THE "AREA OF PROJECTION" AS A BASIS FOR THE TAXATION OF BILLBOARDS

BY BERNICE V. BROWN¹

THE problem of regulating billboards, especially in the larger communities, is one that deserves all the consideration it has been receiving in recent years. Legislators have tried to solve it by law, city councils by ordinance and administrative officials by a stringent exercise of their regulating power. This medium of advertising, although once little used, has grown in our day to gigantic proportions. Every form of merchandise and business appears to be adaptable to the bill-poster's art and every meadow, vacant lot, public square and park offers possibilities for the location of new billboards. The more frequented the spot the more it is desired by the advertiser and a billboard that obstructs a natural vista is regarded as a particularly valuable one.

Advertising is a legitimate business and to it may be attributed the initial success of many a worthy enterprise. It would be unwise and futile to seek the abolition of the billboard. Within proper bounds it serves a useful purpose, and a genuine demand for it exists at the present day. There is no reason why publicity should not have its due place in modern business enterprise. But regulations may well be imposed upon any form of publicity which thrusts itself upon us at all hours of the day and night, which hampers all efforts to make our streets, parks and public places more attractive, and which virtually takes from the citizen his constitutional guarantee of the "pursuit of happiness"—his right to enjoy in peace the beauties of nature.

Of the many attempts at the regulation of billboards such as taxation, local option, zoning and licensing, taxation is by far the most effective. Its use tends to reduce the number of billboards and enables the city to regulate more effectively their size, construction, location and general character. Most of the commissions which have investigated the subject advise some such measure and the American Civic Association has endorsed taxation as a "fair and effective method of regulation."

But the problem arises: how may the tax best be levied? The common method has been to tax the billboards at so much per square foot. In most cases the tax has been so heavy as to be declared confiscatory or unreasonable and the ordinances imposing the taxes have been declared illegal. St. Louis once proposed a tax of three cents a square foot per

¹ Miss Brown was graduated from Radcliffe College in 1916 and is now bibliographer in the Harvard bureau of municipal research. As an undergraduate she was in two successive years the winner of the William H. Baldwin prize, offered by the National Municipal League. The present article is an excerpt from her essay on "Effective Billboard Regulation" which was awarded this prize in 1916.—EDITOR.

year on billboards, New York one of twelve cents, and Los Angeles one of fifty cents. The square foot of area, however, is not a good basis for the billboard tax. The value of a billboard to the advertiser is determined not so much by its size as by its location. A flat tax of so many cents per square foot neglects altogether the vast differences in the revenue-value of billboards arising from differences in location. Ten cents a square foot may be an unreasonable tax per annum upon billboards in unfavorable locations which yield only a dollar or less per foot in annual rental; but several times that tax would be quite within the limits of reasonability when imposed upon billboards which stand at the head of a great business thoroughfare and bring in annual revenues running into the thousands of dollars on relatively small surface areas.

The chief factors determining what a billboard brings in revenue, which, again, determine its value and in consequence the reasonability or otherwise of a tax laid upon it—the chief factors are the number of people passing it whether on foot or in trains, the area over which a sign may be projected, due to the height at which it is placed, and the amount of open space in front of it. In point of value per foot frontage for advertising use (not for business or residential use), there might be a great difference between a lot at the head of a long broad avenue and its unseen neighbor right alongside. In levying the tax on a billboard the size, height above the street level, amount of traffic and area of projection should all be considered. A system which allowed for variations in these factors would prove a far more equitable way of securing revenue from billboards than a tax levied at a flat rate per square foot and would be far more likely to stand the test of constitutionality.

In a word, the value of a billboard is not appurtenant to the land on which it is erected. The board may occupy a space only two feet wide on the edge of a lot and yet project its reading matter a hundred feet or more across a public street or square. This area of projection is at least quasi-public property. If the sign were painted on the inside of the board toward the lot it would be worthless. The increment of value comes from the use of a public area and if the billboard pays no tax or a tax which is levied without reference to this factor, it is using public property without adequate compensation. How great this projection area is in the case of illuminated signs on high buildings would be hard to estimate. It must often cover several square miles. Such a use of public or private property without the consent of the people affected would not be tolerated in the case of over-hanging eaves, underground tunnels or like encroachments. If this point were fairly recognized, a tax levied by the city in return for the use of its property would seem a perfectly natural thing. Care should be taken to make the system of assessment as workable and free from complication as possible. To insure payment, such a tax should be levied in advance of the period during which the sign is to be displayed.

