

A History of the Poll-Tax in Indiana

By C. T. MALAN

The poll tax is a per capita tax, generally levied uniformly upon males. It may be, however, graded according to occupation or other qualifications. In ancient Greece, the poll-tax was a badge of slavery; levied upon captives, regardless of their duties to their captors; but the Romans placed this burden of taxation only upon the inhabitants of their colonial possessions; Moslem rulers found it a very effective method of wresting moneys from unbelievers, and the Mongols collected a tax on polls from the Russians.

The majority of European countries have now discontinued the use of the poll-tax at home, but continue it in their possessions. A flat-rate tax was first levied in England in 1377, was graded according to rank in 1379, and appeared at intervals in that form through 1698. In France, the "capitation" levy of 1695, radically altered in 1701, established twenty classes, with rates from twenty sous to two thousand livres. Peter the Great established a poll-tax in Russia in 1718, with three groups of tax-payers. This act was modified and then abolished in 1886. The Prussians started a simple system of collecting poll-taxes in 1811, which was succeeded in 1820 by the establishment of a new plan under which those taxed were divided into four groups, with three classes in each group.

All of the American colonies employed this type of taxation at some period in their existence. Thirty-eight states in the Union, at the present time, have provisions for poll-taxes in their constitutions or statutes. Sometimes it is a distinct tax, sometimes it is associated with property taxes, and sometimes it is merely a local tax. It is used for such purposes as the care of highways, schools, and general state purposes.¹ The New England and Southern States have adhered to this form of taxation more strictly than have the states in the other sections, but it is usually poorly collected. In the constitutions of five states, a poll-tax is forbidden, while it is expressly provided for in seven states. The rates in the various states range from fifty cents to five dollars for each male citizen involved. The age limits vary from

¹ *Cyclopedia of American Government*, edited by A. C. McLaughlin and A. B. Hart (New York, 1914), II, 732.

eighteen to seventy, the general tendency being from twenty-one to fifty. Exemptions are granted in nearly all the states for one or more of the following classes: cripples, deaf, dumb, insane, blind, and those in military service, as well as those who have served in some war.

Some states allow payment by a creditor when the amount is set off against the debtor's account; or by employers, who may take it out of the employee's wages; or property may be attached in order to satisfy the tax. In many states it falls mainly upon those who pay other taxes. When used as a prerequisite to voting, political parties sometimes supply the money to pay poll-taxes.

Poll-taxes are regulated by statute and not by the constitution.² The present poll tax law in Indiana provides:

All taxes for the support of the government of this state shall be assessed on polls and on property listed and valued in an equal and ratable proportion, except such stocks and other property as may be specifically taxed in the following manner, namely. The amount necessary and proper to be charged on each poll and on each one hundred dollars worth of property, for state expenditures and for school purposes, shall, from time to time, be fixed by law, subject to modifications hereinafter provided; and the amount to be charged on each poll and on each one hundred dollars worth of property for all other subdivisions of the state, namely, counties, cities, towns, townships, both civil and school, and other public corporations or taxing units of whatsoever kind shall be determined as now provided by law, subject to the conditions and modifications hereinafter mentioned.

A poll tax shall be assessed upon every male inhabitant of this state between the ages of twenty-one (21) and fifty (50), and every person shall be listed for his poll tax in the township, town, or city of his residence.³

The law makes provision for exemptions as follows:
"Such county commissioners may exempt from paying poll

² Revised Laws (Indiana), 1824, Chap. 86, 339.

"For the purpose of raising a county revenue, there shall be annually charged on every animal of the horse, ass, or mule kind, over three years old, not exceeding thirty-seven and one half cents; on covering-horses once the rate at which they stand the season each; on work-oxen three years old, not over eighteen and three-fourths cents each; on each two-wheeled pleasure carriage, one dollar; on each four-wheeled carriage, one dollar and fifty cents; on each brass clock, one dollar; on each silver of pinch-back watch, twenty-five cents; on each gold watch, one dollar; on each license for retailing spiritous liquors, not less than five nor more than twenty-five dollars. . . . The county commissioners shall have discretionary power to exonerate from paying a poll tax any person over the age of sixty years, who is not the owner of any real estate, or on account of bodily disability." This passage from the act is quoted for the sole purpose, of indicating some of the primitive methods used for raising revenue in the early history of Indiana. It is also given to show that an earnest attempt was made to tax uniformly all types of property which existed at that time; and third, to give the reader a comparative view of the changes which have been made in the taxation question in a hundred years.

