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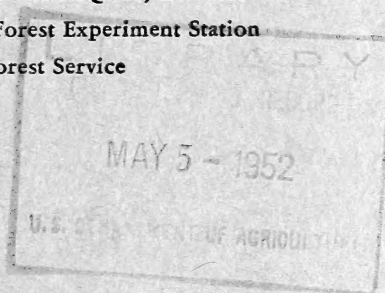


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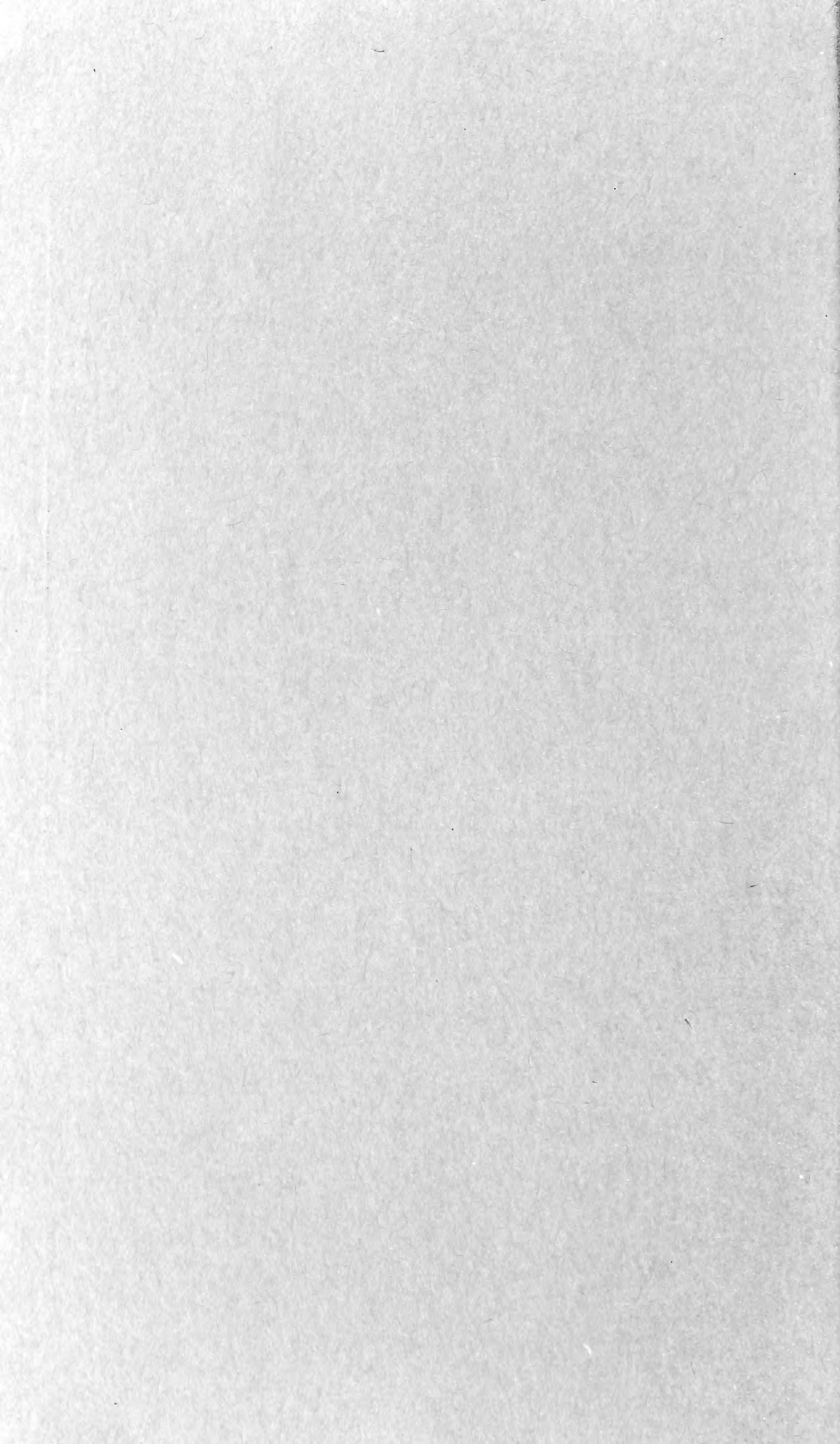
# Forest Yield Taxes

By RALPH W. MARQUIS, Director  
Northeastern Forest Experiment Station  
Forest Service



UNITED STATES DEPARTMENT OF AGRICULTURE  
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By RALPH W. MARQUIS, *Director*

*Northeastern Forest Experiment Station, Forest Service*

### CONTENTS

	<i>Page</i>
Introduction.....	1
Problems of the general property tax.....	1
Measures proposed to solve the property-tax problem.....	4
The special interest in yield-tax laws.....	5
Principle and application of the yield tax.....	6
Tax and revenue features.....	6
Forestry features.....	6
Yield-tax laws in effect.....	7
Appraisals of yield-tax principle.....	7
Reasons for small area classified under the yield tax.....	8
A reappraisal of yield-tax principle.....	13
Specific provisions of yield-tax laws.....	14
Qualification of forest land for classification.....	15
Procedure of classification.....	18
Provisions for declassification.....	23
The tax on bare land.....	26
The yield tax on products harvested.....	28
Forest-practice requirements.....	33
Reimbursement of local governments.....	37
Disposition of tax receipts.....	38
Elements of a good yield-tax law.....	38
A single model law not desirable.....	38
What a good yield-tax law should do.....	39
General requirements of a good law.....	41

### INTRODUCTION

#### PROBLEMS OF THE GENERAL PROPERTY TAX

For more than a century the application of the general property tax to private forest properties has been criticized. This form of taxation has been held responsible for the rapid liquidation of mature timber, for the instability of forest-land ownership, and for the failure of owners to provide for the production of a new crop of trees on cut-over lands. Though the effects of the ad valorem tax have been greatly exaggerated, the tendencies to create these results must be recognized.

Until quite recently receipts from the general property tax provided most of the revenue to support local government units and contributed to State revenues. As late as 1932 over 77 percent of the total county revenues came from taxes. But while some counties are rich in property values, others are poor. The poor counties as well as the rich ones need government services. To provide these services the county must have aid from the State or tax rates must be higher than in richer counties. Forest land, as well as other forms of property, may thus be subject to taxes that discourage continued ownership or improvement of properties. The failure of many counties to adopt a sound land-settlement policy and the lack of economy in the administration of some local governments have added to tax costs. Inequitable assessment of property and tax collection procedures that have encouraged tax delinquency have added to the unequal distribution of tax costs.

These high costs can affect farm land, industrial sites, residences, or any other class of property. But they have been considered particularly burdensome when applied to forest land. This is due in part to the fact that forest land, especially cut-over land, has suffered from unequal assessments. But it is also due to the nature of a forestry enterprise. Most nonforest commercial properties yield annual incomes, and the imposition of annual taxes corresponds at least roughly with the owner's ability to pay. But the length of time required to produce a crop of trees means that income from forestry may often be deferred for years. Payments of annual property taxes from savings or borrowed funds is a greater burden than payments from current income. Even if the annual property tax is not exorbitant for property in general, the accumulated cost of annual tax payments while small trees are growing to financial maturity may be so great as to discourage the investment of funds in forestry.

High property taxes have been held responsible for the too-rapid liquidation of virgin timber with an accompanying waste of timber and, for a long period of time, a depressing effect on lumber markets. Taxes alone were not responsible for this. Interest charges on invested funds, the risk of loss from fire, insects, disease, or theft, and the pressure to clear land for cultivation all contributed to the incentive to harvest mature timber. But the annual appearance of the tax collector with a bill that had to be paid centered attention on taxes as a factor causing accelerated liquidation.

The argument that high taxes cause liquidation has lost much of its force. Most of the virgin timber in the country has been cut. Our ideas of conservation have changed, and we now recognize that mature timber should be harvested so that the productive powers of the land can be utilized to produce a new crop of trees. The danger today is that old-growth timber that could play an important role in the transition from liquidation to sustained yield if harvested in an orderly manner, may be cut so rapidly that it will all be gone before our timber needs can be met from second growth. To the extent that high taxes are contributing to such cutting practices they are working against the interests of forestry.

The main strength of the argument against the ad valorem property tax has been directed to its discouragement of growing timber crops. The assumption that the owner would have to wait many years before he received any income from his forest property was a natural one because our first thinking in forestry was in terms of plantations. This argument also has lost some of its force with the adoption of forest practices in the form of frequent light cuts and the frequent realization of harvest incomes. Once a forest property is being managed on a sustained-yield basis it makes little difference whether taxes are paid on the assessed value of the land and timber or on the value of the crop harvested, if the two tax payments are equal in amount. The effect of the time factor has largely disappeared.

In spite of the great progress in forestry in recent years not many holdings are actually on a sustained-yield basis today. Most of the owners who are serious about forestry are working toward sustained yield, but most of their stands are still in the period of transition. This may be one of the most difficult financial periods for a forestry operation.

Investment funds are needed to block up areas of growing stock, to plant when necessary, or to modernize manufacturing plants. Working capital is needed to protect timber and to introduce the management practices called for by a plan of continuous operation. Income may decline if the annual harvest of timber has to be reduced to the allowable cut for sustained yield or if manufacturing plants have to be operated at less than capacity because of this reduced supply of raw material. The existence or, more important, the prospect of high annual taxes on forest land can be a factor important enough to induce the owner to continue a policy of liquidation rather than attempt to achieve a permanent operation.

A realistic appraisal of the situation leads to the conclusion that property taxes, though they may have hastened liquidation and discouraged reforestation in the past, have not been an important obstacle to forestry in the past few years. Though costs of local governments have increased, revenue in the form of aid from the States has increased much more rapidly and in 1946 only half of the total county revenues came from taxes. Twenty-three States now collect little or no general property taxes, and property taxes make up only 4 percent of total State collections, so the pressure to increase property taxes has not been great. At the same time individual incomes have been at a high level and taxes have been met without much real trouble. Only in certain areas and in rare individual cases are property taxes an incentive to liquidation or an obstacle to the practice of forestry.

Happy as the present situation is, it may not continue indefinitely. The cost of services provided by local governments is growing with increasing population and a higher level of living. And if the level of industrial activity and national income should slump from its present high point, if State aid supported by State sales and income taxes should be reduced, and if the incomes of individual taxpayers should decline, the burden of property taxes might once again be heavy enough to discourage the practice of forestry on many holdings. These are not changes to be welcomed, but the possibility of their occurrence cannot be ignored.

## MEASURES PROPOSED TO SOLVE THE PROPERTY-TAX PROBLEM

Forest owners are not the only ones who have complained about the high level of property taxes or the faults of their administration. The problem is one of universal interest. From students of the problem have come a number of proposals to lessen the burden of property taxes or to eliminate inequities that result from inefficient administration.

Mention has been made of the fact that in 23 of the States little or no revenues from the general property tax go to support State functions, and that the States as a whole are depending less and less on this source of revenue. As a means of reducing the local need for property-tax revenues, the States have greatly increased their grants in aid to county governments from about 140 million dollars in 1932 to over 1.1 billion dollars in 1950.

Other proposals have been aimed at greater efficiency and lower cost in local government administration. Prominent among these is the plan for consolidation of small political units. This proposal has met with strong local opposition and results in general have been disappointing. More success has been had in the zoning of rural-land areas and the creating of districts within which certain uses are prohibited. By keeping farm families out of forest districts, for example, the need for schools can be eliminated and the need for roads reduced.

Every State is aware that the practices used in assessing property for tax purposes could be better. Assessors' manuals are steadily being improved and in many of the States courses in instruction are given to assessors. It is not unnatural that first attention has been given to the more valuable properties that produce the greater part of the tax revenue. Standards for assessing public utilities, commercial and industrial property, farm land, and urban residences have accordingly been improved more than standards for assessing wild land. Even with improved standards there is still the problem of getting them into practice. With local assessors in many of the States underpaid, understaffed, and holding elective offices, the traditional methods that result in inequitable assessments are hard to replace.

