NOTES ON CURRENT LEGISLATION

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Ballot Legislation of 1911. Probably the most important feature of the ballot legislation enacted during the past year has been the marked trend away from the hitherto prevailing American system, under which special provision is made for straight-ticket voting, and toward the simple Australian system under which the straight-ticket voter and the split-ticket voter are placed on an absolute equality.

Two states, California and New Jersey, have adopted, together with these simpler rules for marking, their logical corollary—the "office-group" form of ballot. The California act [1] provides that the names of the candidates, instead of being printed in separate tickets under the several party emblems, shall be grouped under the title of each office—in the case of certain local offices alphabetically, but in the case of all other offices, voted for throughout larger districts, according to the system of rotation which a dozen or more states have already adopted for their official primary ballots. Each candidate's name—except in the case of candidates for judicial or school offices—is to be followed by his party designation, or by the word "Independent." Blank spaces for writing in names, as many as there are persons to be elected to any given office, are provided for under each office-group. The New Jersey law [2] provides for the alphabetical arrangement of the candidates' names under each office-group, without any provision for rotation. Each candidate's name is to be followed by his party designation. If nominated by two or more parties or independent groups, a candidate may determine in what order their designations shall follow his name, but if he fails to indicate any choice the decision is left to the officer charged with printing the ballots. The change from existing conditions represented by this New Jersey act is even greater than that accomplished in California, since New Jersey has never, up to the present time, adopted the blanket form of ballot, but has continued the earlier American system of separate ballots for each party, merely providing that these ballots should be printed by the state. Their distribution by the state was also provided for, but as a matter of fact,

[1] Ch. 225; March 20.

[2] The so-called Geran law, Ch. 183; April 19; §§ 53–64.

the actual distribution was usually made by the party organizations prior to election day. This has now been forbidden, and by the adoption of a system of numbered stubs, similar to that used in New York, Ohio and a number of other states, many abuses in connection with the handling of ballots on election day have been practically abolished.

Two other states, New Hampshire [3] and Wyoming, [4] while retaining the "party column" form of ballot, have abolished the party circle, and have done away with any special provision for voting a straight party ticket—thus leaving their form of ballot and rules for marking similar to those now in use in Iowa and Montana. This compromise form of ballot, when tried in other states, has usually proved but a temporary expedient, and it may therefore be expected that in time New Hampshire and Wyoming will follow out the logic of their present action by adopting, in addition to the Australian rules for marking, the "office-group" form of ballot.

The past year has also seen a marked tendency toward a *non-partisan* ballot for judicial, municipal and other local elections. The California act above referred to [5] provides that the names of candidates for school and judicial offices shall be printed on the general ballot without party designations of any sort. Wisconsin [6] has made similar provision as to judicial officers in counties of over 100,000 inhabitants (except police justices and justices of the peace), and as to members of school boards in cities of the first class. Candidates for such offices, after being proposed by petition, are to be voted for at a non-partisan direct primary, and the two candidates for each office who receive the largest number of votes at the primary election are to have their name, placed, without party designation of any sort, on the general election ballot. Another Wisconsin act,[7] the application of which is not limited to any particular locality, provides that "no candidate for any judicial or school office shall be nominated or elected upon any party tickets nor shall any designation of party or principles represented be used in the nomination or election of any such candidate." Ohio [8] and Washington [9] provided for a *separate* non-partisan judiciary ballot—in the first case for all elective judges, and in the second for judges of the Supreme Court and of the Superior Court. In Ohio—where such separate non-partisan ballots had already been provided for in the case

[3] Ch. 188; April 15.
[4] Ch. 51; February 18.
[5] Ch. 225; March 20.
[6] Chs. 4 and 5; March 2.
[7] Ch. 333; June 14.
[8] P. 5; February 17.
[9] Ch. 101; March 17.

of members of school boards and of township assessors of real property —the names of all the candidates for each office are to be arranged according to the rotary system. In Washington only the two candidates who have secured the largest number of votes at a non-partisan judicial primary election (which was provided for in 1909), are to have their names placed on the separate general election ballot. When any candidate has received an absolute majority at the primary election, the name of no opposing candidate is to be printed on the general election ballot, but instead a blank space is to be left under the name of the majority candidate in which the voter may write any name he pleases.

Delaware has provided for a non-partisan ballot for the election of municipal officers in the city of Newcastle.[10] The ballot is to be of the "office-group" form, without party designations, and the names of the candidates are to be arranged alphabetically under each office. The candidates' names are to be placed on the ballot by the mere filing of a notice of candidacy and the payment of a fee. In marking the ballot the voter is to indicate his vote for any given candidate by drawing a line through the names of all other candidates for the same office.

The commission government acts adopted in a number of states, as well as the special charters of the commission form adopted for a number of cities, also provides, with very few exceptions, for a non-partisan "office-group" ballot for municipal elections. It is interesting to know that, in connection with this form of ballot, both at primary elections and at general elections, the rotary arrangement of the candidates' names (mentioned above as having been adopted in California) is becoming more and more common. This arrangement has even been adopted in North Dakota,[11] in connection with the party column form of ballot at general elections, for all offices to which two or more persons are to be elected.

No less encouraging than the general tendency away from the prevailing American form of ballot, and toward a simpler and fairer form, is the recent unanimous decision of the New York Court of Appeals [12] declaring unconstitutional the attempt of the New York legislature, under the domination of Tammany Hall, to render fusion movements in New

[10] Ch. 209; March 28.
[11] Ch. 130; March 17.
[12] In the Matter of Hopper *v.* Britt, 203 N. Y. 144; decided October 10, 1911.

York City practically impossible. This object was sought to be achieved in the so-called Levy election law [13] by a provision that the name of any candidate nominated by two or more parties or independent bodies might appear in but one column on the ballot. Such a provision, as has often been pointed out, while entirely fair in conjunction with an "office-group" form of ballot, is grossly unfair and discriminatory when combined with the "party column" form of ballot. This has not always been realized in other states, where "fusion" campaigns for judges or city officers have played a less prominent part than in New York, and where joint nominations have more often been the result of selfish deals than of any genuine sinking of national party differences for the sake of the common good. As a consequence, the courts of three states, looking more to the letter of the law than to its real effect, have upheld such provisions, and in only one state, California, has such a rule heretofore been held unconstitutional. The framers of the Levy law attempted to avoid one of the chief objections of the California court, by providing that, in any column in which the name of a candidate was prevented by the new rule from appearing, there should be printed, instead of the words "No Nomination," which the California court had held to be misleading, the words "see Republican column" or "see Democratic column," as the case might be. This subterfuge, however, did not prevent the New York Court of Appeals from penetrating to the real purpose and effect of the measure, which was to render it more difficult for many voters to vote for a fusion candidate, and thus to render fusion campaigns less feasible. The decision, by preventing in future any such unnecessary and unfair discrimination, establishes a valuable precedent,[14] not only for New York, but for all other states as well.

Other provisions of the Levy election law, unfortunately not affected by the decision above referred to, make it far more difficult than heretofore to place on the official ballot the name of any independent candidate. The act also contains numerous objectionable provisions in regard to the appointment of election officers, including the Board of Elections in New York City and similar boards established in all the upstate counties, and in regard to the conduct of elections; but these

[13] Ch. 649; July 13.

