

New Hampshire retains property tax educational funding basis

By Rep. Richard Noyes, N. Salem, NH

Both houses have approved a tax plan and the Governor has signed it, but - alas! - it isn't my House Bill 1666, which would have given us a statewide property tax based on land values only.

It is, primarily, a statewide but conventional property tax, together with some increase in the cigarette tax, some increases in business taxes, an increase in the real estate transfer tax and a few other such things. It does NOT include an income tax, (one version of which had passed the House but didn't make it through the Senate), or a capital gains tax, which was very much in the dialogue, or even any increase in gambling (although that may come before very long to give us the money we have agreed to spend.)

All in all, it gives us a continuing positive environment in which to work. We remain the state among all 50 most heavily dependent upon some form of property tax. I have already made it clear to Speaker Donna Sytek and to other legislative leaders that I will keep pushing for a modification of the STATEWIDE property tax, eliminating any tax on improvements.

It isn't the success I had hoped for, but it is far and away better than the failure we would have had with a capital gains, an income or a general sales tax. The long nurtured discreditation of the Georgist concept is still with us: the problem that Mason Gaffney discusses so brilliantly in Corruption of Economics.

A couple of weeks ago, when the now-adopted plan was coming down the home stretch, I had a one-on-one with Speaker Syteck, and asked why -- since the foundation was going to be some form of statewide property tax -- it couldn't be based on land values alone.

"The trouble is," she said, "that the people have rejected that idea so many times." Well, of course, the truth is that people here have NEVER rejected a tax on land values. They simply have not had the chance. But, as the conversation developed, I feel sure some knowledgeable economist, in whom she has confidence has said to her, "Oh, that's simply the old Georgist idea which has been rejected so many times." She didn't use those words. I am finding them for her. But I recognized the tone of voice because we have all heard it so many times.

But now we are assured of remaining the state most heavily dependent upon THE property tax, having been able to solve our Supreme Court-edict on school funding with no new taxes on labor or industry.

I will continue the same old efforts we have all been making so long. In fact, I was at a meeting with Donna Sytek this morning, during which I handed her a thick packet I

continued on page 12

New Hampshire Educational Funding

continued from page 11

had prepared, including Fred Harrison's wonderfully optimistic Land Policy Center letter distributed recently -- the one which tells of his successes with a manuscript for the Duma -- and some of the excellent study-sheets Bill Batt has sent me from Albany.

Bill Batt has gotten some good, hard figures from Linda Kennedy (with whom I have worked for quite a while), who heads up the Equalization Division of our Department of Revenue Administration. He is gearing them toward urban sprawl, which is the same old problem, but currently being rediscovered by the Municipal and County Government policy committee to which I have returned this year.

And I included the one-page piece that Jan Pot has so recently sent us with reference to The Netherlands.

But at least we haven't lost any ground here in New Hampshire. and I still have the piece I wrote with Mason Gaffney to work with. Called "the Stimulating Effect of the Property Tax," it was a chapter in The Losses of Nations published by Othila Press in London last year. It compares the effects of being MOST heavily dependent on the property tax with California's being less heavily dependent as a result of Proposition 13.

(Editor's note: Rep. Noyes' phone number is 603-893-1192.)

New Hampshire solves its educational funding crisis

New Hampshire's dilemma came from a December 1997 ruling by the state's high court that the state's local property taxes for schools were not local taxes at all but a state tax to fulfill "the State's duty to provide a constitutionally adequate public education." By a 4-3 court majority the court found that state taxes, which are required to be uniform across the state, were "disproportionate and unreasonable" school property taxes.

New Hampshire has a strong tradition of local control, with almost 90 percent of public school costs currently paid by local property taxes. New Hampshire is one of only two states--Alaska is the other--with no broad-based property tax, income tax, or sales tax, according to The Heartland Institute's School Reform News.

The New Hampshire Supreme Court cited that districts with lower property values receive less funding than ones with higher property values. Numerous funding bills were sponsored this session including proposals to institute a new income tax, impose a consumption tax, and increase existing state taxes. Gov. Jeanne Shaheen (D) renewed her pledge to veto any broad-based taxes (meaning income or sales taxes)

What Passed in New Hampshire

House Bill 112 education funding plan was approved by

the New Hampshire legislature in early May, as reported by the Center for Sustainable Economy. The bill would fund the state's public education system by: creating a statewide property tax of \$6.60 per \$1000 valuation; increasing the cigarette excise tax by 25 cents per pack; increasing the business profits tax by 1% and the business enterprise tax by .25%; raising the real estate transfer tax by \$2.50; using \$40 million of New Hampshire's annual share of the national tobacco settlement; taxing rental cars under the state meals and rooms tax; and setting aside \$42 million of state general fund revenues.