Some real progress is being made in correcting the assessment of forest land. Aerial photos are being used to provide information on forest types and crude measures of timber volume, and these photos used as overlays on tax maps are showing up the worst errors in assessment. A number of counties, in making reassessments, are employing professional foresters whose spot cruises are used to supplement aerial photos.

Though not undertaken specifically to solve the property-tax problem, the adoption of forest practices resulting in sustained yield is having this effect for some owners. The production of regular forest crops brings regular income from which annual taxes can be paid, and one objection to the property tax is removed. This does not automatically correct the other problem of inequitable assessment of forest land but it often helps. Assessors are apt to be more reasonable with an owner whose property will continue to pay annual taxes than they are with one who proposes to cut all his timber and thereby reduce the tax base.

A more direct approach to the problems of the general property tax



as it applies to forest land has been the enactment of special tax laws by many of the States. These laws provide for the special treatment of forest land and either modify or supersede the operation of the property tax. Two periods in the history of such legislation have been noted. The first, beginning about 1860, was concerned chiefly with tax concessions for plantations. These concessions took the form of exemptions, rebates, and bounties. In the second period, beginning 50 years later, more recognition was given to the problems of managing planted or natural stands of immature trees, and the yield-tax principle was the basis for most of the new legislation. Other laws provide for the fixed assessment of forest land, for a differential tax, or for a deferred tax on mature timber. The State Forest Tax Law Digest of 1945 summarizes the provisions of all the special forest-tax laws in effect at that time.<sup>1</sup>

#### THE SPECIAL INTEREST IN YIELD-TAX LAWS

Interest in the yield-tax principle first became evident about 1890 as the limitations of the exemption, rebate, and bounty laws became apparent and as the effects of the general property tax in forcing liquidation of mature timber were realized. It was not until 1911, however, that the first yield-tax law was enacted, in Michigan. New York followed in 1912; Vermont, Connecticut, and Pennsylvania in 1913; and Massachusetts in 1914. In all, yield-tax laws have been adopted by 19 States. Five of these laws were later repealed or declared unconstitutional. Missouri, in 1946, and New Hampshire, in 1949, are the States most recently adopting this form of special forest-tax legislation.

Laws incorporating the yield-tax principle are being actively sponsored in several States at the present time. Other States are conducting forest-taxation studies to determine the possibility and need of changing the method of taxing timber and forest lands.

It is because of continued interest in the yield tax as a means of encouraging forestry that the present study was undertaken, the purpose of which is to establish the elements of a helpful and effective yield-tax law. To establish these elements it is first necessary to analyze the yield-tax laws now in effect. This analysis considers the purpose of such laws, the principles on which they are based, the criticisms that have been made of the yield-tax principle and its application, the limitations of such tax laws, and the justification claimed for this type of legislation.

More specific consideration is given to the many separate problems associated with the application of the yield-tax principle, the various provisions that have been adopted to meet these problems, and the success or failure of these alternative provisions in practice. The conclusion that many of the past laws have been almost wholly ineffective does not prove that the yield-tax principle is wrong. It is hoped that this study with its analysis of problems to be met and different methods of meeting them will lead to a better understanding of these problems and that any future yield-tax legislation will bring more encouragement to good forestry.

<sup>1</sup> UNITED STATES FOREST SERVICE. STATE FOREST TAX LAW DIGEST OF 1945. 79 pp. 1945. [Processed.]

## PRINCIPLE AND APPLICATION OF THE YIELD TAX

## TAX AND REVENUE FEATURES

The basic principle of the yield tax is the postponement of all taxes on growing timber until the time of harvest. This tax postponement applies only to the growing timber; the land remains under the general property tax or is subject to fixed annual payments made in place of the property tax. The owner of forest land is not relieved of all annual tax payments by a yield tax, but generally the greater part of the total tax is deferred until income is received from the cutting and sale of forest products.

The amount of the yield tax is determined by the amount or value of the timber cut. The latter is the method in general use, and the tax is a stated percentage of the stumpage value of the timber harvested. The yield tax is to be distinguished from the deferred timber tax under which the timber continues to be assessed and taxed under the property tax, with part of the accumulated tax debt deferred to the time of harvest. The principle of the two taxes is similar but the method of computing the tax is different.

The yield tax is also to be distinguished from the privilege or occupational taxes generally known as severance taxes. Whereas the yield tax takes the place of the property tax on timber, the severance tax is imposed in addition to regular property-tax or yield-tax payments.<sup>2</sup> The purpose of the severance tax is to provide additional revenue, usually dedicated to forestry activities of the State. The nature of the yield tax, on the other hand, is to shift the time of payment of taxes on timber.

Rates on land and timber under the yield tax can be established to provide a subsidy to forest-land ownership, to equal approximately the amounts that would be paid under the property tax, or to exceed the alternative property-tax payments. Since in 12 of the 14 States with yield-tax laws the classification of forest land is largely subject to the decision of the owner, he can avoid the last situation by not offering his land for classification or by objecting if it is listed for classification. In some States an effort has been made to equate the payments that would be made under the yield-tax law and under the general property tax. The reasoning has been that the yield-tax provisions should not contain any element of subsidy, and that the deferment of taxes would be sufficient to encourage forestry. Other States, thinking they had reduced taxes under the yield-tax law, have required the observance of certain practices by the forest land-owners in return. In still other States it has been recognized that the yield-tax rates were higher, on the average, than property-tax rates.

## FORESTRY FEATURES

An important objective of the yield tax is to make possible the stable ownership of forest land and to encourage the practice of

<sup>2</sup> Six States imposed taxes on the severance of timber in 1950. Of these, three also had yield-tax laws. One of the three, Louisiana, exempted from the severance tax timber subject to the yield tax.

forestry on such lands. Stable ownership, generally held to be a condition essential to good forestry, is not specifically required by the laws, and there are no provisions that prevent the sale or other disposal of classified lands. It is assumed that the payment of a yield tax in place of annual property taxes will make it possible for an owner to hold his land even though it is not producing income currently. Apparently this assumption is correct. There has been relatively little delinquency or reversion of lands classified under the yield-tax laws.

Beyond the common requirement that land eligible for classification under yield-tax laws shall be suited to the production of forest crops there is little uniformity among these laws regarding the practice of forestry. The laws of some States contain no requirements for forest practices. In these States the objective of the tax law is to remove one obstacle to the practice of forestry—the payment of annual property taxes on timber. Any direct stimulation of forestry must come through other laws, aids, education, or economic conditions favorable to forestry. In the majority of the States, however, the owner of land classified under the yield-tax law is required to practice some degree of forestry as a quid pro quo for the special tax treatment given him. A detailed discussion of these forestry provisions is given later.

#### YIELD-TAX LAWS IN EFFECT

At the end of 1951, 14 States had yield-tax laws in effect. These States and the dates of the enactment of their laws, are as follows:

State:	Year yield-tax law enacted	State:	Year yield-tax law enacted
Alabama .....	1923	Mississippi .....	1940
Connecticut .....	1913	Missouri .....	1946
Idaho .....	1929	New Hampshire .....	1949
Louisiana .....	1922	New York .....	1926
Massachusetts .....	1941	Oregon .....	1929
Michigan .....	1925	Washington .....	1931
Minnesota .....	1927	Wisconsin .....	1927

In two States, Mississippi and New Hampshire, the law provides for the exemption of all growing timber from the property tax and for the payment of a yield tax on forest products harvested. The other States follow procedures under which eligible lands may be classified under the law and become subject to its provisions. In most of these 12 States classification is initiated by the landowner.

#### APPRAISALS OF THE YIELD-TAX PRINCIPLE

The report of the Forest Taxation Inquiry<sup>3</sup> contains an appraisal of the yield tax which has served as the basis for a large part of the subsequent discussions of the subject. In favor of the yield tax the report has this to say:

The yield-tax plan would attack directly the major defects of the property tax system as applied to forests. It would apply the income tax principle, modified

<sup>3</sup> FAIRCHILD, FRED R., AND ASSOCIATES. FOREST TAXATION IN THE UNITED STATES. U. S. Dept. Agr. Misc. Pub. 218, p. 573. 1935.

so as to be of practical application, to the taxation of forest properties. It would permit reduction of the tax cost of establishing sustained-yield forests, either from bare land or from young stands, materially below the cost under the property tax. Furthermore, its application would relieve the owner of a deferred-yield forest from the necessity of financing tax payments in advance of income, so far as taxes on the timber were concerned. The directness with which these important objectives would be accomplished constitutes the chief merit of the plan.

The report, however, found serious drawbacks to the yield-tax plan. One of the most important was that the tax, like all taxes based on the receipt of income, would be variable in the amount of revenue it would produce, and would dislocate local finance in communities where timber formed an important part of the tax base. Another drawback noted was the difficulty of adjusting the rate to correspond to the tax contributions made by owners of other real estate. The task of determining stumpage values and of checking on quantities of forest products harvested was listed as a disadvantage. The optional feature was held to be foreign to taxation practices. Provisions to safeguard the public interest were believed to make the law distasteful to the taxpayer. Relief under the laws then in effect was offered only to owners of immature timber. In general, said a summary of the report, the yield tax "cannot be successfully defended as just taxation and is not likely to be accepted by the public if it promises to be widely applied."<sup>4</sup>

In attempting to appraise the effectiveness of yield-tax laws in encouraging forestry the only quantitative measure used has been the area of forest land classified under the optional laws. The record is not impressive. Oregon is the only State with more than a million acres classified. Louisiana has about 600,000 acres, Washington about 450,000, Idaho 250,000, and Wisconsin 200,000 acres in private ownership. Four States have between 100,000 and 200,000 acres; three have less than 50,000. The total area of privately owned lands classified under the 12 optional laws is just over 3,000,000 acres. This is 2.6 percent of the total area of privately owned commercial forest land in these 12 States.

#### REASONS FOR SMALL AREA CLASSIFIED UNDER THE YIELD TAX

Investigations conducted by tax-study committees in a number of States and a survey made by the Forest Service of all the States having yield-tax laws have disclosed a large number of explanations for the relatively small acreage now classified under the voluntary laws. These explanations are not uniformly important in all States, and some of them would not be applicable in many States nor to many owners. The explanations are discussed here in a general way and no attempt has been made to indicate the relative importance of each in keeping owners from bringing their forest lands under the yield-tax laws.

*Lack of knowledge.*—It is the usual practice when a State first enacts a yield-tax law to give considerable publicity to the provisions of the new legislation and even to solicit applications for classification. These efforts to inform landowners of the existence of the

<sup>4</sup> HALL, R. CLIFFORD. THE FOREST-TAX PROBLEM AND ITS SOLUTION SUMMARIZED. U. S. Dept. Agr. Cir. 358, p. 7. 1935.

law and the possible advantages of classification are generally carried on for only a short time. Amendments to the law are usually made to satisfy the objections of a few owners, and amendments seldom receive the publicity given the original law. Frequently the officials charged with the administration of the law are succeeded by men who have no great interest in it or, in some cases, actually oppose it. These men naturally do less to publicize the law than did their predecessors who may have been active in having the law passed. The result is that in many States there are landowners who have never heard of the yield-tax law; others have heard of it but do not know of its provisions; and still others have misinterpreted the provisions of the law.

Even though a landowner may know that he has an opportunity to classify his lands under a yield-tax law he may hesitate to do so because the law has not been adequately explained to him, and he has no way of knowing whether classification would be an advantage or a disadvantage to him. In some States, it is true, efforts are made to keep owners informed of the advantages of classification, but in the majority of the States the owner must work out this information for himself. Thus ignorance of the existence of the yield-tax law, its specific provisions, and its advantages or disadvantages to the owner is one very important reason for the lack of interest and for the relatively small area classified.