[14] For a fuller discussion of this very interesting case, and of the various problems of ballot legislation involved in it, see two articles by Albert S. Bard of the New York bar, in the January number of the *National Municipal Review* and in the March number of the POLITICAL SCIENCE QUARTERLY, respectively.

provisions can hardly be discussed under the head of ballot legislation. It is sufficient to say that seldom has a more vicious or reactionary piece of electoral legislation been foisted on a protesting community. Among the few desirable or unobjectionable changes made by the bill, the only one which affects the form of ballot is the provision for a separate ballot for presidential electors. Heretofore these officers have been voted for in presidential years on the general ballot.

Another act [15] passed in New York provides that "no ballot shall be declared void because a cross-mark thereon is irregular in character." The wisdom of such legislation is open to serious question. The courts have always been lenient toward minor irregularities in marking, where such irregularities have not appeared to be intentional; and their decisions in cases of this sort, while by no means free from conflict and ambiguity, have gradually tended to build up a system of rules for the counting of ballots under which an unintentional irregularity may be differentiated from a wilful attempt to identify a particular ballot. To adopt a new and sweeping legislative provision such as that contained in the new law is likely only to destroy such rules as the courts have been able to establish, and to open the door wide for the easy identification of ballots by purchased voters. A somewhat similar act [16] was passed in Maine, but with the proviso in this case that any irregularity in marking should be disregarded *only* if deemed unintentional. This act applied only to cross-marks made in the party circle—a distinction somewhat difficult to defend.

In California [17] and New Jersey [18] provision was made for the mailing of a sample ballot—and, in California, of a card containing instructions to voters as well—to each voter. In each of these cases one purpose of the provision was undoubtedly to familiarize the voters with a new form of ballot in use for the first time.

In New Jersey [19] the governor was authorized to appoint a commissioner to revise, simplify, arrange and consolidate the primary and election laws of the state, and to submit to the next legislature a draft of a new election law together with recommendations for legislative action. In Pennsylvania [20] the commission appointed in 1909 to revise and codify the election laws of the state was continued and given additional time in which to complete its work.

In New Hampshire the rules under which assistance may be given

[15] Ch. 269; June 9.
[16] Ch. 70; March 22.
[17] Ch. 442; April 12.
[18] Ch. 183; April 19; §59.
[19] Ch. 364; May 2.
[20] House concurrent resolution No. 28.

to voters in marking their ballots were rendered more strict. Heretofore a voter, on merely stating that he was blind or disabled, or that he could not read, could procure the assistance of either one of the election officers designated by the moderator for assisting voters. In actual practice a mere request for assistance was all that was usually demanded. The new law compels any voter desiring assistance to declare *under oath* his inability to write, blindness or other physical disability, provides that he may receive the assistance of both election officers (of different parties) designated by the moderator (though it is not clear that he *must* be assisted by more than one), and requires the officer or officers assisting him to certify the fact that they have done so in a blank space prepared for this purpose on the back of the ballot. New Jersey [21] and Wisconsin [22] also passed laws regulating more strictly the method by which voters may be given assistance in marking their ballots.

In Massachusetts the legislature submitted to the vote of the people,[23] at the November election, the constitutional amendment, passed in 1909 and 1910, permitting the use of voting machines. This amendment was adopted by popular vote and is now a part of the constitution. In New Jersey, on the other hand, the use of voting machines—which, under the act of 1908, allowing the question of their continuance to be submitted in each election district, had been generally abandoned—was finally abolished altogether.[24]

Among the other measures relating to the ballot which were adopted in the several states the following may be mentioned: Tennessee extended its Australian ballot law to apply to counties of from 19,399 to 19,425, [25] and from 29,250 to 29,600 [26] inhabitants—*i. e.*, to Coffee County and Tipton County, respectively. Wisconsin provided [27] for separate ballots for presidential electors, to be printed on light blue paper, and for still other ballots, to be printed on pink paper, for all questions referred to popular vote. The city ballot and the general state and county ballot are still to be printed on white paper, and sample ballots are to be printed on paper of a different color from any of the official ballots. In Illinois it was provided [28] that, where two or more persons are to be elected to a given office, the names of all party candidates therefor are to be arranged according to the size of the vote

[21] Ch. 183; April 19; §63.
[22] Ch. 373; June 14.
[23] Resolves, Ch. 75; May 15.
[24] Ch. 205; April 24.
[25] Ch. 124; February 17.
[26] Ch. 398; June 24.
[27] Ch. 633; July 11.
[28] P. 310; June 5.

cast for each of them at the primaries, and the names of all candidates nominated by petition according to the order in which their names appear on the petition itself. Another Illinois act [29] allowed any city, by popular vote, to discontinue minority representation in its municipal legislative body. In South Dakota [30] and Wyoming [31] the form of ballot for constitutional amendments and other questions submitted to popular vote was prescribed in more detail than heretofore—in the latter state by the provisions of the initiative and referendum amendment which is to be submitted to the voters in November, 1912. In Kansas the form of ballot for the election of commissioners in commission-governed cities of the second class [32] was altered by the provision that any candidate may designate on the ballot the city department of which, if elected, he desires to be the head. In Connecticut the Australian ballot law of 1909 was amended [33] and its provisions in regard to the form of the ballot and the rules for marking—especially the rules as to split-ticket voting for selectmen—were made more specific.

A number of other acts and minor amendments were enacted in the several states, but no one of them is of sufficient general interest or importance to deserve separate mention.

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Primary Elections—Legislation of 1909–1910. The rapid onward march of the movement for direct primary nominations, with its overthrow of the caucus and convention system and subjection of the organization and operations of political parties to legal control, continued unhalted during the years 1909 and 1910. In over half of the score of states having merely rudimentary or narrowly restricted primary election laws, the messages of the governors urged comprehensive direct primary legislation upon the lawmakers. The question of direct nominations became a dominant political issue in New York, and provoked a prolonged legislative contest that attracted national attention, and served to develop public opinion, but did not result in any legislation. Governor Hughes, advancing from his earlier recommendation of a "permissive" system, strongly pressed upon three successive sessions of the legislature, two regular and one special, the enactment of a mandatory system of direct nominations for prac-

[29] P. 148; June 5.
[30] Ch. 87; February 21.
[31] Ch. 52; February 18.
[32] Ch. 184; March 14.
[33] Ch. 263; September 19.

tically all elective offices, and of direct choice of members of party committees. In April, 1909, the opponents of direct nominations created a joint legislative committee to investigate the operation of direct primary laws in other states and report its recommendations to the legislature at the ensuing session. This committee held public hearings in ten states and gathered from both advocates and opponents, a vast mass of testimony as to the actual workings of direct primary nominations, that should be of great value to students of this subject. Only a summary, or digest, of the testimony (some 200 pages) was printed in the report of the committee, which favored more legal regulation of party organization and action, but opposed disturbing the convention system by introducing the principle of direct choice by party voters except for members of local committees and delegates to conventions.