Bills Introduced in New Hampshire that Didn't Pass

House Bill 1666-FN-a-Local, Rep. Noyes' bill to fund a constitutionally adequate education, by imposing "a statewide tax on land values to fund an education trust fund to pay for a constitutionally adequate education per pupil in grades one-12 statewide. The distribution of funds to the municipalities to be made on an equal per pupil basis, based on the average daily membership of the municipalities by grade. Municipalities may supplement education spending as they deem appropriate."

Last Sept. 10, HB 1666 was reported to the House by the House Finance Committee for a special session to deal with the school funding problem. After the Interim study the Finance Committee was to make a recommendation.

In the fall of 1998, HB 1666 had the support of a worldwide letter campaign by Land Policy Council's Fred Harrison of London and of Common Ground-USA's Letter Lobby.

"Property Tax Relief Education Homestead Act" by Republican state senators, Mary Brown and Patricia Kruger, proposed two constitutional amendments to remedy the school funding crisis. The first proposed amendment would return full authority over education funding issues to the legislature and eliminate state Supreme Court oversight. The other would establish a graduated income tax that would take effect in 2001. In addition, the "Homestead Act" would provide \$230 million a year for local property tax relief over the next two years. It also would require the state to pay half of the education portion of a local property tax bill for the first \$50,000 of assessed value, according to the Center for Sustainable Economy.

House Speaker Donna Sytek's HB 117 which passed the N.H. House Finance Committee but was defeated on the House floor. Her Sending Major Additional Relief to Taxpayers (SMART) bill would have raised \$711 million for public education by instituting a property tax of \$8.50 per \$1,000 assessed value to raise \$411 million. Additionally, a 25-cents-per-pack hike in the state's cigarette excise tax and state surplus funds would make up the remaining \$300 million.

New Hampshire's Senate defeated an amendment to a

continued on page 13

Land and Its Value

by Rep. Richard Noyes, N. Salem, NH

(Editor's note: see companion article on New Hampshire's school funding bills in this GroundSwell.)

New Hampshire, the Granite State, which seems always to insist upon being different, has at long last solved its constitutional, school-funding problem--the same problem which has been giving so many states a hard time these days--but has not solved it in the usual way. We are still without a general income tax, or a general sales tax...or a capital gains tax, or even a value added tax, although versions of both those chestnuts have been on our long, legislative calendars.

The chief element in the funding formula is a statewide property tax. It is not the property tax I did my best to sell to our colleagues--a property tax on land values only--although my House

New Hampshire

continued from page 12

pending cigarette tax increase bill for a 4% income tax and state-wide property tax, which had already passed the House as HB 109. The N.H. House subsequently reversed course and voted against the income tax proposal, after Senate changes to the bill.

The "Advancing Better Classrooms (ABC) funding proposal of N.H. Gov. Jeanne Shaheen (D) that included a combination of business, property, tobacco, and capital gains taxes. Shaheen had vowed to veto any income tax proposal unless approved by voters. However, the New Hampshire Supreme Court ruled that the two tax proposals could not go to a public vote. The Court concluded that the bill proposed an unconstitutional delegation of power from the Legislature.

(Editor's note: Sources for the above article include correspondence with Rep. Richard Noyes (R-NH); School Reform News published by The Heartland Institute, Chicago, IL; and Tax News Update published by email by the Center for Sustainable Economy sja@sustainableeconomy.org.)

Bill 1666 was an effort to accomplish that.

Since my attention has been focused for so long on "constitutionality" as a factor in social wisdom, I have had the eminent late Supreme Court Chief Justice John Marshall very much in mind.

It seemed only natural to speculate on constitutional wisdom as a factor in social policy. So I took down a matched pair of hard-bound books from the place on my shelf where they have been since I mistakenly ordered them in the belief they were something else.

The Papers of John Marshall: a descriptive calendar, is the title. The book was written by Irwin S. Rhodes and was published by the University of Oklahoma Press at Norman, in that state.

There are more than 1,000 pages in the two books, and they include the titles and descriptions of practically everything John Marshall ever wrote. It was he, of course, who established in the field of law the pre-eminence of constitutional edict. I have never quarrelled with that, having made a career one way or other out of the written (and printed) word.