³ Burns' *Annotated Statutes*, 1933, XI, Sec. 64, 102.

tax any person who, from any cause, they may deem unable to pay it."⁴ Other exemptions provide for firemen who are active,⁵ and enlisted men who are active in the United States Army or Navy.⁶ A poll-tax receipt must be shown, by those who are legally bound to pay a poll-tax, before an automobile license may be obtained.⁷

The laws relative to poll-taxes passed by the Indiana Legislature from 1821 to the present reveal several significant facts. As early as 1821 Indiana used the poll-tax as one source of revenue for state purposes and has so used it ever since. The amount of the tax for state purposes has ranged from thirty-one and a half cents to \$1.50. However, the range has been in the main from fifty cents to one dollar on each poll.

For fifteen years, all males over twenty-one years of age were required to pay the tax, but by 1837, the maximum age limit was placed at fifty years and thus it remains to the present time. The exemptions are very few. Provision was made for excusing veterans of the Revolutionary War, and for the soldiers and sailors in the United States service.

Injured or poverty stricken citizens could be exempted by the Board of Commissioners in any county if the conditions warranted it. Invalids might be exempted after 1849 unless they owned more than three hundred dollars worth of property. The receipts from poll-taxes have been used as a general fund.

Some features of the poll-tax system of Indiana may be of interest. For example, in regard to the race problem, a law of 1852 provided:

A poll tax shall be assessed upon every white male inhabitant of this state between the ages of twenty-one and fifty. Every person shall be listed for his poll tax in the township, where he resides when the enlistment is made.⁸

Under a law of 1855, a portion of the fund was diverted to the common schools. This law provided that five cents of the amount collected on each poll should be expended for

⁴ *Ibid.*, VI, Sec. 26, 1207.

⁵ *Ibid.*, IX, Sec. 48, 6134. (applies to firemen), Disabled veterans as such were not exempt from the payment of poll-taxes.

⁶ *Ibid.*, VIII, Sec. 45, 1210.

⁷ *Ibid.*, VIII, Sec. 42, 102.

⁸ *Indiana Revised Statutes*, 1852, 105.

⁹ *Indiana Laws*, 1855, 161.

school purposes. However, since the poll-tax was not levied on negroes or mulattoes, were their children to be included in any enumeration required by the act, as they were not entitled to any of the benefits? The Supreme Court ruled that colored children were not to be permitted to attend a public school when the resident parents of white children objected.¹⁰

Following the passage of the three amendments to the Federal Constitution soon after the Civil War, the state of Indiana by legislative enactment passed a law providing for the payment of a poll-tax regardless of race or color.¹¹

With the expanding power of the state, the local units were allowed to levy poll-taxes, a consequence of which is that we have six agencies, namely, civil city, school city, civil township, school township, county, and state, that may levy poll-taxes. Maximum totals have, however, been provided so that the burden of the poll-tax has not been excessive in Indiana. Until recently, a man could work out his road poll-tax by service on roads or streets, but that privilege has passed.

An act giving any board of county commissioners the power to levy a poll-tax for county purposes was passed in 1863.¹² The measure was declared an emergency law because many county boards had levied such a tax prior to the passage of the act. This law legalized these levies.

An interesting law was passed two years earlier which provided:

The trustees of the several townships, towns, and cities, shall have power, with the concurrence of the board of commissioners of their respective counties, to levy a special tax in their respective townships, towns, or cities, for the construction, renting or repairing of school houses, and for providing furniture and school apparatus and fuel therefor, and for the payment of other necessary expenses thereof except for tuition; but no such tax shall exceed the sum of twenty-five cents on each one hundred dollars' worth of taxable property, and fifty cents on each poll in any one year. And any tax-payer who may choose to pay to the treasurer of the township, town or city wherein said tax-payer has property liable to taxation, any amount of money, or furnish building materials for the construction of school houses, or furniture or fuel therefor, shall be entitled to a receipt therefor from the trustee of said township, town or city, which shall exempt such taxpayer from further taxes for said purposes, until the taxes of such taxpayer, levied for the said purposes, would if not thus paid, amount to the sum or

¹⁰ *Lewis v. Haley*, 2 Ind., 332.

¹¹ *Indiana Laws*, 1869, 41.

