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THE RELATION OF PROPERTY TAXES ON FOREST LAND TO THE
PRACTICE OF FORESTRY IN TENNESSEE

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Origin of the Study

In February, 1948, the U. S. Forest Service was invited by the State Forester of Tennessee, to confer with him and members of the staff of the Tax Revision Commission of the State of Tennessee on matters relating to the taxation of forest land. This conference was held in March. At that time the nature of the studies being conducted by the Tax Revision Commission was outlined, and some of their preliminary findings were discussed. Because the Commission did not have facilities to make a special study of the relation of property taxes to the practice of forestry on privately owned lands, it was suggested that the State Forester and the Forest Service collaborate in conducting such a study and in making recommendations to the Commission.

It was soon realized that because of the assessment methods in common use, it would not be possible to learn much from a study of State or county records to show the relation, if any, of taxes to forestry practice. It was agreed that before any recommendations were prepared a field study should be conducted in the State to determine, through interviews with non-farm forest land owners, what features, if any, in the substance or administration of the property tax laws could be considered as deterrents to the present or future practice of a higher level of forestry in the State.

Organization of the Study

Plans for this study were developed by the Forest Service, with the advice and assistance of the State Forester's office. These plans provided for interviews with ten of the largest owners of non-farm forest property in the State, regardless of location or stand condition. They also provided for the random selection of six counties in east, middle, and west Tennessee that showed a high ratio of forest land to total land area and a high ratio of non-farm forest ownership to total forest ownership. In each of these counties interviews were made, to combine conditions of county residence and non-residence with poor or good stocking of timber.

The interviews were designed to provide certain factual information about the residence of the owner, size of forest land holdings, stocking of timber on those lands, degree of forest management practiced, and records of past assessments, taxes, and tax delinquency.

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The interviews were further designed to secure opinions regarding the reasons for the relatively low stocking and growth on the average forest land, and for the absence or low level of forestry practices. More specifically they were to discover whether past or present taxes served as a deterrent to the practice of good forestry, whether the uncertainty of future taxes under the present system was a deterrent to forestry; if taxes were such a deterrent, what changes would be required to remove this obstacle; and whether tax reform in itself would be sufficient to stimulate better forest practices. Reactions to specific proposals to revise the tax laws and procedures were also sought.

Conduct of the Field Study - Coverage

The field study was conducted during June by Ralph W. Marquis of the U. S. Forest Service and W. Foster Cowan of the Forestry Division, Tennessee Department of Conservation. One of the selected counties was omitted when it was found that there were no non-farm holdings, and that farmers could not distinguish the assessment of wooded from cultivated land. A total of 48 persons were interviewed, representing 43 separate ownerships. Ten of these ownerships were among the largest in the State, making up a total of some 400,000 acres of forest land. The others were smaller ownerships in the selected counties, varying in size from 400 to 15,000 acres. Of these owners 22 were residents of the county in which the forest land was located and 21 were not residents of the county, though most of them were residents of the State. The total Tennessee forest land area owned by the persons interviewed was about 600,000 acres, or almost 10 percent of the total non-farm private ownership in the State. These holdings, including those of the large owners, were distributed in 25 counties. Thus the study provided a sample representative of the conditions in heavily forested counties characterized by non-farm ownership.

Deterrents to Forestry

An appraisal of the forest situation in Tennessee made in 1945-46 by the Forestry Division of the Tennessee Conservation Department and the American Forestry Association disclosed that the average stand of saw timber per acre in the State is less than 1,000 board feet, and annual per-acre growth of saw timber on forest land averages 85 board feet. This condition was outlined at the beginning of each interview, and the person interviewed was asked to give his reasons for this low stocking and low rate of growth, and to give his reasons why the practice of forestry to improve the condition was not more widely employed.

The reasons advanced fell into the usual pattern and tended to confirm what is generally believed to be the principal reasons for the lack of forestry practice rather than disclosing any new information. The reasons given were as follows:

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1. Fire. The frequent occurrence of fire retards growth and reproduction and destroys values in saw timber. The danger of fire discourages planting, investment in forest land, and the building up of a heavy and productive stand. This response was especially characteristic of owners of relatively small holdings in areas where adequate fire protection has not been provided.
2. Ignorance. Forest land owners do not realize what the potential growth from their lands could be if these lands were properly managed. They do not realize that some management is necessary to provide for this growth. They do not know what management practices to employ. Some stated flatly that timber could not be brought back. Others were skeptical of the economic advantage of growing timber crops. Ignorance on the part of the majority of forest land owners was given as a reason especially by owners who had recently received some education from TVA and State forestry men who, in many cases, had recently started practicing fairly intensive forestry under prepared management plans.
3. The time element. The slow rate of growth experienced on land that was frequently burned and otherwise neglected, the long time before a crop could be grown on badly depleted land, and the "preference for a quick dime to a slow dollar" on the part of owners who had immature but merchantable timber were deterrents to the practice of forestry.