*Administrative restraints.*—As contrasted to the two laws that provide through legislation for the exemption of all timber from the property tax and for the taxation of all forest products harvested, the voluntary yield-tax laws often provide for a cumbersome method of application, inspection, approval, and certification before forest lands can become classified. This in itself may be enough to discourage applications if the advantages in classification are not clearly realized. The need of keeping records of forest products harvested, the need of obtaining a permit in advance of harvesting, the posting of bonds or the prepayment of yield taxes, and the procedure of final payment may introduce enough additional red tape to discourage applications.

The administration of some yield-tax laws has had a discouraging effect on classification. If the land itself remains subject to the general property tax, the assessor may set a value on classified forest land that is higher than the values established for unclassified land. Similar inequities may result if the forest products values on which the yield tax is based are subject to administrative determination. The fear of inequitable assessment of land and forest products values may be strong enough to discourage classification.

Associated with these restraints is the fear that classification of lands under the yield tax may create a cloud on the owners' title to the land. Whether such a cloud is created or not has not been settled in several States, but the fact that this fear exists is evident from the specific provision in the Idaho law that "Nothing in this Chapter is intended to impair the right of any owner of lands designated as 'reforestation lands' to sell and convey the same. \* \* \*". Under some of the State laws a contract is made between the owner and the State and this contract is declared to be a covenant running with the land subjecting future owners to the terms of the contract. Some

owners of forest land who contemplate selling their property in the future fear that the sale price might be affected by the fact that the land is subject to such a contract.

*Restrictions on forest practices.*—The fear that classification will subject the owner to harsh restrictions on the manner in which he treats his land and timber is another deterrent to classification. Many owners have the erroneous impression that the time and volume of cutting will be controlled by an administrative board or commission. The larger companies who are really interested in practicing good forestry usually go to the trouble of finding out just what restrictions are imposed by the law and usually discover that the practices provided for in their own plans of management are much more intensive than those under the law. But the smaller owner as a rule does not go to this trouble and may base his idea of what the law provides on misinformation gathered from his neighbors. Forest landowners traditionally exhibit a spirit of independence and a dislike of restraint. This may be enough to keep them from classifying their lands even though the restraints in themselves would not be burdensome.

*Lack of sympathy or opposition on the part of public officers.*—The opposition of local governing authorities may be an important factor in discouraging classification under voluntary laws. Local officials are usually elected by the taxpayers and naturally they want to continue in office. To do this they feel that they must keep property on the tax rolls and must not sacrifice any source of immediate revenue. Their concern is often with the present rather than with the future welfare of the areas they serve. They often fail to take into account the fact that the classification of forest land under a yield-tax law and the good forestry expected to result from such classification would increase the tax base for the future; whereas the continuance of taxation under the general property tax, though yielding more revenue currently, might result in poorer practices and liquidation that would reduce the future tax base. Sometimes the attitude of local officials is due simply to a misunderstanding of these effects. In other cases, however, it is more the result of local politics.

Local officials have many opportunities to discourage classification under the yield tax. In a few States they have the responsibility of accepting or rejecting applications for classification and in these situations their control is direct and extensive. But even though the authority to pass on applications may rest with a State board or commission the local officials, and particularly the assessor, may still set up obstacles to classification. They may, if they want to keep property on the tax rolls, offer the owner the assurance that the assessment of the owners' forest property will remain low enough to remove any advantage in classification. In effect this may provide the same encouragement to forestry that classification would. The objections to this practice are that the forest landowner has only a temporary assurance of low taxes and that assessment by concession may add to the inequities in the assessment of forest land.

If the assessor is not sympathetic to classification under a yield-tax law he may defeat the purpose of the law by increasing the assessment on the nonforest properties of an owner who has classified his forest land. This is easy to do in most States because property is normally

assessed at only a fraction of its true value. The practice of raising assessments on nonforest property has been applied particularly to farm forest owners. It has also been applied to the forest landowner who has a manufacturing plant in the same tax jurisdiction. The only person to whom it could not be applied is the owner who has no property in the taxing jurisdiction other than his classified forest land.

The attitude of State officials charged with the administration of the yield-tax law may also discourage classification. The failure of many of these officials to give adequate publicity to the yield-tax provisions has been noted above. State boards and commissions are not always adequately staffed or financed to administer the yield-tax law, and this may result in their opposition to the classification of small holdings. The classification of a small holding requires hearings, inspections, records, and collections the same as for a large one. The revenue returns are negligible and the total area brought under improved forest practices is not great. Some State officials have adopted the attitude that the small holdings will soon pass into the ownership of larger companies and that the proper time for classification will be when these holdings are consolidated into larger ownerships and managed for timber production.

*Eligibility requirements.*—Many forest lands are not classified under yield-tax laws because they fail to meet the eligibility requirements established by the laws. Some States have denied the privilege of classification to tracts less than 5, 10, or 15 acres in area, but the minimum acreage established by the majority of States having such a limit is 40 acres. The average size of all private holdings of commercial forest land in the United States is 82 acres. The average size for the small holdings under 5,000 acres which make up 75 percent of the total privately owned acreage in the United States is only 62 acres. It is apparent that a considerable acreage is ineligible for classification simply because the individual tracts are not large enough to qualify.

Four States establish maximum values for land or for land and timber as a means of excluding from classification holdings that may contain an excessive amount of merchantable timber or that may have greater values for purposes other than for forestry. Seven States limit eligible entries on the basis of merchantable timber and will not classify holdings that have mature timber in merchantable quantities.

Forest land may also be ineligible for classification because it is not used primarily for forestry purposes. Some States will not classify lands used for grazing purposes or if grazing is destructive. Many owners who have the option of classifying their land have not used it because they intended to use the land for grazing, to develop it for resort purposes, to clear it for farming, or to offer it for sale.

*Absence of tax advantage.*—If an owner's lands are eligible for classification under an optional yield-tax law and if all other conditions are favorable to classification, the owner may still prefer to keep his lands under the general property tax because he finds no financial advantage in having them classified under a yield-tax law. Sometimes this situation will result because his holdings contain timber that is merchantable or that soon will become merchantable. This timber may be seed trees left after harvest, it may be logs and trees that can

be taken out in a salvage operation, or it may be in the form of prospective thinnings. The necessity of paying a high yield tax on this timber when it is harvested may induce the owner to wait until these values have been removed before offering the land for classification.

There is also less advantage in classifying lands that are being cut regularly under forest-management principles than there is in classifying lands that have been clear cut and are restocking. In a forest that is being subjected to frequent light cuts the imposition of a yield tax will be felt soon and regularly. Farm forest holdings that contain merchantable timber and that are logged every few years feel the effects of the early collection of the yield tax the same as do larger industrial tracts that are cut under management. It is not necessarily true that there is no tax advantage in classifying holdings from which recurrent harvests will be made, but the advantage tends to be less than for holdings on which the harvest cut will not come for many years.

The owner under an optional law will make at least a rough calculation of the tax advantage or disadvantage under the yield tax as compared to the general property tax. The greatest advantage in classifying will be found by the owner whose timber values are recognized by the assessor, whose property is subject to a high tax rate, and whose income from harvest cuts will be postponed for a long period. The owner who finds the least advantage in classification is the one whose timber values are underestimated by the assessor, whose annual property tax payments are low, and whose stand contains a considerable volume of merchantable timber that would be subject to the yield tax when harvested within a short time. Between these two situations there is a break-even point where the present or discounted value of the total taxes paid during a rotation period would be the same under the yield tax as under the general property tax. The owner who has an option to classify must determine to his own satisfaction whether the total payments under the yield-tax law on each of his eligible tracts falls above or below this break-even point. Whether his calculations are correct, or not, his conclusions may be a determining factor in applying for classification or in remaining under the general property tax.

Many owners who find no present advantage in classifying their lands recognize that conditions could change so that classification would be desirable. A reassessment of timberlands might result in a discovery of timber values not previously recognized that would increase property tax payments. A change in the tax rate to bring more revenue to the town or county could have the same effect, or a decrease in stumpage values might have the effect of reducing the total yield tax to be paid at the time of harvest. Though many owners who have given serious consideration to this problem of tax advantage recognize that their present favorable position under the general property tax might be changed to an unfavorable one, they are inclined to wait until such change takes place. The opportunity to offer lands for classification will continue as long as the yield-tax law is in effect.

*General economic considerations.*—In addition to the specific reasons outlined above there are certain general economic considerations that apply to all forest landowners at the present time. One of these



is the current low rate of interest on capital funds. The higher the rate of interest the greater is the advantage in postponing any required payment, whether the payment would be made from savings or from borrowed funds. Current low rates of interest, therefore, may be considered a general factor reducing the advantages of classification.

Another consideration that has been important in recent years is the high level of income enjoyed by many forest landowners and the high rate of income tax that must be paid on these incomes. Any legitimate deduction that can be used to reduce high-bracket-income taxes seems to be welcome. The annual payment of property taxes on forest lands is such a deduction. Although the current payment of property taxes will result in a smaller income-tax deduction at the time of harvest than would be available if large yield-tax payments were made at that time, many owners prefer to take advantage of an assured saving at the present time rather than count on a prospective saving at a later date. They reason that by the time the timber is ready for harvest, values and income may decline to a point where income-tax payments will be relatively less important than they are at present; or that tax rates may be reduced by that time.

#### A REAPPRAISAL OF THE YIELD-TAX PRINCIPLE

It is possible that those who have expressed the greatest disappointment with yield-tax laws in operation have expected too much of them. These high expectations in turn may have come from placing an exaggerated importance on taxes as an obstacle to the practice of forestry. The limitations of the yield tax must be considered if a fair evaluation of the results of these laws is to be made.

The yield-tax principle received its greatest support at a time when the problems of cut-over lands and tax delinquency seemed to be among the most important problems in forestry. This is evident from the statements of policy in many of the yield-tax statutes and from the exclusion by many of the laws of merchantable timberlands from eligibility for classification. Today it is recognized that the greatest opportunities for forestry are not on the lands that have been logged destructively but on lands that retain a growing stock sufficient to produce continuous forest crops. It is also recognized today that although taxes may be an obstacle to the practice of forestry, they are not the only obstacle.

Other factors that are discouraging to forestry are the risk of loss from fire, insects and disease; the risk of future markets for forest products; the apparent inability of some timberland to produce a return on investment comparable to the return that could be obtained from other forms of investment; economic pressure for current income; and a lack of knowledge as to the best way in which to manage forest land at a profit. If all these factors are accepted as obstacles to forestry, it is clear that the removal of just one—inequitable taxation—will not be sufficient to stimulate better forest practices. Other factors must also be favorable.

In appraising the results of the yield-tax laws it must be recognized that they were not intended primarily to encourage forest practices on stands containing mature timber or stands containing large vol-

umes of merchantable timber. Nor could these laws be expected to provide any great benefit to holdings that are being managed for sustained yield. Beyond a consideration of the purposes of the laws it must further be recognized that results have been limited by the failure of local officials to cooperate and by other administrative difficulties that have been encountered.

In view of the limited results that have been accomplished it may be fair to ask what justification there is for the retention of existing yield-tax laws or for the adoption of new ones. Granting a limited direct application of the laws it is true that for many classified properties the yield-tax provision is resulting in a postponement of the heaviest part of the tax burden until the time when income will be received. This is important in making it easier for some owners to hold their lands in a productive condition. It is also beneficial to owners who are trying to block up timberlands and increase the stocking of timber to a point where the sustained yield from these lands will be adequate to support their manufacturing operations. A large investment in timber and land is required for this purpose. Even for an operating company any reduction in costs such as results from the reduced current tax on classified lands encourages the acquisition and management of timber holdings.

For all owners whose forest land is classified under yield-tax laws there is greater certainty of future tax costs than is provided by the general property tax. For those who are making a sincere effort to practice good forestry classification means the removal of one of the uncertainties in estimating costs and returns.