¹² *Ibid.*, 1861, 173.

value of the materials so furnished, or amount so paid; *Provided*, That said building materials, or furniture and fuel shall be received at the option of said trustee.¹³

As early as 1821, a tax of fifty cents was placed upon all males over twenty-one years of age, with the provision that Boards of County Commissioners should have the power to exempt any males over sixty years of age who possessed no property. There have been gradual changes through the years, thirty-five acts in all. In 1931, due to the inability of many localities to meet the demands for school purposes out of local taxes, fifty cents from the tax collected on each poll were, for school purposes, distributed by the state to those communities where finances for the schools were low. An Act of 1933 levied a tax of \$1.50 upon males between the ages of twenty-one and fifty, one dollar of which was to go to the general state fund, while the remainder was to be used for school purposes as under the act of 1931.¹⁴ This is not an exceptionally high tax in comparison with those of Idaho and Iowa, for example, in which states the tax is \$4.00 and \$5.00, respectively.

The Supreme Court of the State of Indiana has been called upon three times to make decisions: *first*, concerning the constitutionality of the poll-tax; *second*, concerning the question as to who might be taxed; and *third*, concerning the question whether or not failure to pay the tax could be held as a property lien.

The first case, *De Pauw v. the City of New Albany*, arose in 1864. The issue was whether or not the Legislature had the right to levy a poll-tax against the citizens of the state. The court said:

It appears to us that exacting taxes from the citizens by the governing power, and the obligation of the citizen to respond to such exactions, is not founded in contract. Upon what principle, then, would the citizen be exempt from responding to a demand at any given time for such taxes. The legislative power governs the question of the amount, and the manner in which the citizen shall contribute to the public demands, subject only to fundamental laws.¹⁵

The second case arose eight years later. The issue was whether or not a lien could be placed upon the real estate of the person assessed with a poll-tax when he had failed to pay

¹³ *Ibid.*, 1861, 71.

¹⁴ *Burns' Annotated Statutes*, 1933, XI, Sec. 61, 103.

¹⁵ *DePauw v. City of New Albany* (1864), 22 Ind., 206.

such a tax. The decision of the Court was in the affirmative. One Decker claimed exemption on the ground that his property was mortgaged. It was held that a mortgager, for purposes of taxation, is the owner of the property until the mortgagee shall have taken possession of the same by legal process, and that "A poll tax is a lien upon the real estate of the person assessed with such tax."¹⁶

Another issue arose in 1876 in the case of *Culbertson v. Board*. Culbertson went to Europe with his family, planning to remain there for at least two years, but intending to return at some indefinite date. While Culbertson was in Europe, he wrote a letter to his brother in which he said: "They of course will only tax me upon my real estate this year, as I have ceased to be a citizen for a year or two, and as life is uncertain may never become one again." The most important question in the case was whether Culbertson had changed his residence. The Court held that since he left the state only temporarily, and with the intention of returning and resuming his former place of abode, he continued for all purposes to enjoy civil and political activities and to be subject to civil taxation, and therefore liable to pay poll-tax as an inhabitant of the state.¹⁷

A tax for state purposes must be equal and uniform throughout the state, a tax for county purposes must be uniform throughout the county, and a tax for township purposes must be uniform throughout the township; in other words, the rate of taxation must be uniform throughout the unit of government to which it applies.¹⁸ Other states have adopted the same viewpoint.

The Supreme Court of the United States in 1924 held that a poll-tax could be imposed upon a non-resident. The facts are given somewhat in detail because of the significance of the decision.¹⁹ The territorial Legislature of Alaska imposed a poll tax upon every non-resident fisherman. A California resident was employed as a seaman upon a sailing vessel and was so engaged in Alaska for five months of a year. The employer deducted the poll-tax from his wages. The employee brought suit to recover, on the ground that the

¹⁶ *Isaac v. Decker* (1872), 41 Ind., 410.

¹⁷ *Culbertson v. Board* (1876), 52 Ind., 361.

¹⁸ *Board v. State of Indiana*, 155 Ind., 604.

¹⁹ *Alaska Fish Co. v. Smith* (1924), 255 U.S. 44.

act was in violation of the fifth amendment of the federal constitution. The Supreme Court held that the law did not violate the amendment inasmuch as the territorial Legislature had the power to impose a poll-tax for the support of local government on one who enjoyed its protection. Thus it seems to be clearly established by court decisions that all of one's property, is liable for the payment of all taxes.

Although the legality of the poll-tax was established some six decades ago, not much has been said as to the fairness of it. The principal argument for the poll-tax is that every person ought to be made to appreciate his responsibility to the government under which he lives, and the best method of making him responsible is by some method of personal taxation, such as the poll-tax. The argument is sound in itself, but not in its application to the poll-tax, for it is by no means a personal tax for everyone, but it is limited to males between the ages of twenty-one and fifty, and methods of evasion are numerous. The persons to whom the argument particularly applies rarely pay the tax and persons who pay the tax are already paying other taxes.

