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Special Assessments: A Study in Municipal Finance by Victor Rosewater; The Financial History of Virginia, 1609-1776 by W. Z. Ripley

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Government. Their note issues, now disappearing as the national debt is reduced, are to be preserved by allowing other bonds to be used as security, and an ingenious proposal for extra issues on an automatic system, adapted from the German law of 1875, is added. The Treasury is to retain only the greenback reserve of £20,000,000 and the gold and silver bullion required to guarantee certificates. Such a reform would probably be a decided improvement on the actual state of things, but the root cause of the evil would hardly be removed. The defects of the Independent Treasury are partly due to the absence of a proper budget arrangement, so that unnecessary surpluses are accumulated and there is no balance between income and outlay. In part, too, they are caused by monetary legislation which mixes up the gravest currency questions with the routine working of the public revenue system. The effective separation of the financial administration from the currency and the proper adjustment of the budget would reduce the Treasury problem to more manageable dimensions, and would make the course of other reforms smoother.

Mr. Kinley may be heartily congratulated both on the selection of his subject and his mode of treatment; he tells us just the things that we want to know and he always writes to the point.

C. F. BASTABLE

Special Assessments : a Study in Municipal Finance. By VICTOR ROSEWATER, Ph.D. (Columbia College Studies, vol. ii., No. 3. New York. 1893.)

The Financial History of Virginia, 1609-1776. By W. Z. RIPLEY, Ph.D. (Ib., vol. iv., No. 1. New York. 1893.)

THESE new numbers of the valuable series of studies in course of issue by Columbia College give fresh evidence of the growing interest taken by American inquirers in the problems of public finance—an interest not confined to any one department of the subject, but extending alike to its theory, history, and practical applications.

Under the technical title of ‘Special Assessments,’ Mr. Rosewater gives a singularly clear, comprehensive, and yet concise account of the development and actual use of what is generally known in England as the system of ‘betterment,’ a word which, though thought to be a pure American product, would, he tells us, ‘hardly be recognised by many Americans’ (p. 16).

In its essence the policy of special assessment is an attempt to apply the once widely accepted, but now discredited rule, ‘that payment to the State should be measured by the service rendered by the State.’ If an owner of property reaps special advantages by a public improvement, he is to be specially charged or ‘assessed’ for the cost of that improvement. Mr. Rosewater collects the scanty cases of the use of this method in England and on the Continent, and then proceeds to trace the history of its growth in American State legislation. New

York appears to have been its birthplace. By a Law of 1691 the Assembly of that Province authorised the levy of a sewage tax for the City of New York, to be imposed upon 'all houses within said city in proportion to the benefit they shall receive thereby.' After the War of Independence the same principle was adopted in an Act of 1787, and the system was gradually expanded and made precise by legislation and judicial decisions, and applied to other towns in the State. By degrees it has spread to other States, though in some the courts have vainly struggled against it and pronounced it unconstitutional. At present forty out of forty-four States have accepted the principle, while in the four remaining ones its exclusion is due to the views taken of the law by the judges. But though the system is thus widely diffused, it does not follow that its features are everywhere the same. On the contrary, the objects for which special assessment may be made, the persons empowered to assess, and the limitations on the exercise of the power, vary considerably. As might be expected, the self-interest of property owners has led them to question the legality of a great many of the proposed assessments, with the result of supplying a long list of 'leading cases'—Mr. Rosewater's table contains 223—and securing the discussion of many difficult questions, as, *e.g.*, 'whether the benefit for which assessment is made must be actual or need only be potential?' or 'Whether a special assessment is simply a real charge on the property benefited, or involves in addition a personal liability on the part of the owner affected?' The rules of procedure, and the steps to be taken in order to guard against undue exaction have also been developed at length. Even the very basis on which the exercise of the power is founded has given rise to serious debate. Do special assessments result from the 'police power,' from the 'taxing power,' or from the right of 'eminent domain'? This question, which seems to an Englishman imbued with Austin's idea of sovereignty, quite insignificant, is raised into importance by the peculiarities of American constitutional law, with its strong emphasis on the separation and limitation of powers, and there has been a good deal of vacillation and confusion in the judgments respecting it. 'Special assessment in one sense is a tax,' says Mr. Rosewater (p. 89), but he immediately adds, 'Although special assessments come under the taxing power, the courts have generally concluded that they are not taxes within the technical meaning of that term, as it is employed in commonwealth constitutions' (p. 90). Thus the very general rule that taxation should be proportional is held to be inapplicable in the case of assessments, and by a legal subtlety a constitutional guarantee of property rights is rendered nugatory.