The owners who have classified their lands are not the only ones who may benefit from yield-tax laws. For the owners of many unclassified properties in States having optional laws the result has been a more equitable assessment of their forest properties. Moreover, even though these owners have withheld their lands from classification because they found no present tax advantage in coming under the yield-tax law, the opportunity to do so at any time enables them to establish a maximum tax cost that can be used in calculating prospective costs and returns from forest management.

These justifications of the yield-tax principle cannot be applied uniformly to all the laws in effect. Statutes vary greatly in their provisions and in the methods by which they are administered. Some provisions are working to the advantage of forest landowners while others may be defeating the general purpose of the law. For this reason it seems worth while to examine in more detail the specific provisions of the many yield-tax laws now in effect in order to discover which provisions and combinations of provisions are best adapted to the purpose of the yield tax.

### SPECIFIC PROVISIONS OF YIELD-TAX LAWS

The great amount of variation in the specific provisions of the 14 yield-tax laws now in effect might seem rather surprising in view of the common objective of these laws. A certain amount of variation is to be expected. State governments operate under different administrative and legislative systems to which the yield-tax law must conform. A difference in the relative emphasis placed on revenue or

forestry provisions could be expected. But the variation in provisions is more an expression of the search for improvement in legislation than of fundamental differences in conditions or attitudes within the States.

The following review of the provisions of yield-tax laws is not designed to discover specific provisions that would be best suited to all conditions in all States. The purpose of the review is to bring together the many provisions relating to each separate problem of principle or administration so that those interested in amending or enacting yield-tax legislation may have a summary of what others have done in meeting each of these problems.

#### QUALIFICATION OF FOREST LAND FOR CLASSIFICATION

Several objects are evident in the provisions establishing the qualifications of land for entry under the yield tax. One is to prevent tax evasion by owners who might enter land that would not produce forest crops subject to the yield tax, whether these be nonforest lands or forest lands so low in productivity that substantial forest crops could not be expected. A second object in some provisions is to limit entry to cut-over lands without merchantable timber. A third is to limit entries to tracts exceeding a specified minimum size in order to cut down the expense of administering the law.

If the object is clear there are no serious difficulties in drafting provisions to carry it out. More difficulties are encountered in administration. It has been the experience in several States that as soon as a yield-tax law is passed there is a flood of applications for classification, many by real-estate speculators or others who want to escape property taxes but who have no intention of devoting their lands to forestry. In these situations declassification is heavy once adequate inspections can be made.

In Mississippi and New Hampshire, the States with nonoptional laws, there is no need to establish qualifications. All growing wood and timber is exempt from the property tax and all forest products harvested are subject to the yield tax.

*Merchantable timber.*—Six States have provisions limiting the amount of merchantable timber there can be on lands eligible for classification. In Idaho the owner must verify in his petition for application that there is no timber of commercial value on the lands described. In Louisiana lands eligible for classification are lands denuded of timber or land with growing timber thereon suitable for timber production and timber culture. Land eligible for classification in Michigan must be capable of producing a thrifty forest growth and must actually carry sufficient forest growth to give assurance that a stand of merchantable timber will be developed within a reasonable period of time. The law intends to exclude from classification land carrying any merchantable trees in excess of the growing stock required by good forestry practice to promote optimum growth and development of a fully stocked forest, as well as land used for other purposes than the production of forest products. Selectively logged lands or lands carrying forest growth well advanced toward maturity but still requiring a period of years to produce high-grade forest products are not excluded, however.

In New York lands eligible for classification are those that have been planted with a specified number of trees, lands upon which the majority of the mature timber has been removed in a manner to insure a crop of merchantable timber or pulpwood, or lands upon which there is an immature stand sufficient to produce a crop of merchantable timber or pulpwood within 30 years. In Oregon only forest land that is suitable chiefly for forest crop production and on which the forest crop is not mature in merchantable quantities, is qualified for classification. The Washington law provides for the classification of lands chiefly valuable for forestry if unforested or if the forest crop is not mature in merchantable quantities. The Wisconsin law originally required that if there was merchantable timber on the land it could not be classified as forest cropland until 50 percent or more of the merchantable timber had been removed. This restriction was removed by amendment in 1947.

It is difficult to justify the provisions that prohibit the entry of lands on which there is merchantable timber. As mentioned earlier, the yield tax was first promoted actively in a period when forestry was thought of in terms of planting or other restocking of land that had been clear cut. A stand of merchantable timber did not fit into this concept of reforestation. Presumably the merchantable timber would be cut in the same way the other timber had been cut and when the lands were stripped they would be eligible for classification. Today the best opportunities for forestry are on lands that have a good stand of growing stock. Under principles of forest management lands are purposely left in this condition.

An optional yield-tax law could do no injustice to landowners if holdings that contain merchantable timber were eligible for classification. If there were no tax advantage in classifying the lands the owners could withhold them. At the same time it would be well to provide, as New Hampshire does, that if financially mature timber were not cut the land should be removed from the classified list and the timber placed under the general property tax. The intent of the New Hampshire provision is to prevent the holding of standing wood or timber indefinitely without payment of taxes.

The change in the Wisconsin law in 1947 dropping the requirement that 50 percent of the merchantable timber must be removed before land is eligible for classification is a clear recognition of the desirability of extending the advantages of the yield tax to forests that are being managed for continuous yield rather than clear cut and planted. None of the laws enacted since 1940 have excluded land with merchantable timber from entry. Perhaps this marks a new trend in yield-tax legislation.

*Minimum size of holding.*—Six States provide specifically that holdings eligible for classification must contain a minimum number of acres. In Connecticut the property must contain at least 5 acres. In Massachusetts any forest land which is part of a larger parcel of forest and nonforest land must contain at least 10 acres. In New York eligible property must contain at least 15 acres. In Minnesota property containing not less than 35 acres is eligible for classification and property in the nature of a woodlot containing not less than 5 nor more than 40 acres may be made an auxiliary forest if it is protected by the owner or a tenant living on or adjacent to it. In Missouri no

application may be made for a tract of land containing less than 40 acres. Wisconsin also sets the minimum at 40 acres. In addition the Washington and Idaho laws require the listing of classified lands described by legal subdivisions. These provisions are interpreted to mean that areas smaller than 40 acres are not eligible for classification unless they can be described as government lots.

The provisions establishing a minimum area for land eligible for entry under the yield-tax laws are for the purpose of reducing the administrative expense of hearings, listings, records, inspections, and yield-tax collections. The justification for restricting classification to the larger tracts is that the practice of forestry on small holdings probably would not be improved because of tax concessions granted. If the annual tax were reduced from 16 cents for land and timber under the property tax to 6 cents for the land alone under the yield tax the saving would amount to only 10 cents an acre or \$4 a year on a 40-acre tract. The timber would, of course, be subject to the yield tax at the time of harvest. Many owners of small tracts would consider the current saving of \$4 insufficient to compensate them for the trouble of classifying their lands and making reports on timber harvested. It is doubtful whether many owners of such tracts would be induced to practice better forestry through such a tax reduction or that a reduction in annual taxes of \$4 or even several times \$4 would be very effective in removing the financial obstacles to forest practice.

It may be that the yield-tax principle is not adapted to farm forests or other relatively small forest-land holdings. Wisconsin has apparently decided that it is not. The 1949 amendment to the Wisconsin yield-tax law provides for the entry of tracts of land of not less than 40 acres located outside the boundary of forest protection districts under a special classification. The yield-tax principle is not applied to these entries. Instead the annual tax on land and timber is set at 20 cents an acre and no tax is levied on the harvested timber. The amount of the annual tax corresponds to the amounts received by the counties on lands classified under the forest-crop law. The principal application of the provision for special classification will be in the farm-forest area in the southern part of the State, which is not included in the forest protection districts.

The experience in all States has been that small tracts and particularly farm forests have not benefited greatly from the yield tax. A fixed-fee law for small tracts and farm forests in combination with the yield-tax provisions for larger industrial holdings would remove one of the serious objections to the present optional laws.

*Value of land and timber.*—Four States limit eligibility on the basis of value. In Connecticut land eligible for classification may not exceed \$25 per acre in value exclusive of the timber growing thereon. In Louisiana no reforestation contract may be entered into with any landowner where the average cash value per acre of the lands included in the application, exclusive of timber growing thereon, is in excess of \$8 or less than \$3. In Massachusetts lands eligible for classification may not have a value in excess of \$25 per acre for both the land and the timber thereon. Missouri will not classify lands for tax relief if the value of the land alone exceeds \$10 per acre.

The advantages of the provisions which establish minimum and maximum values for land or for land and timber are not very clear.

If the purpose of these value limits is to exclude from eligibility lands that are more useful for purposes other than forestry or lands that are so poor that they could not yield a forest crop, the purpose could be accomplished in other ways. The value limitations are much less flexible and accordingly less effective in excluding such lands than are general provisions requiring that the land be devoted to forestry and capable of producing forest crops. Land and timber values have changed greatly in recent years and may continue to change in the future. Unless the value limits are changed frequently they soon fail to serve their original purpose.

*Other provisions.*—Alabama is the only State among the 12 with optional yield-tax laws that has not established any qualifications for land eligible for classification other than a general suitability for forest culture.

The provisions of the Mississippi and New Hampshire laws that exempt all growing wood and timber from the property tax and impose yield taxes on all forest products harvested are the most important variations from the general pattern of qualification. One important advantage of these provisions is a simplification of procedure. No applications, hearings, inspections, certificates, or contracts are required. The laws are simpler to understand than the optional laws and are certainly more widely known by forest owners. One disadvantage is that the immediate imposition of the yield tax on forest products harvested could work a hardship on an owner who, at considerable cost, has brought his stand to financial maturity. Without any past advantage derived from reduced tax payments on the value of his timber he becomes subject to the full yield tax on all products harvested. Obviously such a law would not be equitable in a State like Oregon or Washington where large volumes of financially mature timber are still standing. Its application is limited to regions where most of the mature stands have been harvested and where there are few or no ownerships consisting entirely of mature timber.

#### PROCEDURE OF CLASSIFICATION

The general purposes of the procedures established for classification of forest land under a yield-tax law are: To determine the eligibility of land for classification, to obtain a legal description of the area classified, to convey information regarding classification to the local taxing authorities and the interested State agencies, and to establish an agreement between the owner and the State, county, or other taxing authority.

The object of provisions to determine the qualification of land for classification is to carry out the purposes with regard to qualification discussed in the previous section. Under the optional yield-tax laws the initial step is the filing of a petition or application by the landowner. This is followed by an examination by the approving agency. Provision is made in some of the laws for public hearings during which any interested person may testify. The legal description of the land classified is necessary in the administration of the yield-tax and property-tax laws. The establishment of definite relations between the owner and the taxing authority is necessary to give both parties to the agreement an assurance of the owner's obligations and rights both

with respect to the payment of taxes and to the manner in which his forest property is to be treated. In some States this understanding is provided in the law. In other States a formal contract between the owner and the government is the basis for this agreement.

The principal problems of meeting these purposes are administrative. The procedure for classification may be stated clearly in the law, but departures from the stated procedure may obstruct classification or make classification too easy for the owner. Ineligible lands may be accepted for classification, if the government agency is not adequately financed and staffed to make the necessary examination of forest property. On the other hand, the approving agency may be lax in carrying out its functions and thus discourage applications for the classification of eligible land.

*Initiation of classification.*—In Mississippi and New Hampshire there is no need for a classification procedure. In the other 12 States with yield-tax laws there are various provisions covering the procedure of classification. In 9 States classification is entirely optional with the owner who files an application or petition as the first step in the classification procedure.

In Oregon and Washington the law provides that classification shall be initiated by the State. Although the Washington and Oregon laws are similar in their provisions there is a considerable difference in administration. In Oregon the State Board of Forestry has been active in listing lands eligible for classification, in conducting public hearings, and in bringing relatively large areas under classification. In Washington, on the other hand, the State Forest Board has done little up to the present time to initiate hearings or classification except upon the application of forest landowners. A change in administrative procedures to conform more closely with the provisions of the law is expected, however.