The Connecticut commission on direct primary laws, authorized by the General Assembly but not composed of members thereof, made a second and supplementary report to that body in 1909, in which it renewed its recommendation of 1907 in favor of a mandatory, statewide direct primary law covering practically all elective officers, including United States senators, except the minor state officers.

As the net result of these two years of public discussion and legislation, nine recruits, one territory [1] and eight states—Arizona, California, Colorado, Idaho, Maryland, Michigan, Nevada, New Hampshire, Tennessee—joined the ranks of the more advanced direct primary states by enacting new and comprehensive laws for direct nominations. Missouri passed a law, entirely new in form, but nearly the same in substance, as that of 1907. Illinois reënacted the law of 1908, slightly modified to meet the constitutional objections sustained by the state supreme court.[2] In Montana the two houses of the legislature each passed a separate direct primary bill, but failed to reconcile their disagreement.

In nine of the states having thoroughgoing direct primary laws, amendments were recommended by the governors, and generally enacted by the legislature.[3] They had to do mainly with the scope of direct nominations, the method of proposing candidates, the position of names on the ballot, the test of party affiliation, the system of party

[1] Hereafter in this summary the term state will be applied to all nine without distinction.

[2] See "Notes" in this Review, II, 271–72, 417–21; III, 561–62; IV, 569–71.

[3] Ia., Kans., Mo., Nebr., No. Dak., Okla., So. Dak., Wash., Wis.

organization, and will be noted at the end of the discussion of the corresponding parts of the new laws. In general these amendments were designed, as the result of experience, to perfect the operation of the laws. There is no evidence of any turning back from the principle of direct primary nominations. No governor recommended the repeal of the fundamental provisions of the direct system. On the other hand, the chief executives of Indiana, Michigan, Minnesota, and New Jersey, states having several years of experience with direct nominations for local offices, all recommended a marked extension of the system.

The nine new direct primary statutes of 1909–1910 are, as a whole, very progressive, and in striking harmony with the general principle of direct nominations and responsible party government under legal control. In applying this principle they present variations, both of degree and method, that are interesting and well worth comparative analysis and observation; yet all, with the possible exception of those of Tennessee and Michigan, represent the same general type of primary legislation. All nine acts are mandatory, each as far as it goes, but differ somewhat as to the discretion or option allowed party organizations and political subdivisions. Every state provides for a practically pure or unmixed system of direct nominations, except Maryland and Michigan, which adopt a composite or mixed system of nominating candidates in part by direct primary and in part by delegate convention. Each statute is state-wide and essentially uniform in its application, except in Maryland. The local acts for certain counties in Michigan, and also that for "Baltimore City," are repealed. But Maryland excepts five out of a total of twenty-three counties from making direct nominations for county and legislative offices, unless a majority of the voters of *either* party in an excepted county decide in favor thereof on a referendum vote, required at the first primary election, but optional thereafter, in which case the direct system becomes effective therein upon all parties. Moreover, the Michigan law provides for a system of local option, or referendum, in counties, cities under seventy thousand inhabitants, and judicial districts, by which the voters in each of these political subdivisions are permitted to decide whether or not candidates for its local offices shall be nominated by all parties at primary elections. The question may not be submitted in a given subdivision oftener than once in two years.

These laws present both marked similarities and decided differences

in scope; first, as to the political organizations authorized to participate in making direct nominations; second, as to the number of offices for which candidates are to be nominated directly. Five acts provide that legal parties, having a right to separate primary election ballots for their candidates for nomination, shall consist only of political organizations casting a required percentage of the *total vote of the state:* namely, ten per cent in Colorado, Idaho,[4] Maryland, and Tennessee, but only three in New Hampshire. The other four acts provide for not only state-wide parties, but also local parties entitled to separate primary ballots in merely one or more subdivisions of the state. Such state or local parties are to consist of all political organizations casting, in Arizona, five, but in California and Nevada, only three per cent of the total vote in the state or in a political subdivision thereof, as the case may be. The Michigan act applies to all political parties with no limitation as to the vote cast; and any new party may have the names of candidates placed on a separate primary ballot by petitions, signed by three hundred electors for state offices and only twenty-five for district, county or city offices. Arizona farther provides that an entirely new political organization shall be officially recognized as a legal party, and so certified to the county officials, by the territorial secretary, on the petition of electors equal in number to two per cent of the total vote in the territory, and so distributed as to constitute two per cent of the vote in each of at least five counties.

All of these acts, except those of Michigan, New Hampshire and Tennessee, provide for direct nominations for practically all elective offices, congressional, state and local. The California, Colorado and Nevada laws make a special exception of the offices of municipalities whose charters provide a system of nomination. The Michigan law is not to apply to any state-wide offices except those of governor, lieutenant-governor, and United States senator, nor, as stated above, to the offices in certain subdivisions if the voters thereof so determine. New Hampshire expressly excepts *all* city and town offices except those of "moderator and supervisors of the check list." In Tennessee direct nominations are to be made for all elective offices, even those "elective by the General Assembly in joint session," [5] except those of state and district judges and "attorneys-general." [6] Every other act except

[4] Idaho also requires three nominees for state offices at the last general election.
[5] The secretary of state, treasurer, and comptroller.
[6] Corresponding to district attorneys or state's attorneys in other states.

that of Michigan applies the direct primary to all elective[7] judicial offices. The Michigan law does not apply to the office of supreme court judge, nor to that of circuit judge in any judicial district where the voters reject it.

Of the eight *states*, all[8] except New Hampshire provide for the direct nomination of party candidates for United States senator. Presidential electors are expressly excepted from the operation of the direct primary law in Colorado, Michigan, and Nevada, and impliedly so in California and Idaho; while the laws of Maryland, New Hampshire and Tennessee provide for their nomination by a state convention. The acts of Arizona and New Hampshire make no mention of party delegates to the national nominating convention; but all the other states except them from the application of primary elections, and with the exception of Colorado and Michigan, expressly provide for their selection by a delegate convention.

Oklahoma so amended her law that it no longer applies to party delegates to national conventions. South Dakota extended the application of her law to include supreme court judges, presidential electors and party delegates to national conventions.[9] North Dakota withdrew the nomination of supreme and district court judges from the operation of the party primary, and provided for their non-partisan nomination on a separate "judiciary ballot." Oregon so extended her law as to include not only the nomination of presidential electors, and the choice of party delegates to national conventions, but also a preferential vote on candidates for nomination for president and vice-president.

The Maryland law provides for annual, the other eight for biennial, primary elections. Official ballots are provided for without exception. Every act except that of Tennessee provides for a joint primary of all parties to be held, and the returns canvassed, the same as for a regular election, the entire expense being a public charge. In Tennessee the primaries of the different parties are to be held on the same day throughout the state, but by separate party election boards at different polling places. These election officials are appointed by the various county committees of each political party and serve without pay. The returns of each primary are canvassed by party committees and a state primary election board chosen for each party by the legislature in

[7] In Ariz. and N. H. the important judicial positions are filled by appointment.
[8] Md. by act of 1908, while Mich. reënacts the provision of her law of 1907.
[9] Provided the party vote equals ten per cent of the total vote of the state.

joint session. The expense of the primary election is mainly a public, but yet in part, a party charge, defrayed by a pro rata assessment of the candidates for nomination.