The difficulty as to the legal classification of assessments naturally suggests the question of their true place in a financial classification. Mr. Rosewater, in agreement with Professor Seligman, regards them as distinct both from taxes proper and fees, and points out very clearly what he believes to be their specific features. But it seems doubtful

whether such a separation is either logical or convenient. Special assessments are confined to local finance, where the rule of charging in proportion to benefit received is largely applicable in the levy of the ordinary rates. The compulsory character of assessments makes it necessary to adopt some general criterion, such as street frontage, which in practice approaches very closely to valuation for taxation. The real relation of special assessments to other taxes is suggested by Mr. Rosewater when he writes, 'Taxation is resorted to in order to defray the running expenses of government. . . . The object of special assessments is to provide for the capital account' (p. 129). Special assessment raises at once what might be—and by the method of instalment sometimes is—spread over a series of years. Thus, to take an instance from general finance, Ricardo's scheme for a single levy on property-owners, in order to pay off the English National Debt, would be a case of special assessment, but no one could regard it as other than a tax, though it would undoubtedly be a payment levied on property for capital account, and was partly advocated for that very reason. Taxation of property, or 'capital,' as Ricardo would say, is quite admissible as a means towards securing a due division of public burdens, but it can be easily included in the ordinary classification of taxes.

On the more interesting question of the justice and wisdom of the policy of levying special assessments on those who are specially benefited, Mr. Rosewater pronounces strongly in its favour. The system, he declares, 'has operated in the United States to the general satisfaction of all. It rests upon principles of right and justice. . . . For young and rapidly growing municipalities the system . . . is undoubtedly the best, the most practicable, the most just' (p. 145). We may fully agree that there is nothing unjust in the principle of special levy for special benefit, but it must be confessed that the power, unless carefully guarded, is capable of the grossest abuse. Actual cases, notably that of the cities of New Jersey, are supplied by Mr. Rosewater (pp. 71–79). When there is any tendency to corruption in local administration, the power of special assessment seems to give a direct stimulus to it, as extravagant outlay can partly at least be covered by levies for potential benefits, which will never become actual to the unfortunate contributors. Only under the most rigid limitations, and with careful control by a central government, does the system appear likely to meet the tests of sound finance.

In any case both advocates and opponents of the betterment tax in England may safely be advised to study Mr. Rosewater's monograph, which might with advantage be made more accessible to the ordinary reader.

Mr. Ripley's account of early Virginian finance gives an additional instance of the prominence of export duties in undeveloped communities. Tobacco, the staple product of the colony, was the article selected for taxation, and as England was the sole direct market, in

which, moreover, an import duty was imposed, the main burden probably fell on the colonial grower. It was, in fact, a partial land tax. The chief direct levy was the poll tax, also a primitive form of revenue. The other fiscal expedients were of the same character, especially the tobacco-notes, which were a form of warehouse-warrant used to obviate the scarcity of metallic money. The general property tax did not come into existence till much later.

C. F. BASTABLE

SOME RECENT WORKS ON CURRENCY.

A Plain Statement of the Currency Question ; with Reasons why we should Restore the old English Law of Bimetallism. By JOHN HILL TWIGG. (London : Effingham Wilson.)

THE time has gone by, it seems to us, for so simple a restatement of the bimetallic position as that made by Mr. Twigg. The difficulties of the creed are slurred over without an adequate appreciation of the arguments advanced by opponents.

If falling prices be an evil, it is not apparent why bimetallism is the 'only practicable' remedy. It is a much controverted question whether the existing stocks of gold and silver are not so earmarked that fresh supplies have a considerable effect on prices. Mr. Giffen denies that America's silver secures her note issue. He contends it is surplusage. Mr. Twigg goes too far in stigmatizing a creditor as 'dishonest' who prefers an appreciating currency. Is it so certain that Germany, Russia, and Austria will follow England into bimetallism if the latter holds up her finger?

A Colloquy on Currency. By HENRY HUCKS GIBBS. (London : Effingham Wilson.)

MR. GIBBS's last effort is more discursive than the pamphlet already noticed, but at the same time on a far higher plane, whilst the writing is easy, unaffected, and lively. On page 33 he characterizes the supposition that gold might, under bimetallic conditions, disappear from circulation as, 'saving better instruction, supremely ridiculous and wholly superfluous.' The strength of this language suggests weakness in the reasoning. Soetbeer has estimated that the greater part of the gold annually produced is at present hoarded or used in the arts. There is nothing 'ridiculous' in the idea that under bimetallism (particularly with a ratio favourable to silver) gold may be in greater demand for the arts than for currency, silver and silver notes becoming the universal medium of exchange. On page 42 it is forcibly urged as against Dr. Giffen that the French mints were, as a fact, closed to silver not on

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