The great American contribution to the social contract, it has long seemed to me, is not "liberty" or "individual freedom," which are such important elements in what some speak of as the way of the western world.

It is, instead, the written agreement. And more than that, it is the written agreement, set down on paper and submitted for the consideration of every citizen, and then agreed to by a majority of them. It is the rules we have been willing to accept as our starting point.

What was the chief thing on the mind of John Marshall, the creator and proponent of the idea of a Supreme Court as the living, ongoing, day-to-day final word?

Biographer Rhodes, the author of the two books on John Marshall's papers, starts out in his introduction with this quote from John Marshall. It occurs in the preface to Marshall's Life

of George Washington.

Marshall used it at the very beginning of his biography of our first president, the so-called Father of Our country: "A desire to know intimately those illustrious personages, who have performed a conspicuous part on the great theater of the world, is, perhaps, implanted in every human bosom."

The 1,150 page "descriptive calendar" of John Marshall's papers gives us a pretty good idea of what was on the mind of chief Justice John Marshall.

Land! Or more exactly, the "value of land." "Land Transactions" is perhaps the most frequently used term in the tables of contents of the two books. They are the two words used to sum up virtually every chapter in both books from the year 1793 on.

The calendar is crammed full of leases:

On July 25, 1793: Leases of a tract in Fauquier County for 50 pounds yearly rental by J.M. Richmond..."

Then the final entry in the contents of Volume I of the book, dated Sept. 10, 1808, a deed for 1,934 acres on the Ohio River in Kentucky.

The first "land transactions" entry of Volume II opens with a power of attorney "By J.M., appointing James M. Marshall attorney to execute leases of any part of Manor of Leeds in Fauquier County."

The final one in that volume is a "Deed in Trust" of all title to land in Manor of Leeds described in a contract between two men for \$1,000 and release of the rent due.

The very last entry in Volume II is a deed for land in Mason County, Kentucky. It is one-third undivided rights to 1,934 acres of land on the Ohio River deeded by J.M. to "one Simon Kenton..."

There is no attempt being made here to explain, or even to understand in any detail, the facts about land, its value, or the public interest in it...except to establish that land and its value is what the "founder" of the highest court in our land had in mind in his years.

Let me just open each of the vol-

continued on page 14
May-June 1999, GroundSwell, Page 13

Land and Its Value

continued from page 13

umes somewhere near the middle, and see what we find:

Volume I, at the bottom of page 264: a letter to the Speaker of the House of Delegates of Virginia which starts out..."J.M., as one of the purchasers of the Fairfax land and as agents for other, agreeing to relinquish claims to waste and unappropriated land in Northern Neck, Virginia...that their title be confirmed" in a certain, carefully spelled out manner.

Or, typically, on page 1826, a "decree dismissing bill for conveyance of land, affirmed.

"Plaintiff in error claimed land by prior entry against elder patentee." Entry in 1783, for 10,000 acres on east side of Slate Creek (Kentucky), beginning "where a buffalo road crosseth said creek at the mouth of a branch..."

And then, a little further down, the document held that the entry was

"vague and insufficient, because "the path or trace being one foot wide should not be called a buffalo road. Little Slate was known as such at that time and if intended should have been named."

A table of figures on pages 374 and 375 (turned to by chance) lists "from the Henrico County Land Books," the "Upper District land of J.M. from 1799 to 1835."

The price per acre for 1,035 acres in 1799 was nine shillings and five pence for a total in pounds of 488:6:1.

Near the very end of the book is the record of a land swap in which J.M. and James M. Marshall and wives traded 26,535 acres and 13,466 acres of land by releasing to someone else. (I am not sure exactly who, the details being so complex).

If you doubt the claim made here: that land and land values were a principal thing on the mind of the man who, almost single-handedly, made consti-

tutional edict one of the country's major ruling forces, in his day and still to this day in ours, I advise you to find and read these books.

It is little wonder we who are willing to call ourselves Georgists should still be having such trouble trying to convince our neighbors and fellows that "the earth and the fullness thereof" were intended by God to be the property of us all.

Anyone who may think I am exaggerating, and to doubt that the principal source of funds for our public schools should therefore, fittingly and appropriately, be the value of those lands, created by God in the first place, and enlarged upon by social, public effort... Well, let me urge such an individual to find a copy of the Papers of John Marshall and to spend a few hours thumbing his or her way through the two fat books.