It should be, in other words, of the nature of a license. A label of some kind should be attached to the billboard when the tax is paid and all unstamped advertising reported by the local patrolmen to the proper authorities. The area of the sign as reckoned for assessment should be the extreme height multiplied by the extreme length. Otherwise advertisers might attempt to reduce the tax by round or irregular shaped signs which would make the skyline even more unsightly than at present.

Billboard companies make use of what is virtually public property, that is to say, the landscape, skyline, vista, an area of projection or whatever you like to call it, and there is no reason why they should not be taxed as are other users of public property. We have been too apt to take as our basis of billboard taxation the area or the structural value of the billboard or the enhanced value of the land upon which it is located. By so doing the whole matter becomes one of taxing private property and the levy must be kept within strict limits. Would it not be better to urge the "area of projection" basis, to take the ground that the projection of advertisements or of light from signs into the public thoroughfares is a use of public property, and should be paid for on that basis?

ELECTORAL REFORM

Through one of those mistakes which are inexplicable and which tend to add to the burdens of the editor, the author of the article on "Election Reforms" in the October issue of the NATIONAL MUNICIPAL REVIEW (page 611) failed to give credit to Melvin P. Porter, the secretary of the Buffalo municipal league, for the outline reproduced under the heading, "Ten city charter essentials." This article was printed in the *Civic Searchlight* of Detroit (March, 1916) as was stated in the article, but the credit to Mr. Porter was omitted. Mistakes have one advantage, however, in that they enable the editor to call attention again to important material, and he is glad to avail himself of this opportunity to call to the attention of students and charter reformers the very interesting suggestions of Mr. Porter and widely distributed by the Buffalo league.—EDITOR.

EDITORIAL

After five years of the most helpful sort of co-operation, Professor John A. Fairlie of the University of Illinois has resigned as an associate editor of the NATIONAL MUNICIPAL REVIEW. The editor takes this opportunity of paying tribute to the work which Dr. Fairlie has done for the NATIONAL MUNICIPAL REVIEW during its formative period. Thoughtful, accurate and courageous, he has been a valued adviser and an industrious collaborator. A multiplicity of other duties including the editorship of the *American Political Science Review* has made his withdrawal imperative, but it is a pleasure to be able to announce that he will continue as a member of the advisory board.

Dr. Fairlie will be succeeded as associate editor by Dr. C. C. Williamson, the municipal reference librarian of New York city, who brings to the performance of his task not only a wide experience and a careful training, but a deep interest in the NATIONAL MUNICIPAL REVIEW which has been manifested in many ways in the past.

Miss Adelaide R. Hasse, who has been an associate editor since July, 1912, and who during all of that period has prepared the admirable bibliography which has been one of the features of the NATIONAL MUNICIPAL REVIEW, has felt it necessary to retire from all duties outside of her official ones at the New York Public Library. The editor desires to take this opportunity to say publicly what he has many times said privately, that Miss Hasse has been one of the most effective of the regular contributors to the pages of the NATIONAL MUNICIPAL REVIEW. It is with regret that he notes her retirement as associate editor.

Miss Alice M. Holden, for a number of years an assistant to Professor William Bennett Munro of Harvard and connected with the bureau for research in municipal government, and now instructor in municipal government at Vassar College, Poughkeepsie, N. Y., will succeed Miss Hasse as associate editor and will prepare the bibliography.

In this connection it is interesting to note the new names on the advisory editorial board: W. S. McNeill of the Richmond, Va., bar, a member of the faculty of the Richmond Law School; Charles Mulford Robinson of the University of Illinois and author of sundry works dealing with questions of municipal improvement; L. D. Upson, director of the Detroit bureau of municipal research and formerly director of the Dayton bureau; Frederick Trigg of the *Kansas City Star* editorial staff, and Dr. Fairlie. These new members of the board, of which Professor L. S. Rowe of the University of Pennsylvania is chairman, will bring to the editorial management a deep interest in municipal government and intelligent suggestions from widely differing points of view. Dr. Clyde L. King of the University of Pennsylvania, after a helpful service as a member of the board since its creation in 1912, has resigned.—THE EDITOR.