Heretofore, direct primary laws have created a legally free field for proposing candidates for nomination, and securing the placing of their names on the official primary ballot. They have either not sought to limit and sift candidatures for nomination, or have done so only by requiring the payment of fees and the filing of nominating petitions signed by a percentage of the party voters. Prior to 1910 direct primary legislation contained no legal warrant for either official or unofficial designation by any committee, convention, or other party organ, of candidates for nomination by the party electors, nor any example of a primary ballot that indicated a political distinction or preference in position between candidates of the same party.[10] The Colorado law of that year departs from this hitherto uniform practice and marks the entering wedge, however thin, of what may become an entirely new development in the direct primary legislation of the future. This statute provides for the placing of the names of candidates on the primary ballot not only by petition, but also by "certificate of designation by assembly." This designating "assembly" is a delegate body to be chosen according to party rules. It is to take only one ballot on candidates for each office. All candidates receiving the votes of at least ten per cent of the delegates are to be certified by the president and secretary as "designated" to go on the primary ballot. No assembly may declare any candidate its nominee. The names of such candidates are to have a preferred position on the ballot ahead of those proposed by petition.

Apart from this innovation the laws under consideration provide four ways of placing the names of candidates on the primary ballot: (1) by the filing of a petition signed by a required percentage of party voters, as in Arizona, California and Nevada; (2) by such a petition without paying a fee, as in Idaho and Michigan; (3) by an application or certificate signed by the candidate and the payment of a fee, as in Idaho, Maryland, New Hampshire, and Michigan cities of 250,000 population; (4) by such personal application without paying a fee, as in Colorado and Tennessee. Thus Idaho, and even Colorado, give the candidate a choice of two methods, while Michigan prescribes one

[10] The Hinman-Green bill, before the New York legislature in 1909 and 1910, provided for the designation by party committees of candidates for nomination, who were to have first place on the primary ballot, but it failed to become a law.

method for the state at large and another for the city of Detroit. Distribution of the signers of petitions is required in Arizona, California, and Idaho, but not in Michigan and Nevada. Arizona, California, and Michigan place a maximum as well as a minimum limit on the size of nominating petitions, but Idaho and Nevada only the minimum.

Three states amended this part of their primary laws in 1909 so as to eliminate petitions signed by a percentage of party voters. They now provide that names may be placed on the ballot in the following ways: in Oklahoma, merely by an application signed by the candidate; in Nebraska, by such an application, or by petition of twenty-five electors and acceptance by the candidate; in Missouri, by a signed declaration of candidacy and the payment of a fee to go into the expense fund of the party.

Four different methods of arranging the names of qualified candidates on the ballot are represented in these various acts. Tennessee provides for arranging the names in the order of the filing of application despite the unfortunate experience therewith in Illinois and Washington. The alphabetical order, the most usual heretofore, is adopted by Arizona, California, Idaho, and Maryland. This arrangement is also provided in Colorado for candidates by personal petition, but the names of candidates by "designation by assembly" are to be arranged in the order of the size of the vote each receives. Three states adopt the newer plan of rotating, or alternating, the names: Nevada, throughout the state; Michigan, in all counties or political subdivisions where the party casts five per cent of the total vote; New Hampshire, for all offices voted for in more than one town or ward. The tendency regarding the arrangement of names as the result of experience is indicated by the amendment of six primary laws in 1909 so as to provide for rotation: throughout the state, in Nebraska, Washington, and Wisconsin; in St. Louis and all counties in Missouri having cities of 100,000 population; and for all county and higher offices in Iowa and Kansas.

The Colorado and Idaho laws adopt the open primary with no public test of the voter's party affiliation. As in Wisconsin the ballots of the different parties are to be separate but identical in size and color. Every qualified elector who offers to vote is to receive a composite ballot, consisting of one ticket of each party fastened together, from which he is privately to select and vote any one ticket he may choose. The rest of these acts all provide for the closed pri-

mary with separate party ballots, of different color except in Arizona and California. The test of party affiliation is prescribed by law in every instance and not left to any party authority. The party tests are uniformly liberal, looking not to the past action but only to the present affiliation and future intention of the voter. In Michigan the challenged voter is to swear or affirm "that he believes in the principles of the political party" in which he claims membership; in Nevada, that it is "his bona fide present intention to support the nominees of such political party"; in New Hampshire, that he "affiliates with and generally supports the candidates of the party." In Maryland the board of registers is to enter in the "party affiliations" column "the name of the political party, if any, to which the voter is inclined and with which the voter desires to have himself recorded as affiliated," and also "to explain to each voter that the statement of such party affiliation does not bind him to vote for the candidate of such party of any election." California, Maryland, Michigan, and New Hampshire provide for a state-wide system of party registration, or enrollment; Arizona, Nevada and Tennessee, for no party registration whatever. In the first group of states, only previously enrolled voters, each within his own party, may participate in the primary. But the right to change party enrollment is recognized and quite flexible provisions made therefor, except in Michigan. In the second group of states, the voter, unless challenged, is to receive the ballot of any party he names. If challenged, he may still receive and vote the ticket of his choice, even though a change of party affiliation is involved, provided he subscribes to the party test. Tennessee makes express provision for a change of party membership on primary day by a sworn declaration that the voter "now intends, in good faith, to affiliate with and become a member of" the other party. Thus these nine statutes represent three degrees of flexibility or rigidity of party affiliation, and of freedom of choice on the part of voters, in the making of nominations.

The governors of Minnesota and Wisconsin submitted directly opposite recommendations in 1909 with respect to the test of party affiliation; the former for changing from the closed to the open, the latter, from the open to the closed, primary; but no legislation resulted therefrom. Missouri changed from the open to the closed primary, but with no party registration, and a very liberal test recognizing the right of the voter to change his party affiliation even on primary day. Nebraska, on the other hand, changed from the closed primary

with party registration in cities only, to the open primary with a blank ballot containing the names of all the candidates of all parties in separate party columns. Each elector is left free to vote for the candidates of any party he chooses, but must confine himself to one column or his ballot will be rejected.

Six of these acts [11] provide for plurality nominations without exception, and make no attempt to guard against nominations by very small minorities where there are several candidates. The new Michigan law omits the former requirement of a minimum percentage of votes to secure the nomination for governor and lieutenant-governor. Tennessee provides that a plurality may elect party delegates and committeemen, but requires a majority to nominate candidates for public offices. If no candidate for nomination receives a majority, a second or "run-off primary" is held to decide between the two candidates receiving the highest vote. The Idaho law marks a new development.[12] It seeks to solve the problem of minority nominations by means of the preferential, or second choice, vote. A candidate must receive a majority of the first choice votes, or failing this, the largest number of both first and second choice votes combined, to secure the nomination. Maryland acquiesces in plurality nominations in all cases except state offices, for which a majority is required and a system of preferential voting provided. Candidates for these state offices are to be nominated by the majority vote of a state convention of delegations of delegates who have received binding instructions as to every candidate by a preferential vote of the party electors of their respective counties or districts. In making a nomination for an office each delegation is to cast its entire vote on the first ballot for the first choice of its constituents as shown by its instructions. If no candidate receives a majority, the one receiving the lowest vote is to be dropped and the votes cast for him are to go, on the second ballot, to the second choice of the voters. If then no candidate receives a majority, the same process is to be repeated until a nomination is made by majority vote. Not the party voters but the state convention voting by delegations under the unit rule and as instructed by the preferential primary vote, formally and legally makes the nomination.