Other deterrents. Lack of interest in future timber supplies on the part of forest land owners and the penalties placed on venture capital by progressive rates in the income tax were mentioned by one or two persons. Timber theft was also mentioned. Only one person mentioned the property tax as a deterrent to holding forest land and growing timber. In all other cases the subject of property taxes had to be introduced by an interviewer.

The Assessment and Taxation of Forest Land

The Tennessee law provides that all property of every kind shall be assessed at its actual cash value - the amount of money the property would sell for if sold at a fair, voluntary sale. But it is the practice of assessors to assess property at a certain percentage of its value, and there is little uniformity in this percentage among counties. County assessors seem to find a political advantage in low assessments even though this practice requires relatively high tax rates.

Apparently the assessment practices in Tennessee are not much better or worse than those found in the majority of States. The activities of the typical county assessor were described as follows: He spends about \$1,000 to get elected, holds office for four years, and conducts his own business as usual. Out of his annual salary of about \$1,800 he hires a clerk at \$50 per month for a few months every two years to copy the old assessment list. He makes no systematic effort to view all the properties on the tax roll, but as he drives around the county he notices new structures and other improvements which he may or may not consider a basis for an increased assessment. He consults with most of the influential property owners to

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see if they are satisfied with their assessments. He seldom raises an assessment unless there have been substantial improvements to the property, there has been a sale of the property at a price considerably above its assessed value, or the property is owned by a non-resident of the State. Many assessors hesitate to increase an assessment because of improvements made, because they feel that this would discourage improvements that would be of benefit to the county.

Studies conducted by the Forest Taxation Inquiry in other States have shown that inequities in the assessment of forest land have been introduced through difference in stocking. Recently cut-over lands and lands bearing heavy stands of merchantable timber tended to be over-assessed in relation to stands of intermediate value. The study in Tennessee was designed to test the relation of stand of merchantable timber to assessment.

It was found in the sample counties and for the ten large owners that volume of timber on the land has almost no relation to assessed value. It is the practices of assessors to class all forest land as "undeveloped land," "waste land" or "wild land," and to assess it at a uniform figure. Only three of the persons interviewed reported an increased assessment as growing timber reached the age and size for harvest, and these increases could not be definitely ascribed to the increase in the value of the timber. In only three or four cases had assessed values been reduced after timber was out. Most of the persons interviewed did not request a reduction in assessment after cutting. The general feeling was that assessed values were low, that reduced assessments on cut-over land would only result in increased assessment of merchantable timber, and that under the present system differences in the true assessment ratios tended to average out to nobody's disadvantage.

One owner, with certain of his lands so depleted that they were producing nothing of value, suggested a classification of forest lands so that such land would be entirely exempt from taxation. This attitude, however, was exceptional.

The effect of resident or absentee ownership on the assessment of forest land was also tested. It was found that a non-resident owner, whether an individual or a corporation, was not subject to higher assessment than county residents so long as he was a resident of the State of Tennessee. But a number of cases were found where non-residents of the State were subject to higher assessment than were county residents. Many cases were also reported where assessors had attempted to increase the assessment on lands owned by non-residents of the State. Most of these attempts have been defeated by appeals to Boards of Equalization or to the courts.

Conclusions

From the interview conducted and from other sources of information, the following conclusions have been drawn:

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1. In assessing forest land for taxation purposes the typical county assessor in Tennessee makes no attempt to establish the actual cash value. Nor does he attempt to assess different tracts of forest land at any fixed percentage of their actual cash values. Rather he is inclined to place all forest land, regardless of its productive capacity or the value of merchantable timber on it, into one class and to assess it at a uniform amount.
2. The forest land is assessed at a low figure, though the ratio of assessed to actual cash value of forest land may be higher than for cultivated land.
3. The method of assessment in use at the present time is not a deterrent to the practice of forestry. On the contrary, it is favorable to such practice. Assessments are normally not increased when land is held for a long period and a valuable stand of timber is developed. Nor does the method of assessment encourage the cutting of timber before it reaches financial maturity, because assessments generally are not reduced after a harvest of merchantable timber.
4. Taxes on forest land at the present time are so low as to provide no obstacle to the practice of forestry except on lands so depleted and so heavily burned that natural reproduction cannot be expected.
5. No changes in the tax law or in methods of assessment would be, in themselves, a sufficient incentive to stimulate any considerable increase in the practice of forestry.
6. The present methods of assessment and the low taxes at the present time are, however, on an unstable basis. (a) The relative general well-being of forest land owners at present makes the tax appear less important than it would in times of economic depression. (b) The large amount of State aid permits the counties to maintain low assessments and relative low tax rates in securing revenues to meet their needs. (c) Assessors are, knowingly or unknowingly, imposing a land tax without giving consideration to the value of merchantable timber on the land. This is not in accordance with the provisions of the law.

A period of depression such as was experienced in the '30's could alter this situation considerably. Any withdrawal of State aid could be expected to result in some curtailment of county expenditures; but more likely its immediate effect would be a search for increased county revenues. This would be reflected both in higher tax rates and in revised assessments.

County assessors today recognize increased values resulting from improvements in the form of structures, fences, etc. They have not, in general, given any recognition to increase in property values resulting from the presence of merchantable timber. This has probably been due in part to the generally depleted condition of forest lands and the low quality of the residual stands of timber in the State, and due in part to the lack of necessity to search for increased assessable values. As more forest

lands are placed under management for increased stocking and more valuable species, the assessors may become more aware of these presently untaxed values.

7. Increased assessments of lands managed for the production of timber crops would be discouraging to the practice of forestry. Many of the larger industrial owners who have made financial management plans would not drop their forestry activities unless the tax were greatly increased. But many of the smaller owners, faced with increased assessment because of the presence of merchantable timber on their lands, could be expected to harvest this timber prematurely in order to obtain a reduced assessment. Owners contemplating the practice of forestry would have an additional obstacle to consider.

8. Many schemes have been developed to make more equitable the taxation of forest land through yield taxes, differential taxes, deferred taxes, etc. It is our conclusion that any tax revision that would require the assessor to distinguish between different classes of timber land, or classify or recognize the classification of timber land, or to otherwise alter his present methods of assessment and of records, would fail in its purpose. Eventually one of these procedures may be desirable, but it will not be effective until the entire administration at the county level is greatly improved. Any change in the tax law or procedure at the present time must be extremely simple in nature.

The Legal Status of Standing Timber

The 1870 Constitution of Tennessee provided, in Article II, Section 28, that the Legislature may exempt from taxation "the direct product of the soil in the hands of the producer and his immediate vendee." The 1932 Code, in Sub-section 5 of Section 1085, provides that "All growing crops of whatever kind, the direct product of the soil of this State, in the hands of the producer or his immediate vendee, and articles manufactured from the produce of this State in the hands of the manufacturer" shall be exempt from taxation. In *Benedict et al vs. Davidson County et al*, (1902) 110 Tenn. (2 Cates) 183, 67 SW 806, timber has been recognized as "produce of the State," but timber has not been recognized as "the direct product of the soil."

It is not surprising that the man who drafted the Constitution and the early Codes did not class standing timber as the direct product of the soil. Like coal and marble, the virgin forests were a gift of nature, unaided by man. But today, and in the future, the situation will be different. With the forest lands of Tennessee in a badly depleted condition, and with most of the large trees of valuable species gone, the timber that will be available for harvest and manufacture in the future will be grown at a cost to the owner. Forests will be more like agricultural crops in origin than like coal, oil, and marble.

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Recommendations

It is recommended that the Legislature amend Section 1085, Subsection 5 of the Code of 1932, to provide specifically for the exemption of standing timber for taxation.

The result of this action would legalize the present practice of assessing forest land at bare-land values. It would not materially alter present assessment practices, nor would it materially alter the present assessed value of forest or wildland. It would result in no substantial reduction in county revenues.

The change suggested would be simple. It would not be too difficult for assessors of the present average capacity to administer.

Though the suggested change might not, in itself, be a stimulus to the practice of forestry, it would remove uncertainty of future assessments which could serve as an obstacle to forestry.

If at any time it is felt that forest land owners are not making an equitable contribution to county revenues a severance or yield tax could be imposed, to be paid at the time timber is harvested.