The Massachusetts law provides for the initiation of classification by the local assessor but the records show that in many towns the assessors have made no effort to bring forest land under the law. The owner may object to the State forester because his land is classified or because his land has not been classified, but few objections on either basis have been received. A new owner of land previously classified may elect to have the classification continued or ended.

*Approval of classification.*—In most of the States approval of an application to classify forest land under the yield tax rests with a State board, or commission, but in two States local authorities are the final approving agency. In Massachusetts eligibility for classification is determined by the assessor, though an aggrieved owner has the right of appeal to the State forester. In Minnesota the county board conducts hearings to consider any matter that may be offered in support of or in opposition to the application and determines the eligibility of the land for classification. In Louisiana both the State and the parish are concerned with the approval of applications. The law provides for a joint inspection by the State forester or his representative and by a landowner designated by the police jury to ascertain the character and value of the lands and their suitability for timber culture.

In Mississippi and New Hampshire there is no examination. In Alabama a joint appraisal of the value of the land by representatives

of the Departments of Revenue and Conservation is provided for. In Connecticut the town assessors examine land offered for classification and make a sworn statement of the value of the land and of the timber. The approval of the application, however, is made by the State forester after his examination of the land to determine whether requirements have been met. In Missouri the application is made to the district forester who conducts the examination and forwards a copy of the application with his recommendations to the Conservation Commission. Final approval rests with the commission. In New York the application filed by the owner with the assessor is approved or disapproved by the Conservation Department. The law contains no provision for examination of the property but in practice every property is examined before a certificate of classification is issued.

In the laws of six States there are provisions for public hearings. The provision of the Minnesota law has been mentioned above. In Idaho the owner files his application with the State Cooperative Board of Forestry which sets a time and place for public hearing and publishes a notice of the hearing in a newspaper of general circulation. The decision of the board of forestry is based on the record of such hearings. The Michigan law requires the Department of Conservation to determine the character of the lands offered for listing and also requires public hearings to be conducted by the department after due notice and publicity. Oregon conducts hearings on lands that have been listed for classification to determine eligibility of the land and to hear objections by the county, the owner, or other interested persons. The same procedure is provided for in the Washington law, but since the law has been administered as a voluntary one, hearings have been conducted only for those lands for which the owner has requested classification. In Wisconsin the Conservation Commission conducts hearings and may make such independent investigation as it sees fit to determine the eligibility of lands for classification.

An unprejudiced review of applications is essential to the equitable administration of a yield-tax law. Some of the State officials charged with the administration of yield-tax laws have not been very sympathetic or active in their administration but there are few, if any, cases in which a State administrator has denied a valid application for the classification of eligible land. On the other hand there has been considerable criticism of the administration of yield-tax laws where approval is left to county or town officials. In Massachusetts where the approving authority lies with the assessor many forested towns have classified no land. In Minnesota the county boards have not been sympathetic to the yield-tax principle. The failure of any land to be classified for 14 years after the enactment of the Minnesota yield-tax law is attributed to the action of one county board in refusing the first application presented to it. In Louisiana joint approval of the forestry commission and police jury of the parish is required. In practice the police jury determines the value at which the land will be assessed during the contract period. Since this is usually the factor determining the advantage in classification, the police jury can discourage entry of lands under the yield-tax laws. In recent years the police juries are said to have established land values for classified land that are as high as the assessment of land and timber would be under the general property tax.



There are advantages in administering a law such as the yield-tax law at the local level. However, unless a fair and sympathetic administration of the law can be assured at this level, experience indicates that it is wise to vest the authority to approve applications in a State board or commission.

*Contractual relations.*—In seven States legislation provides for a contract between the owner and the State and in five States such a contract is required. The contract runs for a definite period of time and provides for the manner in which land and timber will be taxed during that period. In some cases the contract also specifies the forest practices to be conducted by the owner. The nature of the contract is illustrated by the Idaho law under which the State agrees that “\* \* \* no change in or repeal of this chapter shall apply to any land which has been designated as ‘forestation lands,’ except as the State Cooperative Board of Forestry and the owner may expressly agree in writing.”

In Alabama the Governor enters into a contract with the owner. The owner agrees to devote his lands to forest culture, to protect them against fire, and not to withdraw his lands for a period of 5 years after classification. The law does not fix any length of time for contracts. Contracts have been made for from 5 to 40 years. The contract is a covenant running with the land and presumably is renewable upon expiration.

In Idaho the verified petition of the owner and the approval by the board of forestry constitutes a contract between the State and the owner running with the land for a period of 50 years. In this contract the State agrees that no change or repeal of the law shall apply to the classified lands during the contract period. The contract is renewable upon expiration.

A contract between the State and the owner is required in Louisiana. No contract may be written for longer than 40 years and the law contains no provision for the renewal of contracts. The landowner is obligated to practice forestry and to plant where necessary in accordance with a plan filed with the application. The contract fixes the value of the land for tax purposes. Contracts have been made in Louisiana for periods running from 15 to 40 years.

A contract is also required under the Minnesota law. These contracts are covenants running with the land and may be made for periods not exceeding 50 years. In addition to the method by which the land and timber will be taxed the contract prescribes forest practices to be carried out by the owner. Upon expiration the contract is renewable for an additional period not exceeding 50 years.

In Wisconsin, as in Idaho, the filing of the petition and its approval constitute a contract between the State and the owner running with the land for a period of 50 years. The contract is renewable by mutual consent upon expiration. It provides for the method of taxation during the contract period and further provides that no change or repeal of the law shall apply to any land under contract.

Classification under the laws of Oregon and Washington does not constitute a contract but the laws of these States have similar provisions under which the owner may enter into a contract with the State. There is no specified period for these contracts but they are intended to be for the period of time required for the growing timber

crop to mature. The optional-contract provisions in these laws have been used very little. They have not received much publicity and the landowners who know about them seem to feel that the contract would give them little added protection.

There are both advantages and disadvantages in a contractual relation between the owner and the State. The contract determines the method of taxation and the rates of taxation for the contract period, and thus provides the owner with a greater certainty of future tax costs. The possible disadvantage of a contract is that a town or county in need of greater revenue cannot increase the collections from forest land under contract.

There may be some question whether an owner of classified land in a State which does not provide for a contract with the owner would be subject to increased tax rates if the law were changed subsequent to the entry of this land. This would have to be tested in the courts of each State. In Missouri and New York the owner subject to increased rates would have the privilege of withdrawing his lands, though he would be subject to the declassification tax. In Oregon, Massachusetts, and Connecticut there is no provision for withdrawal of lands by the owner. The same is true for Washington, though in Washington a petition for withdrawal may be filed by 25 taxpayers of the county.

Apparently the possibility that classified land might be made subject to higher rates under a change in the law is not taken very seriously. This attitude is illustrated by the failure of landowners in Oregon or Washington to take advantage of the option to enter into contracts with the State. In Michigan where no provision for a contract is made the owner is protected against unfavorable changes in the law by the following provisions:

Changes in the terms, fees, taxes or other provisions of this act as from time to time enacted into law shall apply to all lands which are listed after such enactments become effective. Owners of lands listed under this act may without prejudice apply for relisting under such laws as may from time to time be enacted changing the terms, taxes or other provisions of this act. Any owner may without penalty withdraw said lands from the operation of this act in event of any change by law in the terms, fees, taxes or other provisions of this act, which would materially increase the burden of the owner.

*Period of classification.*—With the exception of Alabama all States establishing contractual relations with owners set a time limit on the period of the contract. Except in Louisiana these contracts are renewable upon expiration. A fixed or determinable time limit in the contract itself is necessary to make it legally binding. Provisions in the law setting a maximum period for contracts are to give the State an opportunity to review its relations with the owner periodically.

With the exception of Missouri none of the States that do not have contract provisions set a limit on the period during which land may remain classified. The Missouri law provides for the taxation of classified land under the yield tax during a period or periods not to exceed 25 years in any instance. The language of the provision suggests that the classification can be renewed after the expiration of 25 years but the law is not specific in this respect.

Louisiana and Missouri are thus the only States that establish relatively short periods for classification. The short period in the Louisiana law may be explained by the fact that the 40-year contract

period corresponds roughly to the rotation period of the plantations for which the law was originally intended. The time limit in Missouri is not as readily explained. Though required by the constitutional amendment which authorized the legislation the limit does not seem to require the practice of good forestry. At the expiration of 25 years the land goes back on the general property tax rolls and the collection of the severance tax on timber cut from the land is suspended. Thus an owner who has no intention of continuing to practice forestry could take advantage of the exemption of his timber from the property tax for 25 years, harvest nothing until the twenty-sixth year, and avoid payment of the yield tax completely. This possibility may not be of much actual importance if the owners of classified land are sincerely interested in good forestry.

A nonrenewable contract for a short period represents one of the conflicts between the desire for revenue and the desire for better forestry. The short contract gives the State or county an opportunity to insist on a higher appraisal of the land value before a new contract will be made, and revenues are thus protected. But a short period of tax certainty is not sufficient to encourage a large private investment in forestry.

#### PROVISIONS FOR DECLASSIFICATION

The object of provisions for the declassification of forest land entered under yield-tax laws is to protect the interests of both the owner and the public. The owner may wish to withdraw his land because he finds it advantageous to devote it to a purpose other than forestry or to engage in practices not permitted under the law. He may also find that total tax payments under the general property tax would be less than under the yield tax. The State or county reserves the right to declassify land if it was classified improperly or is not being treated in accordance with the law, regulations, or agreement between owner and State.

*Withdrawal by owner.*—In Mississippi and New Hampshire where all forest land and timber is covered under the law there are no specific provisions for withdrawal by the owner. Clearing land and devoting it to a nonforest use would, however, automatically result in its removal from the provisions of the law. Idaho and Louisiana make no provisions for the owner's withdrawal of classified land except at the expiration of the contract period. The other three States requiring contracts permit withdrawal during the contract period. In Alabama withdrawal is permissible after the contract has been in effect 5 years. In Minnesota the conservation commissioner may at his discretion cancel a contract upon written application of the owner. Minnesota, in the 1949 amendment of the law, also permits partial declassification of land needed for other purposes. Wisconsin permits an owner to withdraw all or any forest croplands by filing a declaration with the conservation commission.

Of the other 7 States, without contractual relations with the owner, Michigan, Missouri, and New York provide for withdrawal of lands by the owner. The laws of the other States do not specifically prohibit withdrawal but they make no positive provision for it. Connecticut makes no mention of it. Massachusetts permits a new owner of previously classified land to elect to have the land declassified. The Oregon law provides for the cancellation of a contract by mu-

tual consent of the State Board of Forestry and the owner but fails to provide for withdrawal by the owner in the absence of a contract. In Washington land may be declassified upon the petition of 25 taxpayers in the county alleging that the classified lands are more valuable for some other purpose. In practice any owner with 25 taxpaying friends can take advantage of this provision to withdraw his land.

*Declassification by State or local government.*—The laws of all the yield-tax States except Mississippi make some provision for the removal of lands from the provisions of the law by public action. Even in New Hampshire where there is no classification procedure the law provides for the taxing under the general property tax of mature timber suitable for harvest if the owner holds such mature timber indefinitely with no intention of cutting.

Failure of the owner to comply with the provisions of the law or contract regarding such matters as protection, grazing, and devotion to forestry purposes is a basis for declassification in all the other States. Improper classification or fraud or deception in the application are added bases for declassification in Idaho, Minnesota, and Oregon. The discovery that classified land is more valuable for purposes other than forestry is grounds for declassification action in Idaho, Massachusetts, and Washington. In New York the failure of an owner to reduce the volume of his stand if it exceeds 40 M board feet of merchantable softwoods or 20 of hardwoods is a basis for declassification. The purpose of this provision is similar to that in the New Hampshire law—to prevent the avoidance of yield-tax payments on financially mature timber.