The California law provides that no candidate for nomination defeated at a primary election shall be eligible to run independently for the same office at the ensuing regular election. Arizona and

[11] Those of Ariz., Calif., Colo., Mich., Nev., N. H.

[12] See "Notes" in this Review, III, 563–65, for a more complete treatment.

Michigan frown upon fusion, and refuse to allow the name of a common party nominee to appear on the ballot as the candidate of more than one party. Following the English practice, Maryland introduces a new feature in primary legislation by providing that where there is only one candidate or set of candidates for nomination for an office or group of offices, certificates of nomination are to be issued without the formality of a primary election vote.

South Dakota repealed the provision of her primary law requiring a minimum of thirty per cent of the votes cast to nominate, and returned to simple plurality nominations. Iowa amended her law so that the minimum percentage of thirty-five is not to apply to candidates for nomination for United States senator, but is left undisturbed as to other offices.

Every one of these acts provides for legal regulation of the organization and government of political parties. But they differ considerably in two respects: first, the extent to which they definitely determine party organization and procedure; second, the degree to which they make provision for the direct choice of party committeemen and delegates by the party electors. On the basis of these differences the acts of the nine states essentially fall into three groups of five, three, and one state each.

The first group, comprising Arizona, Colorado, Nevada, New Hampshire, and Tennessee, is characterized by the definite legal determination of party machinery, procedure, and powers, and by largely direct responsibility in party government to the party members. Each state prescribes for all parties a complete and uniform system of organization, the greater part of which proceeds immediately from the electors of the party. Directly elected precinct committeemen constitute *ex-officio* the county committee in all but New Hampshire, where the members are selected by the directly chosen representatives from each county in the state convention, which body fixes the size of the committee in the different counties. In Arizona each precinct where a party casts over fifty votes is to have an additional committeeman for every fifty party votes or major fraction thereof. Each precinct in Colorado is to choose two committeemen, a man and a woman, both of whom are to be members of the county committee. The party nominees are constituted members of the committee for the task of organization, a part of which is the choice of a man as chairman and a woman as vice-chairman.

Intermediate district committees, legislative, congressional, etc.,

are not provided for in Arizona and New Hampshire. Such committees in Colorado and Tennessee are to consist of two representatives from the committee of each county embraced by any district, but in Nevada, they are to be appointed by the district party candidate or candidates.

In constituting the state central committee in this group, the county is used as the unit of representation except in Tennessee, where the committee is composed of two members from each congressional district chosen by the state convention. In New Hampshire, this party governing body consists of the various county committees combined; in Colorado, of the chairmen and vice-chairmen of the county committees, plus the party nominees for state offices for the purpose of organization; in Arizona, of the county chairmen and one or more members from each county elected by its committee, from among all of whom the state chairman is to choose an "executive committee" of one member from each county; in Nevada, of one to three members from each county, selected alternately by the state "party council" and the state convention. It is further provided by Nevada that "each such committee may select an executive committee and *shall* choose its officers by ballot and each committee and its officers shall have the powers usually exercised by such committees and the officers thereof in so far as may be consistent with this Act." In Tennessee, "The committees provided for by this Act . . . are prohibited from adding to or increasing their membership, but they shall have, respectively, the power, and exercise it in conformity with the wishes of the party nominee they represent, to appoint campaign committees, conferring upon them such authority as may be needful to the exercise of their functions; but the said committees shall be without any voting power."

The machinery of party government established by this group does not include either county or district conventions. But careful provision is made in every case for a "party council" or "state convention" through which each party is to determine and formulate its policy, or platform. These policy-determining bodies are constituted in different ways as follows: of party candidates and various committeemen, in Arizona; of party candidates and the hold-over state chairman and senators, in Colorado, and also in Nevada, with the exception of the chairman; of party candidates and as many directly chosen delegates from each town or ward as it elects representatives to the general court, in New Hampshire; of one or more directly elected delegates from each county in a fixed proportion to its party vote, in

Tennessee. The representatives of the different parties are to meet on the same day and publish their platforms within a specified time, in the first three states, but not in the last two. New Hampshire rules out proxies and any manipulation of representation by the provision that "none but such nominees and state delegates shall take part in such state convention." Tennessee prohibits any increase in the membership of the convention, or of any county delegation, by any party authority. Delegates "shall not act by proxy unless the proxy be that of a delegate who has been in actual attendance upon the convention and for good reasons unable to continue his attendance"; nor shall any delegate "accept or use a free pass or free transportation of any kind in going to or returning from any convention." The activities of these party assemblages are not, as a rule, wholly confined to platform making, nor always to a single session. In New Hampshire, the party representatives "meet in state convention for the purpose of adopting the platform of their party, nominating presidential electors, and effecting an organization for the following two years"; in Arizona, they not only make the platform, but also "shall be the party council for two years, and shall have power to call special meetings and perform such other business as may be consistent with the provisions of this Act"; while in Tennessee, the "state convention shall select party presidential electors, party delegates to the national convention; formulate a party platform, if it chooses; select Central or State Executive Committeemen . . . declare nominations certified to it . . . determine contests over party nominations; . . . and exercise such other powers as may be necessary to the execution of its functions and the enforcement of this Act." The party council in Nevada chooses the state committee in addition to framing the party platform, but apparently holds only a single session in a period of four years; for in presidential years, the state convention, that each party may hold to choose delegates to the national convention, and nominate candidates for presidential electors, is also to discharge the functions of the party council.

The second group of states, California, Idaho, and Michigan, prescribes uniform party organization and procedure to only a limited extent, leaving them largely to individual party usage, and authorizes the indirect choice of party officials and delegates to conventions, except in two instances. Idaho provides for county committees consisting of from one to three members from each precinct to be selected by the party nominees for county offices. In both California and

Michigan these bodies are to be chosen by county conventions, their size and apportionment being left to party regulation. Intermediate district committees are not provided by the Idaho law. In California they are to consist of members apportioned to political subdivisions and appointed by the district party candidate or candidates for a definite term. Michigan permits district candidates to elect to appoint these bodies, failing which, they are to be constituted of specified county-committee members, or representatives elected by them. The state committee in Idaho is composed of one member from each county chosen by the county committee; in California, of not less than three members from each congressional district, elected by the state convention; in Michigan, of members selected by the state convention, with no provision of law as to number and apportionment. There is little or no provision respecting the authority of these party agencies except in Idaho, where they are vested with unusually broad powers of party government as follows: "A county or state committee . . . shall have the power to make its own rules and regulations, and prepare and announce party principles and platforms, call platform conventions, elect delegates to platform conventions, county, state, or national, provide for the election of such delegates otherwise . . . and may perform the other functions inherent in such organizations by virtue of law or custom not inconsistent with the terms of this law."

