereof as well as a direct relation between the weight of the motor vehicles using such highways and the distance which such motor vehicle will travel by such motive power per unit of weight; and

Whereas, It is deemed that the weight of the motor vehicle and the distance traveled have a direct bearing on the damage to the highways and the wear thereof; and

Whereas, It is deemed that the speed at which the motor vehicle is driven over the highways has a direct bearing on the damage to the highways and the wear thereof; and

Whereas, It is deemed proper by the Legislature that the aforesaid burden of maintaining and reconstructing the public roads and highways of the State should be equitably and generally distributed among those who will be benefited more directly by the expenditure of the revenue derived from this Act; and

Whereas, It is deemed proper by the Legislature that those, other than adjacent property owners, who receive a benefit from the construction of good roads should bear a part of the cost; and

Whereas, Such a result in the judgment of the Legislature will be accomplished by levying a tax on the quantity of gasoline purchased by the consumer; and

Whereas, The successful operation of motor vehicles over the public roads and highways of this State depends in large measure upon the construction, proper maintenance and reconstruction of such roads and highways; now therefore,

Section I Be it enacted by the Legislature of---------, That the following words, terms, and phrases in this Act are, for the purposes hereof, defined as follows:

(A) The word "gasoline" shall include the liquid, derived from petroleum or natural gas, commonly known or sold as gasoline, and all other liquids, by whatsoever name known or sold, containing any derivative of petroleum or natural gas, and produced, prepared, or compounded for the purpose of generating power by means of internal combustion, or which may be used for such purposes

(B) The term "importer" is hereby defined as any person, association of persons, firm, or corporation, whether resident or located who imports or causes to be imported into the State of---------gasoline as herein defined for use, distribution, or sale and delivery in and after the same reaches the State of--------- with the exception hereinafter stated.

(C) The term "manufacturer" is hereby defined as any person, association of persons, firm, or corporation who produces, refines, manufactures or compounds gasoline, as herein defined, within the State of---------, for use, distribution, or sale and delivery in this state.

Section II Be it further enacted by the Legislature of --------, That on and after (date), each and every importer and manufacturer as defined in this Act, who is now engaged or who may hereafter engage in his own name, or in the name of others, or in the name of his representatives or agents in this State, in the sale or use of gasoline as herein defined, shall, not later than the fifth of each calendar month, render to the State Tax Commission a statement on forms prepared and furnished by said Commission which shall be sworn to by one of the principal officers, in case of a domestic corporation, or by the resident general agent or attorney in fact, or by a chief accountant or officer, in case of a foreign corporation, by the managing agent or owner in a case of a firm or association of persons, or by the importer or manufacturer in all other cases, which statement shall show the quantities of gasoline used, sold, and delivered within the State of----------during the preceding calendar month; and such importer or manufacturer shall pay at the time of filing the report to the State Tax Commission a license tax of two

(2) cents per gallon on all gasoline sold as shown by such statement, except on such gasoline as is in such form and under such circumstances that it is under the protection of the interstate commerce clause of the Constitution of the United States. Provided further that the tax shall be paid but once. Bills shall be rendered to all purchases of gasoline by such importers or manufacturers. The said bills shall contain a statement printed thereon in a conspicuous place that the liability to the State for the tax or taxes herein imposed has been assumed and that the importer or manufacturer will pay the tax or taxes thereon before the fifth day of the following month.

Section III And be it further enacted by the Legislature of---------, That all importers or manufacturers of gasoline in the State of--------- shall file a duly acknowledged certificate with the State Tax Commission on forms prescribed, prepared, and furnished by said Commission, which shall contain: The name under which such importer or manufacturer is transacting business within the State of---------, the names and addresses of the several persons constituting the firm or partnership, and if a corporation, the corporate name under which it is authorized to transact business, and the names and addresses of its principal officers, resident general agent and attorney in fact. If such importer or manufacturer is an association of persons, firm, or corporation organized under the laws of another state, territory, or country, if it has not already done so, it must first comply with the laws of---------- relating to the transaction of its appropriate business therein. No importer or manufacturer, as herein defined, shall, on and after (date), sell, use, or distribute any gasoline until such certificate is furnished as required by this Act.