Provisions for declassification by public action are needed to protect the public interest. Even though adequate inspections can be made at the time of application to prevent the entry of ineligible lands a procedure is needed to exclude lands that subsequently are not treated in accordance with standards of good forestry. Lands not protected from fire, lands destructively grazed, or lands used for any purpose not consistent with forestry will not yield the timber crops or the tax on harvests needed to compensate for the loss of timber property taxes.

*Declassification taxes.*—As a general rule a tax is imposed whenever classified land is declassified, regardless of the reason for declassification. Three exceptions are the withdrawal of land in Michigan because of any change in the law which would materially increase the burden on the owner; the removal of land from classification in Washington on petition of 25 taxpayers because the land is more valuable for other purposes; and the expiration of contracts in Missouri. No tax is imposed in these situations.

The nature of the tax depends in part on the reason for declassification. If the reason is withdrawal by the owner or expiration of the contract the general practice is to assess the yield tax against the value of standing merchantable timber at the time classification is ended. This is the provision in the laws of Alabama, Idaho, Michigan, Minnesota, and New York. Michigan also assesses a tax of 3 cents an acre for each year the land was classified, but not for more than 20 years. Louisiana, in a rather vague provision, apparently continues to assess the yield tax for a period of 50 years following the making of the contract. In Missouri and Wisconsin the tax on voluntary withdrawal

is the difference between the amount that would have been paid under the general laws and the amount actually paid while the land was classified, with interest at 5 percent. Wisconsin imposes the yield tax on standing timber values at the expiration of a contract. Missouri imposes no declassification tax when a contract expires. Land and timber simply go back under the general property tax.

In the 12 States which impose a tax when land is declassified by public action there is a greater tendency to measure the amount due by the difference between taxes actually paid and taxes that would have been paid if the land and timber had not been classified. Six States use this method. In some the assessor must keep a record of taxes that would have been paid under the general property tax. In others this measure is based on the amount paid by similar lands not classified. Interest is charged on the difference in taxes or on the amount of the general property tax by Idaho, Louisiana, Minnesota, Oregon, and Wisconsin. Rates vary from 5 to 10 percent. Washington is the only State which does not charge interest.

Four States—Alabama, Massachusetts, Michigan, and New York—impose the yield tax on the value of the standing timber at the time it is declassified by public action. Michigan imposes an additional charge of 3 cents an acre for each year the land was classified, but not for more than 20 years. In Connecticut the declassification tax is at the rate of 5 mills per annum on the difference between the assessed value when declassified and the assessed value when classified, in addition to taxes paid during the period of classification. Missouri charges the amount paid by the State as reimbursement to the local government units in addition to any land or yield tax paid in. Land declassified by State action in Wisconsin within the first 5 years is taxed by an amount equal to the sums paid by the State to the town on the land in question with interest, less any yield tax paid. Land declassified after 5 years, as already explained, is taxed according to the difference between taxes on classified and unclassified land.

The imposition of a declassification tax is clearly justified. Without it an owner who is not practicing forestry would obtain a greater tax concession than the owner who practices forestry and keeps his lands classified. If the purpose of the declassification tax is simply to recover the amounts that would have been paid in the absence of classification, the taxes based on this measure accomplish the purpose. One feature of this procedure which tends to make the law unpopular with the local governments is the necessity in some States of keeping a record of assessed values and tax rates for all classified properties.

The assessment of the yield tax against the value of standing timber at the time of declassification does not provide a tax equal to revenues lost. For young stands below merchantable age there would be little or no tax. For heavily stocked stands of merchantable timber the tax might be in the nature of a penalty, far in excess of the benefits to the owner from the exemption of timber from the property tax for a relatively short period. It is peculiar that this tax is used more in cases of voluntary withdrawal than in the cases of declassification resulting from noncompliance with provision of the law or contract.

## THE TAX ON BARE LAND

The yield tax as applied to forest properties is a compromise between the principles of the gross income tax and the general property tax. The yield tax in its strict form would postpone all payments until the time of harvest. The imposition of a tax on land and the exemption of timber from annual taxes has been adopted by all States as a means of effecting this compromise.

The purpose of an annual tax on land as a part of the yield-tax law is a multiple one. It is designed to provide local governments with some current revenues which are reasonably certain and uniform from year to year. It also gives the owner a reasonable certainty with regard to his annual tax payments. Since the land value is often a small fraction of the total value of timber and land, the annual taxation of land does not defeat the purpose of postponing the greater part of the tax to the time of harvest.

The problem of meeting these purposes is in effecting a compromise between two contradictory desires: The postponement of tax payments by the owner and the need for current revenue by government units. Another compromise is necessary between the conflicting desires of the owner for certainty of annual tax payments and the desire of local governments for flexibility in revenues to meet changing needs.

A wide variety of provisions has been incorporated in the different laws to establish the amount of the tax on land values or to determine the manner in which this tax will be measured. Some States provide for a uniform annual payment to be made throughout the period of classification. Other States establish the assessed value of the land but permit the annual payments to vary with changes in local tax rates. Still others permit both the assessment and the tax rates to be changed from year to year according to local assessments and tax rates.

Four States impose a fixed tax or fee on the land by legislation. In Michigan an annual specific property tax of 5 cents an acre replaces the general property tax on land. In Minnesota the annual specific tax is 6 cents an acre. In Oregon the tax, known as the forest fee, is 5 cents an acre on lands west of the summit of the Cascade Mountains and 2½ cents an acre on lands east thereof. The Wisconsin tax, called the acreage share, is 10 cents an acre.

Three States establish by law the value at which classified land shall be assessed. In Idaho and Missouri the established value is \$1 an acre. In Washington the fixed assessment is \$1 an acre for lands located west of the summit of the Cascade Mountains and 50 cents an acre if located east thereof. In these States the owner's annual tax payment is not completely certain because a change in the tax rate applied to the fixed assessment would alter his tax. However, a combination of a tax levy limitation act and a fixed assessment such as is found in Washington has the effect of giving reasonable certainty to tax payments.

In three States where the land value is not established by law there are provisions prescribing the manner by which the assessed value will be determined for the period of classification. In Alabama the assessed value is determined by a joint appraisal made by the Depart-

ment of Revenue and the Department of Conservation. This valuation continues as long as the land remains classified. Areas of 160 acres or less are completely exempt from the ad valorem tax. In Connecticut the land is valued by the assessor at the time of classification and during a period of 100 years the land is taxed at a rate not to exceed 10 mills on the established value. A revaluation at the end of 50 years is provided for. Louisiana provides for the determination of the land value by the State forester and the police jury of the parish in which the lands are situated, and the values so fixed become part of the contract entered into between the owner and the State.

In the other four yield-tax States taxation of bare-land values is under the general property tax laws. In Mississippi and New Hampshire the forest land automatically remains under the property tax because only growing timber is exempt from this method of taxation. In New York, although the assessment is not fixed by law or agreement, the land cannot be assessed for more than similar lands without substantial forest growth in the same tax district nor for more than the assessment at the time the application for classification was filed. In Massachusetts the value for tax purposes is established by the assessor and reduced during the first 5 years of classification to 25 percent of this assessed value.

The provisions relating to the tax on land have not been uniformly successful in meeting the several purposes of that tax. In the States which leave the assessed value and the tax rate subject to change under the general property tax, the objective of certainty of tax cost for the landowner is not met. In the laws that establish a fixed annual fee there is no flexibility to meet increased revenue needs. In some States the tax on land is too high to provide any advantage to the owner in classifying his forest land. In some areas the tax on classified land is actually higher than the general property tax on both land and timber for similar unclassified land. In other States the tax on land has been established at a low rate to encourage forestry but at a rate so low that local revenues have suffered.

The land tax on classified land must be considered with the yield tax when it is compared to the timber and land taxes under the general law. A low rate on the bare land may be made up by a high yield tax, or vice versa, to give local governments the same revenue they would have received if the land had not been classified. A high rate on land combined with a low yield tax, however, fails to achieve the purpose of the yield tax, which is the postponement of the greater part of the tax payment to the time of harvest. This situation is found in Mississippi where the tax on land has been found to average around 13 cents an acre and in some counties is as high as 30 cents an acre. At the same time the yield tax amounts to only 2 or 3 percent of current stumpage values. Only a small part of the total tax payment is postponed.

Practical considerations may require a higher land tax in some States than in others. One consideration is the value of the forest land, which may be greater in one State than in another. A further consideration is the extent to which local governments depend on the property tax for revenue. In Alabama only 26.2 percent of all county revenues was derived from the property tax in 1946, while 63 percent of their revenues came from grants from the State. In

Mississippi 33 percent of county revenues came from the property tax, and in Washington 33.8 percent was from this source. In Oregon, on the other hand, property tax payments made up 71.7 percent of the total county revenues, and in Idaho 63.7 percent of county revenues came from the property tax. The counties financed by grants rather than property taxes can better afford to reduce the land tax on classified land than can those that depend on taxes as the principal source of revenue.

Leaving both the assessment and the tax rate to the local authorities would appear to deny the landowner any security of fixed or uniform tax payments for the future, but such an arrangement can be justified in States where local authorities work in close cooperation with the State forestry organization and can be depended upon not to discriminate against the owners of classified forest land.

In all States which provide for the assessment of forest land under the general property tax law it is necessary to have a separate appraisal of the land and timber values. Administratively this may be difficult to achieve in an entirely equitable manner. The alternative is to provide in the law for a fixed assessment or a fixed annual fee.

It is impossible to resolve the conflict between flexibility of tax revenues and certainty of tax cost to the landowner. In States where a large part of the tax revenue is derived from forest land there is a strong argument for leaving the tax on land subject to periodic change in the interest of stability of government functions. But in States where the tax from forest land is a minor part of the total revenues, and where the inability to adjust forest land taxes would have little influence on total revenues, a fixed annual fee that would stabilize the owners' tax costs would seem to be clearly justified.

#### THE YIELD TAX ON PRODUCTS HARVESTED

The yield tax is a substitute for the general property tax as a method of obtaining revenue. It is not additional revenue from forest land, but is rather a collection of taxes that would have been paid on growing timber if it had not been exempt from the property tax through classification. In determining the rate of the yield tax, attention generally is given first to the amount of revenue foregone because of the exemption of timber from taxation. But this is not the only consideration. If a fixed annual fee in place of the general tax on bare land has resulted in a further loss of revenue an attempt may be made to recover this loss through the yield tax. On the other hand it may be thought desirable, as an inducement to better forest practice, to establish total payments under the yield tax principle at a lower level than would be paid under the general tax law. Thus the yield tax, considered along with the land tax, may represent a compromise between revenue needs and the stimulation of forestry.

One of the important problems in connection with the yield tax is the determination of the rate to be applied. Other problems relate more to administration than to principle, such as the basis of the tax, the method of assessment, the means of collection, the exemption of certain products harvested, and the disposition of tax revenues.

*Basis of the tax.*—The yield tax may be measured either as a



stated percentage of the value of the timber harvested or as a flat rate applied to a physical measure of the products cut. Mississippi is the only State that uses the latter basis. The other yield-tax States assess the tax as a percentage of stumpage value.

In contrast, five of the six States which impose a general severance or privilege tax on all forest products use the basis of flat rates applied to physical volumes harvested. At the same time three of these, Alabama, Louisiana, and Oregon, use the percent-of-value basis for the yield tax on classified land.

The reasons for using one basis for yield taxes and another for severance taxes are not entirely clear. A possible explanation may be the different fiscal purposes of the two taxes. The severance or privilege tax is designed to provide additional revenues for State functions. The yield tax is designed to collect the postponed tax on timber at the time of cutting. Apparently the percent-of-value method is considered the better measure of postponed taxes on timber.