Delegate conventions, county and state, form an integral part of the system of party organization and government in California and Michigan, but not in Idaho. The county convention in both states is composed of delegates elected at the primary by the party voters, their number and apportionment being left to the county committee. In California these delegates constitute the county convention during a period of two years. In Michigan, but not in California, the conventions of a party in the different counties must all meet on the same day. The chief purpose of this body, in addition to selecting the county committee, is to elect delegates to the state convention. The state committee in each state determines the size of the state convention and the representation of each county therein, but in Michigan delegates must be apportioned to the various counties according to the party vote cast by each. This body exists in California not only to elect state committeemen and delegates to the national convention, but also "for the purpose of promulgating platforms and transacting such other business of the party as is not inconsistent with the provisions of this act." Aside from selecting the state committee, the

only prescribed function of the state convention in Michigan is that of nominating candidates for the state offices excepted from the operation of the direct primary. The statute contains no reference to platform-making nor the selection of delegates to national conventions, leaving both entirely to party usage.

The Idaho law presumes and authorizes, but does not command, the holding of both state and county platform conventions of party delegates, each on a specified day, the state convention *preceding* those in the counties. The apportionment, and method of choice, of delegates are left entirely to the state and county committees respectively. The platform any convention announces is to be adopted by majority vote and made public within a set time. If any such platform convention is not called within one week after the primary election, it then becomes the "duty" of the party nominees for state or county offices as the case may be, to meet and "make and announce a platform of party principles."

Of these nine primary laws, that of Maryland, the sole representative of the third group, unites the largest degree of party autonomy in organization and procedure with an unsurpassed degree of party democracy in government. All delegates to state conventions or to those of any political subdivision, and, with the exception of the state committee, all "party executives or managing bodies or executive committees, of any sort whatever" are to be elected directly by the members of the party. Every element of the system of party organization is left to party usage, except for the requirement of a state convention, and a like body in each of the five counties where direct nominations are optional. The procedure of all party governing bodies is practically unregulated, aside from that of state conventions in nominating candidates for state offices. In addition to the function just named, these conventions "shall also have the power to select, in such manner as they may determine, delegates to national conventions and presidential electors and the governing bodies of . . . political parties for the State" as a whole. As in Michigan there is no reference to the issuance of any platform of party principles.

In amending their primary laws in 1909, two states made important changes with respect to party organization. Oklahoma completely abolished the uniform system prescribed by her first primary law, leaving each party free to organize as usage and discretion may dictate. Nebraska reëstablished the former caucus and convention system of organization, with not a single party representative chosen by the

party voters at the primary election, and also provided for an innovation; namely, a platform convention held *prior* to the primary election, and expressly forbidden to take any action regarding candidates for nomination.

The acts of four of these states contain provisions regulating campaign contributions, expenditures, or political advertising in connection with primary elections.[13] Colorado prohibits contributions to the expenses of any candidate by any "person, copartnership, organization, or corporation." California, Colorado, and Idaho limit expenditures both as to the amount to be spent and as to the purposes for which they may be used. They also provide for publicity through the filing of sworn itemized statements of all expenditures. In Idaho any expenditure for other than defined "personal expenses" not only renders the person liable to criminal prosecution, but also disqualifies from becoming a candidate for office or from holding office if elected. Michigan does not directly limit expenditures, but does indirectly by advanced regulation of political advertising. The posting of campaign cards or other political advertising matter is prohibited. The size of political cards or other matter for distribution, and also of any published likeness of a candidate for nomination, is strictly limited. Aside from such personal cards, circulars, etc., the avenues of political advertising are restricted to "a daily, weekly, or monthly newspaper which has been regularly and bona fide published and circulated for at least three months . . ." The size of type to be used is regulated, and the price paid is not to exceed that charged others for non-political advertising. On the other hand, Oklahoma, in 1909, repealed completely the provisions of her law respecting political advertising in newspapers.

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Tax Legislation.[1] Many important changes in constitutional provisions and in the statutes relating to taxation and assessment, have been made during the past twelve months. These changes are in some cases the direct result of the annual conferences held since

[13] In Maryland this ground had already been covered in her corrupt practices act of 1908.

[1] This summary of tax legislation during the last twelve months is adapted from an address on this subject at the Fifth Annual Conference of the National Tax Association, Richmond, Va., September 5–8, 1911, by A. C. Pleydell, secretary of the Association, New York City.

1907 by the International (now National) Tax Association, and, in general, carry out policies that have been recommended by these conferences in formal resolutions and advocated in the addresses and discussions.

The leading tax provision of the new Arizona constitution follows the resolution of the first conference in 1907, inasmuch as it imposes no restraint upon the classification of property. The California constitutional amendment taxes public service corporation property as a whole, conforming to the resolution of the second conference favoring assessment of such corporations by the smallest possible number of assessing boards; and also provides a plan of separation of state and local revenue. The New York inheritance tax amendments follow the provisions of the model inheritance tax law endorsed at the fourth conference last year, and conform to the resolutions adopted at the first conference in regard to interstate comity and the avoidance of double taxation. The taxation of moneys and credits in Iowa and Minnesota has been changed and a low, fixed annual rate adopted, thus following the various recommendations and reports at the different conferences regarding the failure of the general property tax system, and the desirability of classifying property. The New York secured debt law goes a step further and substitutes a specific tax upon bonds and securities in place of the general property assessment.

Constitutional Provisions. Constitutional conventions were held last year in Arizona and New Mexico for the purpose of framing constitutions to govern these states when admitted. A memorial on the subject of constitutional restraints on the taxing power, was prepared, on behalf of the International Tax Association, and submitted to the officers and delegates of the conventions. This memorial recited the resolution adopted at the conference of 1907 to the effect that state constitutions should not contain restraints upon the reasonable classification of property, and submitted the following text as the sole provision necessary to be embodied in a constitution, on the matter of taxation.

"The power of taxation shall never be surrendered, suspended, or contracted away. All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only."

That provision was adopted, without change, as section 1 of article 9 of the Arizona constitution. While that article contains other

provisions relative to taxation, we do not believe that any of these conflict with the purpose of the provision above recited.

California made a radical fiscal change by adopting a constitutional amendment that changes entirely the taxation of public service corporations and also practically establishes a separation of state and local revenue. This is the result of an investigation begun in 1906 by a special tax commission of which Prof. Carl C. Plehn is secretary, and the amendment carries out their recommendations. It provides for state taxation of public service corporations and the exemption of their operating property and franchises from local assessment and taxation. The state tax is based upon gross earnings and the rates are fixed in the amendment but may be changed by a two-thirds vote of the legislature.

The rates vary on different classes of corporations, from two per cent to four per cent. They were determined by taking each class of corporations, as, for example, street railways or electric light companies, and ascertaining the total burden of state and local taxation upon all companies in that class under the general property tax. The total gross earnings of all companies in a class were then ascertained, and a gross earnings tax rate fixed which would produce the same total revenue from the same class of companies as the general property tax. Insurance companies are taxed 1 1-2 per cent on gross premiums, and banks one per cent on capital, surplus, and undivided profits. There is also a state tax of one per cent on the "franchises" (to do business) of other corporations. The act of April 1, 1911, carries out the details of the amendment.

California has had heretofore a comparatively heavy "direct state tax," and the state revenue from the gross earnings tax is expected to reduce the state direct tax sufficiently to offset the loss of such corporation property from the local tax rolls.