Section IV And be it further enacted by the Legislature of--------, That each and every importer or manufacturer shall keep records of all purchases, receipts, sales, distributions, and uses of gasoline. These records shall be kept for a period of a year and shall be subject to inspection by the members of the State Tax Commission, or by any agent or employee thereof duly authorized by said Commission.

Section V And be it further enacted by the Legislature of-------, That it shall be unlawful for any person, firm, or corporation and any retail dealer or distributor of gasoline to receive and accept any shipment in intrastate commerce, from any dealer or pay for the same, or to sell and offer same for sale, unless the statement provided for in Section Two (2) appears upon the invoice of said shipment.

Section VI And be it further enacted by the Legislature of---------, That said tax shall not be imposed on gasoline when exported or sold for exportation from the State of-----, to any other State or nation. Provided that any gasoline so exempt which is later used in such a manner and under such circumstances as may subject it to the taxing power of the state shall be taxable, and any person who uses it in such way or sells it shall make the same reports as the importer and the manufacturer, pay the same taxes, and be subject to all other provisions of this Act relating to importers and manufacturers.

Section VII And be it further enacted by the Legislature of--------, That said tax or taxes shall be paid on the fifth day of each month, as heretofore provided, to the State Tax Commission who shall receipt the importer or manufacturer therefor, and who, less expenses of collection which shall not exceed-------per year, shall pay within a day after receipt, the same into the State Treasury. The revenue from half the tax is, hereby appropriated for the construction of roads and projects comprising the State Highway System or for the payment of interest or retirement charges on State bonds, issued for said purpose, and for no other purpose. Said funds for the State Highway Systen are to be expended under the direction and supervision of the State Highway Commission. The revenue from the other half of the tax is hereby appropriated for maintenance purposes, first, and then construction in the various county highway systems of the state, and shall be distributed among the several counties of the state in the following manner: One-third of said fund shall be distributed to the Counties in the proportion that the area of the county bears to the total area of the state; one-third of said fund shall be distributed to the counties in the proportion that the number of motor vehicles registered from the county bear to the total number registered in the state; one-third of said fund shall be distributed among the counties in the proportion that the number of miles of road in the county bear to the total number of miles of road in the state. Said proportions shall be revised annually on March 1st by the State Tax Commission on the basis of the latest figures on area,mileage of roads, and motor vehicle registration. Quarterly, beginning March 1st, the State Tax Commission shall figure the share of the revenue of one-half the tax that goes to each county and certify to the State Treasurer the total share of each county for that quarter, whereupon the State Treasurer shall pay said sum to the county treasurer of each county. The share of each county may be spent in the way herein provided but subject to the approval of theState Highway Commission.

Section VIII And be it further enacted by the Legislature of---------, That any person, association of persons, firm, or corporation violating any provision of this Act shall be deemed guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000). Any importer or manufacturer or any other dealer coming under the terms of this Act who willfully violate any provision of this Act may be enjoined and the court may appoint a receiver for business of such importer or manufacturer.

Section IX And be it further enacted by the Legislature of-------, That it shall be unlawful for any member of the State Tax Commission, or any agent or employees of said Commission, to disclose, except when required so to do in a Court of Law, the amount of the tax paid in pursuance of the terms of this Act by any importer or manufacturer, or any other information contained in the reports filda by any importer or manufacturer under the terms hereof. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500).

Section X And be it further enacted by the Legislature of---------, That the tax or taxes herein levied on gasoline, shall apply on all such gasoline as shall, at the time this law becomes effective, be in the hands of a retail dealer (to wit: any person, association of persons, firm, or corporation who sells to the consumer) be paid by such retail dealer, who as to the gasoline in his hands on the day this law becomes effective shall make all such reports, do all such things, pay all such sums, in such manner, and at such times as in other cases is required of importers and manufacturers, as herein defined.

Section XI And be it further enacted by the Legislature of--------, That if any section, sub-division, sentence or clause in this Act shall for any reason be held unconstitutional or void, such decision shall not affect the validity or meaning of any other portion of this Act.

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