Neither basis of taxing is a good measure of postponed timber taxes in a period of changing stumpage prices. If the yield tax in conjunction with the land tax is set at a rate to equate total payments on land and timber—whether classified or not—under assumed static price conditions, a change in stumpage prices will destroy this balance. Under conditions of rising prices such as have been experienced in recent years the assessed value of timber on unclassified land would increase, though the adjustment in valuation would lag behind price changes. Under the flat-rate basis, timber harvested at higher prices would not be taxed at any higher rates, and the postponed taxes might not be recovered in full. Under the percent-of-value method, on the other hand, the yield-tax payment would be based on current increased stumpage prices, and the tax paid would tend to exceed the amount that would have been paid on unclassified land whose assessed value did not keep pace with its market value.

Over an extended period of time rising stumpage prices may reflect either an increasing scarcity of timber, an increasing demand for timber, or a change in the value of money. To the extent that stumpage price increases are a reflection of decreasing purchasing power of the dollar, costs of government are similarly increased. So if forest land is to bear its equitable share of the cost of government service the percent-of-value basis of taxing timber yields will accomplish this purpose better than the flat-rate tax applied to physical volumes.

*Assessment of the tax.*—Assessment of the yield tax consists of two steps: One is to measure the physical quantities harvested and the other is to apply values or rates to these quantities.

The general practice is for the owner to make a certified report of the physical volumes harvested and subject to taxation. Provision is generally made for a check on reported volumes by either county or State officials if the accuracy of the report is questioned. In Minnesota this practice is varied by a provision calling for a scale measure of timber cut, to be made under the direction of the county board.

In assessing the value of the forest products harvested there is greater variation among the States. In Alabama and Connecticut owners report the value as well as the volume of their harvest. In Mississippi no valuation is required since the tax is based on volume.

In four States the value of products harvested is set by local officials.

In Massachusetts, New Hampshire, and New York these values are established by the assessor. In Minnesota the county board establishes the value. In the remaining seven States a schedule of values is prepared by State officials, usually the conservation commission or the forestry board.

The establishment of values by the individual owner should reflect most accurately the value of the timber harvested. But this method introduces some administrative difficulties. The owner may be tempted to undervalue the products he harvests, especially when they do not enter the market but go to his own processing plant. In the latter situation he may have little knowledge of going market prices unless he is purchasing similar products.

The assessment of stumpage prices by local officials provides a more objective measure, but this requires assessors with an understanding of the manner in which stumpage values are determined and a fairly accurate knowledge of current prices. These often may be found lacking. In some States the fear of unfair appraisals by local assessors has discouraged the classification of forest land.

The assessment by State officials offers the possibility of the most objective valuation, but this possibility is not always realized. A common practice is to publish a list of values for the most important species produced. These values are then applied to the volumes cut by each owner of classified land. This blanket price does not, however, achieve complete equity among all taxpayers, for many factors other than species affect the value of stumpage. Quality, distance from market, and cost of logging are the most important. Stumpage value is a derived value—the difference between the value of the manufactured product and all the costs of manufacturing the product, including an allowance for profit and risk. For any given species a stand of good quality, close to competitive markets, and easily logged will have a higher stumpage value than a stand of inferior quality far from a manufacturing plant and costly to log and skid. If an average price of \$10 per M board feet is established for a given species and if the rate of the yield tax is 10 percent, every owner will pay \$1 per M feet. But if the actual stumpage value in one case is \$20, the effective rate of the tax is only 5 percent. If the stumpage is worth only \$5 the tax is at the rate of 20 percent.

The laws of some States contain provisions permitting the establishment of different values for different zones, but these provisions have not been used to any great extent. Failure to relate assessed values more closely to actual values is a serious defect in the administration of the yield tax.

Another administrative problem has to do with the log rule by which forest products are measured. A number of different log rules are in common use, and the volumes resulting from their use are not uniform. The schedule of prices may be prepared in terms of an official log rule but the adoption of such an official rule by any State does not always make its use mandatory by individual owners. Thus the established schedule of prices may not be applicable to volume measures in common use. The problem can be resolved only by the uniform use of one log rule within a State or by the conversion of volumes from the rules in use to the rule on which values are based. Most States ignore the problem completely.

*The rate of tax.*—Mississippi, the only State which bases the yield tax for most products on volumes harvested, has established a fixed schedule of rates. Saw-timber logs, cross ties, and veneer stock are taxed at 15 cents per M feet; pulpwood, 6 cents per standard cord; lightwood, 5 cents per ton; turpentine, 6 cents per barrel; poles and piling, 1 percent of market or delivered price; all other timber, 15 cents per M feet. Timber shipped out of the State in unmanufactured form is subject to a tax of 20 cents per M feet. On the basis of prices in 1950 the tax is estimated to average about 2 or 3 percent of stumpage value.

Of the States which use the percent-of-value basis, eight establish rates which are uniform throughout the period of classification. In Louisiana and New York the tax is 6 percent of the value of the standing timber, or stumpage value. The Alabama tax is 8 percent. Minnesota, New Hampshire, and Wisconsin set the tax at 10 percent, and in Idaho and Oregon the yield tax is 12.5 percent of stumpage value.

Four States have yield taxes which increase progressively in the first years after classification until the maximum rate is reached. In Massachusetts the tax is 1 percent of stumpage value for products harvested in the year of application and increases by 1 percent yearly to 6 percent in the fifth and following years. The Michigan tax is graduated from 2 percent in the first year of classification to 10 percent in the ninth and subsequent years. In Missouri the tax is 4 percent of stumpage value for material cut from 1 to 10 years after classification, 5 percent from 11 to 20 years, and 6 percent from 21 but not to exceed 25 years after classification. In Washington the owner pays a tax of 1 percent for each year that has expired from the date of classification, until the maximum of 12.5 percent is reached.

In Connecticut the yield tax depends on the age of the timber at the time of classification. When land stocked with trees not more than 10 years old is classified, it is taxed at a uniform rate of 10 percent. Products cut from land bearing trees more than 10 years old at the time of classification are taxed at a progressive rate, increasing from 2 percent during the first 10 years of classification to 7 percent after 50 years.

In Minnesota a uniform tax of 10 percent of stumpage value is levied on timber not merchantable at the time of classification; timber merchantable at that time is taxed separately. The tax on such timber starts at 40 percent of stumpage value if cut within the first year of classification and is reduced by 2 percent a year for timber cut thereafter until it reaches 10 percent, after which it remains constant. This provision with its unusual regressive feature represents a compromise with the counties when the law was amended in 1947 to remove the merchantable timber on classified land from taxation under the general law. The provision is not in the interests of good forestry. It tends to encourage postponement of the cutting of mature timber which for silvicultural and economic reasons should be harvested promptly.

The objective of a progressively graduated tax schedule presumably is to provide some relief to an owner who has paid property taxes on his timber while it was reaching financial maturity and who, in entering it for classification, has become subject to the yield tax.

The need for such relief would seem to be greatest in areas still containing large volumes of financially mature timber and particularly in States where a mandatory yield-tax law is enacted. Of the four States with a graduated tax, Massachusetts and Washington have laws that were originally intended to bring in large areas of classified land by providing for the initiation of classification by State or town action. On the other hand, Mississippi and New Hampshire, the only States with real mandatory provisions, have not seen fit to use the graduated schedule of taxes. Probably little hardship has resulted, however. In Mississippi the rate of the yield tax is relatively low; and in New Hampshire there are few if any holdings consisting primarily of merchantable timber.

Little can be said except in a general way regarding the success of the different States in establishing yield-tax rates that will equate taxes on classified and unclassified land or that will provide encouragement to better forestry. The laws of Missouri and New Hampshire have been in effect too short a time to provide a sound basis for judgment. In a number of States, of which Alabama is a good example, the tax payments on classified land are greater than the average payments on unclassified land, and entries under the yield-tax law have been few. In other States—Oregon and Washington are examples—classification appears to be an advantage for some holdings but not for others, and the owner must determine for each of his properties where the advantage lies.

Mississippi is one State in which county revenues have increased under the yield tax. Prior to the enactment of the tax law in 1940 most of the forest land was assessed as "noncultivable" land and timber values were generally ignored. The exemption of timber from property taxes meant only a relatively small loss in revenue, estimated by the Mississippi Tax Commission at about \$50,000 annually. Under the yield tax, collections have run from \$250,000 to \$450,000 annually. Since the counties receive two-thirds of these sums, most of them are better off than they were formerly.

In Louisiana owners of unclassified land are subject to a general severance tax on timber, which is about the same in amount as the yield tax on classified land. For new classifications the established assessed value for land is about the same as for land and timber under the general law. So the owner's payments on newly classified land tend to be about the same as they would be without classification. And since the parishes receive nothing from the severance or yield taxes, their revenues are about the same whether lands are classified or not.

In most of the other States with optional laws, county revenues from forest land have probably been less under yield-tax laws than they would otherwise have been. Several States refuse to classify land stocked with merchantable timber and in the other States the interest of the owners is in entering lands with young stands rather than with mature timber subject to harvest and yield taxes within a short time. As a result, yield-tax collections have not been substantial, though they will increase as the timber on classified lands reaches financial maturity. Four States have recognized this situation in providing for reimbursement payments to counties or towns because of revenues lost through classification.

*Cutting exempt from the yield tax.*—All but three States—Alabama, Louisiana, and Oregon—provide in a general way for the exemption of certain products from the yield tax. The exempt cutting is limited to that made for the use of the owner, or in some States, his tenant. The purpose of the exemptions is to permit the untaxed use of wood from the owner's property for fuel, in harvesting forest products, and in some States for fences and buildings. Massachusetts and New York limit the exemption in any one year to a value of \$25.

The New York law provides that an owner may, with the approval of the conservation department, make thinnings for the improvement of the forest growth. No other State has taken steps to exempt from the yield tax those low-value harvests that are made to improve the forest. These consist principally of thinnings in crowded stands and the removal of slow-growing, limby, deformed, or otherwise defective trees, as well as those of the less desirable species that will have little value when they reach maturity. The removal of such trees to provide growing space for good trees is one of the most important cultural and economic needs in many of our forest areas. Usually the operation is a fairly costly one; often it is unprofitable in terms of current costs and returns, and is undertaken only because of the increased value to the remaining stand. To the extent that yield taxes add to the cost of such improvement cuts they are operating against good forestry. Granted that the exemption of such harvests would increase the difficulty of administering a yield tax, the encouragement to forestry should be weighed against these problems. The loss of revenue from such exemptions would probably be slight.

*Collection of the yield tax.*—Though the tax on land is paid to the local officials in the same manner as an ad valorem tax there are a variety of provisions covering the payment of yield taxes. In eight States collection is through local officials—town officials in Connecticut, Massachusetts, New Hampshire, and New York, and county officials in Idaho, Minnesota, Oregon, and Washington. In the other six States payments are made to State officials. The department of conservation or the conservation commission collects the yield tax in Alabama, Michigan, Missouri, and Wisconsin. Yield-tax collections are made by the Collector of Revenue in Louisiana and by the State Tax Commission in Mississippi.

Ample provisions are contained in the different laws to safeguard the collection of the yield tax. In many of the States the tax is a lien on the wood even though it may be manufactured or incorporated with other materials. In Connecticut and New York the tax must be paid or a sum deposited to cover the tax before the products cut may be removed from the property, and Washington requires cash or a bond to insure payment of the tax before timber may be removed. A bond or cash is required in Minnesota, and a bond in Idaho and Michigan. A bond to assure the payment may be required in New Hampshire, Oregon, and Wisconsin if it is considered necessary by the officials administering the law.

#### FOREST-PRACTICE REQUIREMENTS

A requirement calling for a minimum level of forest practice is not an essential part of the yield-tax principle but through common practice such a requirement is accepted in yield-tax legislation. There

are many who believe that an improvement of the economic conditions under which forestry operates is sufficient in itself to stimulate better forest practice. Others believe that minimum forest practices must be required as a quid pro quo for the tax relief that is actually or supposedly offered to the owner of classified land. As a matter of political expediency it has usually been found necessary to include forest-practice requirements in yield-tax laws.