Oregon, also, voted upon constitutional amendments in November, 1910, and the situation there is a curious one.

Two amendments were submitted by the legislature, designed to repeal the requirement of uniform taxation of all property and to permit the legislature to classify property for taxation at different rates or to exempt as it saw fit. A third amendment was submitted by initiative petition. This amendment provided, first, that no poll tax should be imposed; second, that no law enacted by the legislature in regard to taxation should become effective until ratified by the people at the next general election; third, that no restriction of the

constitution should apply to any measure relating to taxation or exemption, approved by the people, whether passed by the legislature or submitted by initiative petition; fourth, it empowered the people of the several counties "to regulate taxation and exemptions within their several counties, subject to any general law which may be hereafter enacted."

The two amendments proposed by the legislature were defeated, and the one proposed by initiative petition was adopted by a narrow margin.

The underlying purpose of this amendment was to provide complete county option, but no enabling machinery was provided and opinions on both sides differ as to whether existing laws will cover such an election. Even had the legislature desired to provide such machinery its hands were tied by the provision that no tax legislation can be effective until ratified at the next general election. The amendment prevents all progress until the fall election of 1912 and there was no tax legislation this year.

The legislature has resubmitted to the people two amendments practically identical with those defeated last year, and designed to give the legislature a free hand in dealing with tax matters. It has also submitted an amendment repealing the one adopted last year with the exception of the provision relating to the poll tax.

Changes in Tax Laws. The changes of general interest made in the statutes may be divided into three groups, those affecting personal property; those affecting inheritances; and those affecting administration.

Personal Property Tax. Iowa placed moneys and credits in a special class to be taxed, after making an offset for debts, at a rate uniform through the state of five mills. The tax is assessed and collected where the owner resides, and divided upon the same pro rata basis among various funds as other taxes collected in such district. This law does not apply to banking capital or shares. The tax ferret law of 1900 and all acts giving local officials the power to employ ferrets, was repealed.

Michigan enacted a mortgage-recording tax of 50 cents on the $100, similar to the New York law, and exempting mortgages from local assessment.

Minnesota enacted an annual tax of three mills on the fair cash value of "money and credits" in lieu of all other taxes. "Money" includes all forms of currency in common use, and bank deposits.

"Credits" include "every claim or demand for money or other valuable thing, every annuity or sum receivable at stated periods, due or to become due, and all claims and demands secured by *unrecorded* deed or mortgage, due or to become due." The former offset for debts has been repealed, and no deduction is allowed.

These forms of personal property are listed, assessed and equalized separately from other classes of property, sworn confidential lists being made out by the persons assessed. In case of failure to make such list, the assessor is given power to fill out the same to the best of his knowledge, and a penalty of fifty per cent is added thereto.

The tax is collected in the same manner as other personal property taxes, and is distributed, one sixth to the revenue fund of the State of Minnesota, one sixth to the county revenue fund, one third to the city, village or town, and one third to the school district in which the property is assessed.

The new law does not include money and credits of banks, bonds and notes secured by mortgage in Minnesota, and state and municipal bonds. Bonds of the State of Minnesota or its governmental subdivisions, hereafter issued, have been exempted from all taxation except the inheritance tax. It should be noted that Minnesota has had for several years a recording tax similar to the New York law, and exempting mortgages on Minnesota real estate from the general property tax.

New Hampshire exempted money loaned at not exceeding five per cent and secured by note or mortgage on real estate in the state.

New York has enacted a flat tax payable once only and to the state, at the rate of one-half per cent on the face value of "secured debts." The term includes all mortgages not recorded in New York and bonds or notes or debentures secured thereby, also unsecured serial bonds, and state and local bonds of other states. The tax is an extension of the mortgage-recording tax plan and supplementary thereto. Payment gives exemption from local taxation. If this state tax is not paid, the secured debts continue to be assessable locally, but without deduction for debt.

Wisconsin has enacted a state graduated income tax, carrying with it exemption of such personal property as moneys and credits, stocks, household furniture and farm machinery. And taxes paid on personal property not exempted, can be deducted from the sum due for income tax.

Exemptions are $800 to an individual income; $1200 to husband and

wife; $200 for each child under eighteen, or each person for whose support the taxpayer is liable. Incomes of non-residents from property in the state are taxable without exemption. The rates range from one per cent on the first thousand dollars of taxable income, up to six per cent on all above $12,000. The tax is divided, ten per cent to state, twenty per cent to county, and seventy to the town where the income is derived.

Corporation incomes are taxed on a differently graded scale, based on the relation between profits and assets employed. Dividends are then exempted from the individual income tax.

The state tax commission administers the tax and is empowered to appoint income tax assessors, not less than one in each county, for three-year terms. Such assessors will also have the powers of the present county supervisors of assessment over the local assessors.

Bonds of local subdivisions have been exempted by another statute from the property tax.

Ohio seems to have adopted a reactionary attitude in personal property taxation. In that state the law allows debts to be offset against credits only. The legislature passed a bill to define bank deposits or credits (following in this the rule adopted in the State of Washington), but this bill was vetoed by the governor. The legislature also passed a bill amending the law relating to the powers of the state tax commission so that it could not be interpreted to permit the commission to demand from banks and financial institutions the names of their depositors and amounts of their respective deposits. This also was vetoed by the governor.

Despite the notorious failure of the general property tax in Ohio, as evidenced by the reports of its own investigating commission and confirmed by investigators of other states, who held Ohio conditions up as a horrible example to their own states, Ohio seems determined to continue the vain attempt to reach personal property under the general property tax by drastic and inquisitorial methods.

Oklahoma also is experimenting with inquisitorial methods, having adopted a tax ferret law despite the sad experiences of other states.

Inheritance Tax. New York took a pronounced stand in favor of interstate comity in tax matters by exempting certain intangible property of non-resident decedents from the inheritance tax. Other important changes were also made.

Prior to last year, the rates had for a number of years been one per cent on amounts to direct heirs and five per cent to collaterals. If

less than $10,000 passed to direct heirs, or less than $500 to collateral, the estate was exempt. In 1910 the law was radically changed. The rates were based on the bequest and went up to five per cent on direct and twenty-five per cent on collateral on the excess over $1,000,000. The exemptions were lowered to $5,000 and $500 for direct and $100 for collateral. The double taxation in which New York had been a conspicuous offender was continued and aggravated by the high rates.

This year the law has been amended so that money and securities of non-residents deposited in the state and their shares in New York corporations, are exempt. (Such property is generally liable in the state of the decedent's residence.) This exemption does not depend upon reciprocal provisions of other states but is absolute. It follows the "model law" endorsed by the International Tax Conference in 1910, and stops so far as New York can, double taxation of such property. The high rates of last year have been modified, four and eight per cent being the maximum, and the exemptions are more liberal, though the principle of progressive graded rates has been retained.

In addition, bequests to religious, educational and charitable purposes, outside the state, are given the exemption heretofore confined to bequests to such purposes within the state.

California, on the other hand, has increased its inheritance tax rates until they now reach a maximum of twenty-five per cent on bequests in excess of $500,000 to distant relations and strangers; the greatest rate previously having been fifteen per cent.