The characteristics of a good tax are: (1) ability to pay; (2) minimum cost of collection; and (3) maximum benefits received. The poll-tax violates at least two of the foregoing principles. It does not take into consideration ability to pay or the benefits received. The amount of revenue which it yields is very small. The per capita revenue derived in 1924 in all the states was only eight cents and only seven per cent of the aggregate taxes for the year.²⁰ An understanding of the tax would undoubtedly bring about some reform, either toward distribution based upon ability to pay, or complete abolition.

In the past few years, the question of financing the state has become a more difficult and pressing matter. A committee was appointed to study the situation in Indiana and make recommendations. Their findings are in the *Report of the Indiana Tax Survey Committee to the Seventy-Seventh General Assembly of the State of Indiana*. This was submitted on January 15, 1931. The recommendations were as follows:

That a state poll tax of \$2.00 be required of each person over the age of twenty-one years, and that the same should be made the basis

²⁰ Harley L. Lutz, *Public Finance* (2nd Ed., New York, 1929), 428.

of registration for voting. Heretofore, women have not been required to pay a poll tax. Since the granting of franchise to women to vote, it has been urged that they be required to pay a poll tax. This committee feels there is no logical reason for not imposing a state tax of at least \$2.00 on all citizens who enjoy the voting franchise. For that purpose, it has recommended that such a tax be provided, and that some adequate means of enforcing collection be established so that as many as possible may contribute this fixed sum toward the support of the government. There seems to be no good reason why any exception should be made on account of age or for any other reason except poverty.

It is logical enough that those who are able to pay before exercising their franchise should do so, provided that they realize why they are paying the tax. On the other hand, the proportion of taxes derived from the poll tax is so small that it would not make a great deal of difference in the total revenues. Voters should realize the responsibility that rests upon them when they cast their votes, without being reminded of it in such a painful manner. Therein lies the fault of the present educational system; it does not produce incentives toward becoming worthwhile citizens.

The total amount of taxes collected in Indiana in 1929 was \$161,758,400 of which amount \$1,394,200 came from the poll-tax. It is possible that if women were required to pay a poll-tax, it would practically double the amount of taxes derived from that source, making the percentage approximately one and seven-tenths instead of the present nine-tenths of one per cent of the total tax.

A list of eight statements concerning the poll-tax in Indiana was recently mailed to a large number of voters in various sections of the state by the author. The object was to ascertain whether citizens, generally, have any accurate knowledge relative to the poll-tax in Indiana. Those responding were asked not to sign their names, but to give age and occupation in each case. Each statement was followed by both *yes* and *no*, and each person who filled out the questionnaire was asked to check the word which would in his judgment indicate the truth or falsity of the statement. The list follows: 1. All men between the ages of 21 and 60 are required to pay a poll-tax. 2. A poll-tax is a prerequisite to voting. 3. Poll-taxes are levied to defray the expenses of elections. 4. Poll-tax exemptions are granted by the Boards of County

Commissioners. 5. Poll-tax revenues have practically doubled since the granting of the franchise to women. 6. The state, county, township, and city may each levy a poll-tax. 7. Poll-taxes are collected by County Treasurers. 8. A poll-tax receipt must be shown in order to receive any kind of license.

There were 2310 voters who returned checked lists of the statements. According to occupation, these were divided as follows: business men, 295; clergymen, 20; farmers, 240; housewives, 275; lawyers, 35; physicians, 39; public officials, 59; salesmen, 95; skilled laborers, 196; office-workers, 150; unskilled laborers, 282; unemployed, 65; students, 210; teachers, 327; librarians, 30.

The results of the questionnaire are of interest.

Statement	True or false	Answering Yes	Answering No	Percentage of correct answers
1	false	970	1340	58+
2	false	877	1423	62+
3	false	1040	1270	54+
4	true	832	1478	36+
5	false	678	1634	71+
6	true	740	1570	32+
7	true	2010	300	87+
8	false	1016	1294	56+

The foregoing results reveal that no group is well informed in regard to poll-taxes in Indiana.²¹ Only 12 out of 2310 voters were correct in every instance, while 289 were each correct in every case save one.²²

²¹ Newspapers could do much to inform the public on current questions by using a method similar to that used by the author when sending out this questionnaire, and then publishing the results on the front page. High schools and colleges could work out a large number of such problems with their students. The results would be good since students going forth with diplomas would have received a certain amount of practical training in matters vital to citizenship.

²² Mr. Ancil Smith, a student in the author's classes, helped to tabulate the replies of those who returned answers to the questionnaire.