Maine has exempted, when owned by non-residents, shares and bonds of corporations organized under its laws, that have less than $1,000 of tangible property in the state.

Iowa and Minnesota have readjusted their rates.

Administration. State Tax Commissions have been created in three states: Colorado, New Hampshire and North Dakota. In general the laws follow the Minnesota and Kansas acts and give broader powers than is possessed by most of the older state tax commissions.

New York has radically changed its method of assessing real estate. Assessments will now be *in rem* everywhere, as they have been in some cities only. Tax maps may be adopted and property assessed by block and lot numbers. The separate assessment plan used in New York City has been extended to all cities in the state. A mathematical rule for equalization by county supervisors between local tax districts has been placed in the statute. The state comptroller is directed to compile annually statistics relating to local taxes and

expenses and the provisions for sinking funds. The assessment of special franchises has been improved by conferring additional powers upon the state board of tax commissioners.

Oklahoma abolished township assessors and township boards of equalization. County assessors are to be appointed by the governor for next year and their successors are to be elected in November, 1912, and biennially thereafter, for two-year terms. The compensation of the county assessor is graded according to the assessed valuation, and he must pay whatever deputies he appoints. The county commissioners are made a board of equalization of which the assessor is secretary, and have summary power to correct the assessment roll, subject to appeal.

North Carolina increased the powers of the corporation commission (which performs the duties of a tax commission). The commission is to appoint a county assessor in each county for a two-year term, who shall devote not exceeding three months to his work and receive four dollars a day for time actually employed. He is to have general supervision over the township or city assessors, who are appointed by the county commissioners annually.

Michigan restored to the state board of tax commissioners the power (of which they were deprived in 1905) to review assessments in any district on their own initiative, and to order a reassessment.

Ohio enacted a new tax limit law (replacing the law of 1910 that had not yet been applied). This law provides that the total tax rate for all local purposes levied in any district, shall not exceed ten mills ($1 on the $100). Maximum rates are specified for county, city, township, and school purposes, aggregating fifteen mills. A budget commission is established for each county, consisting of the county auditor, the mayor of the largest city in the county and the prosecuting attorney, who pass upon all local appropriations, and if these would require a higher total rate than ten mills the commission is to adjust them as it sees fit to within the limit. Specific increases over the local or the total maximum rate may be authorized by popular vote, but the aggregate tax rate must not exceed fifteen mills. These limits do not seem to include the state "direct" tax which, however, is very small.

The law provides also that the total amount raised in any tax district in 1911 shall not exceed the levy of 1910 by more than six per cent, that raised in 1912 shall not exceed 1910 more than nine per

cent, and in subsequent years shall not exceed by more than twelve per cent.

The purpose of this legislation is to keep the great increase in valuations (effective this year) from leading to an increase in expenditures. The exact effect of some provisions of the law are in dispute and this summary is only a general description of its intent.

The tax commission law of 1910 was also revised, strengthening the powers of the commission, especially in the enforcement of the "excise" taxes on corporations.

Miscellaneous. Special tax commissions have been authorized in several states. In Michigan a commission of three members, investigating particularly corporation taxes, was appointed and is nearly ready to report. In Utah a commission of three was authorized to revise the revenue laws of the state. In Iowa a commission of five was authorized and appointed to investigate taxation generally, and report to the governor in October, 1912.

In Connecticut the governor is directed to appoint a commission of three to examine into the methods of taxation of railways and street railways, and of other corporations paying taxes to the state, to report in 1912.

The Pennsylvania commission of 1909 submitted a report and was continued. The Rhode Island commission of 1909 submitted a second report and continues. Delaware authorized a commission, to report in 1913; this is a continuation of the 1907 commission. The Maryland and Virginia commissions of 1910 continue and report in 1912.

Idaho has given an exemption of $200 to all buildings.

In Pennsylvania the classification of real estate within city limits into city, suburban and agricultural, to be taxed at varying rates, was abolished in second-class cities (Pittsburgh and Scranton), but continues in Philadelphia. The system had produced most glaring inequalities. Ontario also abolished a somewhat similar "farm land exemption" in cities.

While not, perhaps, strictly tax legislation, two other matters affecting public revenues may be of interest.

Massachusetts and New York will submit to the people this fall, constitutional amendments designed to permit "excess condemnation." That is, to empower a city, subject to general law, to condemn more land than is actually needed for a public improvement such as a new street or park. Massachusetts limits the area to a depth sufficient for building lots. The purpose is to give the city control over the

development of such abutting property by perhaps reshaping the lot lines, and also to get back some of the cost of such an improvement by leasing or selling this property at an increased value due to the improvement.

The provincial legislature of Ontario, not being hampered by constitutional limitations, enacted a statute giving cities broad powers of "excess condemnation."

The new conservation law of New York provides (among other things) for the building of reservoirs and development of water-power to be leased by the state, and provides also that the cost of such improvement may be assessed upon either individual property or upon an entire district deemed to profit thereby.

This general summary of tax legislation does not include all tax law changes, and some omitted may be more important to the locality or interest affected, than others which have been included because they illustrate general tendencies rather than because they are in themselves important.

These tendencies may be summed up briefly. First, greater freedom for legislatures from constitutional restraints on the taxing power; second, a recognition of the failure of the general property tax, and the substitution of classification for the so-called "uniform rule"; third, changes from *ad valorem* to specific taxes; fourth, to improve assessment by establishing state tax commissions with supervisory powers, and also by improving local assessment conditions.

A. C. PLEYDELL.

CURRENT MUNICIPAL AFFAIRS

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The Metropolitan Plan Commission appointed by the Governor of Massachusetts under statutory authority given to him at the last legislative session, has announced in general form the chief recommendations which it proposes to incorporate in its forthcoming report. This commission, which consists of Edward A. Filene, J. Randolph Coolidge, Jr., and John Nolen, has made a careful study of municipal planning boards and their operations in European and American cities. Their provisional recommendations are for the establishment of a permanent state commission with planning jurisdiction over the Boston Metropolitan District which comprises thirty-eight cities and towns. This permanent commission would be composed of five members, three to be appointed by the Governor of Massachusetts and two by the Mayor of Boston, the chairman to have a salary of $10,000 per annum and the other members to be paid $1,000 each. It is proposed to give this commission a general supervisory authority over the planning of all streets, parks, boulevards, and similar public works throughout the Metropolitan District; the commission would be expected to draft a comprehensive scheme of future development covering all construction undertaken out of public moneys whether by the state or by any municipality. It is not proposed that the Metropolitan Plan Commission, if established on a permanent basis, shall have any power directly to undertake improvement projects or to compel any municipality to put its plans into operation; but it would be given power to interpose a temporary veto upon all municipal construction not in harmony with general plans for the whole metropolitan district. It is further proposed that towards the cost of all metropolitan enterprises undertaken in conformity with plans of the commission, a grant of ten per cent of the estimated expense shall be made from the state treasury. All these recommendations have been incorporated in a bill which will come before the Massachusetts legislature early in 1912.

The November election campaign in Philadelphia resulted in the choice of Mr. Rudolph Blankenburg as mayor of the city. At the