The provisions governing forest practices are more varied than any other provisions in the laws. There are, as a result, five general classes of legislation:

1. The tax law contains no forestry requirements and there is no general forest-practice act in the State. The only requirement is that the land use shall be consistent with forest production and that the land shall not be used for other purposes such as pasture, recreation, etc.

2. The tax law applies to all forest land and all forest products harvested. There are no forestry requirements in the yield-tax law but this law is supplemented by a general forest-practices act. This is the situation in Mississippi.

3. The tax law applies to all forest lands and all forest products harvested. There are no forestry requirements in the yield-tax law but a part of the yield tax is abated if approved practices are followed at the time of cutting. This is the provision of the law in New Hampshire.

4. The law requires a certain measure of forestry on classified lands. The required practices may be a matter of law, a matter of agreement, or may be determined administratively. This is the situation in most of the States.

5. The law, in addition to requiring a measure of forest management satisfactory to the State commission, provides for aids to owners of classified land. The law of Missouri gives such consideration to owners of classified land in protection from fire and trespass and in providing advice and assistance in management.

The requirements regarding forest practices are closely related to those establishing eligibility for classification and to those establishing the basis on which classification may be continued. The following summary of forest-practice requirements, although repeating to some extent the eligibility requirements discussed above, presents briefly the varying provisions of the different States.

*Alabama.*—The owner of classified land must devote his land to forest culture and no use of this land may be made that will militate against the growth of timber thereon. The owner must use diligence in protecting his land against fire in accordance with rules established by the Department of Conservation, and must not cut, turpentine, or otherwise utilize the timber from his land before its withdrawal from classification except in accordance with rules formulated by the Department of Conservation.

*Connecticut.*—The use of classified land for pasture, destruction of the tree growth by fire and failure of the owner to restore forest conditions, the removal of tree growth and the use of land for other purposes, or any condition which in the opinion of the State forester indicates that requirements are not being fulfilled, is sufficient ground for cancellation of classification.

*Idaho.*—The owner must agree that he will comply with such rules and regulations as may be prescribed from time to time by the State Cooperative Board of Foresters for the care, protection, and development of commercial forests; that in the cutting and removing of timber from said lands and in the use of said lands he will comply with all general laws of the State applicable thereto and the rules and regulations of the State Cooperative Board of Foresters; and that he will pay each year his proper share of the cost of protecting said lands from fire hazard, and will comply with all laws applicable thereto.

*Louisiana.*—The contract obligates the landowner to begin the practice of forestry and, at the earliest practicable time after the date of the contract and not later than a date to be named in the contract, to plant where necessary suitable and useful timber trees on classified land, all in accordance with the plan filed with the application and approved by the Forestry Commission; to protect the land from fires so far as practicable and to protect and maintain the trees thereon in a growing and thrifty condition during the life of said contract.

*Massachusetts.*—When in the judgment of the assessors classified forest land has become more valuable for other uses than the production of forest products, or when such land is used for purposes inconsistent with forest production, they shall withdraw said land from classification. Land to be eligible for classification may not be used for grazing or other purposes incompatible with forest production.

*Michigan.*—A commercial forest reserve is defined as a tract of land containing no material natural resources other than forest growth no portion of which is used for agricultural, mineral, grazing, industrial, recreational, or resort purposes, and upon which the owner proposes to develop and maintain the forest either through planting or natural reproduction or both. In the event of the use of any portion or all of the land included in any commercial-forest reserve for purposes contrary to the above provisions the Department of Conservation may declassify said lands.

*Minnesota.*—The owner enters into a contract with the Commissioner of Conservation which prescribes such terms and conditions as will reasonably tend to produce merchantable timber and specifies the kind or species of seeds to be planted or seedlings to be set out, or other uses or steps that the commissioner may deem necessary in respect of afforestation or reforestation of the lands; the kind and amount, if any, of cultural or other attention to be given in aid of the growth of timber thereon; the uses, if any, which may be made of the land while the same remains an auxiliary forest.

*Mississippi.*—The law contains no forestry provisions but the landowner is subject to the Forest Harvesting Act.

*Missouri.*—The owner develops his own plan of management and employs such standards and methods of forest management as may suffice in the judgment of the Conservation Commission. These shall not be approved unless the commission finds they give reasonable assurance of accomplishing the purposes of the act. Revised plans may be submitted for cutting and managing forest lands from time to time.

Lands may be continued under classification so long as proper forest conditions and practices are maintained and continued thereon. Use of such lands for pastures, destruction of tree growth and failure of

owner to restore forest conditions, removal of tree growth and use of such land for other purposes in violation of any regulations of the commission, is sufficient ground for cancellation of the classification.

*New Hampshire.*—There are no practices required in the law. A part of the yield tax is abated if the owner, at the time of harvest, complies with cutting rules established or approved by district boards and approved by the State forester.

*New York.*—The forest may be thinned with the approval of the Conservation Department. Whenever classified forest land is found to contain on the average 40 M board feet of merchantable softwoods per acre or 20 M board feet of merchantable hardwoods per acre, the owner may reduce the volume of the timber below this average as directed by the conservation department and continue his classified status. The forest must be cut according to the principles of practical forest management and the land must continue to be managed as prescribed by the forestry division.

*Oregon and Washington.*—The commission may, upon the basis of facts submitted to it by the Board of Forestry, declassify any lands when in its judgment such lands are not being used to accomplish the purposes of the act or when in its judgment such change in classification is in the public interest. Forest requirements are no more restrictive than those under the forest practices acts of these States.

*Wisconsin.*—No person shall cut any merchantable wood products on any forest croplands until 30 days after the owner has filed with the Conservation Commission a notice of intention to cut, specifying the descriptions and estimating the amount of wood products to be removed and the volume to be left as growing stock. The commission, after examination of the land specified, may limit the amount of forest products to be removed in order that adequate growing stock may be left to furnish recurring forest crops. Cutting in excess of any limitation results in a doubling of the yield tax.

The difficulty of measuring the success of yield-tax laws in stimulating improved forest practices has already been mentioned. It is even more difficult to determine what effect the specific provisions relating to forest practices may have had. The area of forest land classified under the yield-tax laws has been used as an inadequate measure of the success of the laws. This measure is even less adequate when considered in relation to specific forestry provisions, for these provisions have probably tended to reduce rather than increase the acreage classified under voluntary laws. Even though the forestry required under most of the laws is not intensive or burdensome to the landowner, the presence of any restraint has probably kept many from classifying their holdings. A misunderstanding of the provisions has kept others out. Although there are exceptions to this generalization, the level of forestry required on classified lands is often no higher, and frequently much lower, than the level that would have been practiced by the owners if there had been no requirements in the law.

There is a growing belief that the opportunity to practice forestry as provided through yield-tax legislation is much more effective than specific forestry requirements in the law. This opportunity does not necessarily come from tax concessions or reductions for which the owner may rightfully be asked to comply with special requirements,



but from a postponement of taxes and a degree of certainty as to future obligations that are lacking under the general property tax.

Sometimes the relationship between forestry and taxes is direct, as under the New Hampshire law. Here tax abatement is definitely related to good cutting practices and the relation is clearly understood by the landowner. Perhaps forestry will be improved in order to obtain a reduction in taxes. It will be interesting to study the results of this law after it has been in operation for a few years.

#### REIMBURSEMENT OF LOCAL GOVERNMENTS

Four States make provision in their yield-tax laws for payments to counties or other local governments on the basis of the area of forest land classified. These payments are made in recognition of the fact that the local governments will suffer at least temporarily a loss of revenue through the exemption of timber from the general property tax. It is not their purpose to provide a subsidy.

Michigan and Wisconsin provide for payments of 10 cents an acre annually to counties for privately owned lands classified under the yield-tax law. Wisconsin also pays 10 cents per acre annually on classified lands owned by the counties. Missouri provides for a payment to counties of 2 cents an acre annually for land classified under the law. New Hampshire pays the amount of revenue the city or town has lost because of the exemption of timber from the property tax, less amounts collected in yield taxes and other payments.

The funds for payment to local governments are provided for by appropriations and the amount paid is subject to the appropriation of funds for this purpose. New Hampshire has appropriated a fund of \$300,000 for reimbursement to cities and towns and has provided for the issuance of bonds whereby this fund may be built up.

The purpose of these reimbursement provisions is to provide revenues to the local governments during a period when harvests from immature stands may be small and revenues from the yield tax relatively insignificant. An indirect advantage is that the assurance against a loss in revenue removes much of the incentive to increase the assessment of other property of the owner of classified land to make up for the loss of timber taxes. Thus the full benefits of the yield tax may be assured to the owner of classified land.

The principal problem associated with the reimbursement of local governments is the determination of a payment which will equal the loss of revenue and at the same time will not constitute a drain on the State treasury. To accomplish this the yield-tax collections must eventually be as great as the payments to local governments. If yield taxes fail to equal these payments the reimbursement provisions may be considered as a subsidy to the local governments with substantial areas of classified land, and the nonforested regions may refuse to continue the necessary appropriations.

The flat rates provided for in the Michigan, Wisconsin, and Missouri laws may approximate the revenues lost by the local governments but they cannot be expected to be exactly equal to these losses every year. The New Hampshire provision is based on a certification of tax loss by the local government and thereby provides for reimbursement of the exact amount lost through exemption of timber. The yield taxes to be collected in the future may or may not repay the State for these advances.

## DISPOSITION OF TAX RECEIPTS

The tax on bare-land values in most States is paid to the town, county, parish, or other local government in the same way as general property taxes are paid. One exception is Massachusetts in which one-tenth of the land tax goes to the State and the balance to the towns.

In eight States yield-tax receipts are retained by the county or other local taxing unit or are returned to them. In three States yield-tax receipts are split between the State and the local unit. In Massachusetts one-tenth goes to the State and the balance to the towns; in Michigan one-half to the State and one-half to the county; and in Mississippi one-third to the State and two-thirds to the county. In Louisiana receipts go to the forestry commission; in Missouri to the State forest cropland fund used in reimbursing counties; and in Wisconsin yield taxes equal to the amounts paid to counties go to the State and the balance to the counties. Louisiana is thus the only State that makes no provisions for the return of at least a part of the yield tax to the local governments.

## ELEMENTS OF A GOOD YIELD-TAX LAW

## A SINGLE MODEL LAW NOT DESIRABLE

A study of the yield-tax laws shows that some are more effective than others, as measured by the area of forest land classified or the attitude of forest landowners toward the different laws. A study of the separate provisions of the different laws helps to explain why some have been more effective than others. It might be hoped that from this analysis a model law could be developed that would serve most satisfactorily in all States. Such a model, however, cannot be constructed. There are differences in both the physical and economic environments of the States and in the conception of the purpose to be served by a yield-tax law that rule out any attempt to secure uniformity for all States.

Among the environmental differences one of the most important is the character and ownership of the timber resource. In one State stocking may be heavy, timber may be mature or merchantable in large quantities, ownership may be concentrated in large industrial holdings, and forest ownership and manufacturing operations may be closely integrated. In another State stands may be sparse and relatively little timber may be merchantable for many years, ownership may be in scattered small holdings, and forest holdings may be integrated with farm ownership. The specific provisions of a yield-tax law that would suit one set of conditions might be wholly inapplicable to the other.

Another difference is the relative importance of forest land in the tax base. In some States forest land may constitute a large part of total property values, and any law that disturbed the present method of taxing these lands would have serious effects on tax revenues. In other States the value of forest land may be a relatively small part of the tax base and a decline in the revenue from forest land would have little effect on total tax revenues. Even more serious are the

differences found within individual States. If forest land makes up about the same part of the tax base in all counties or other taxing jurisdictions the application of a yield-tax law has about the same effect on all local governmental budgets. But if, within any State, there is one heavily forested area and others devoted largely to farming or industry, the problems of a forest yield-tax are intensified.

Differences in the constitutional provisions of the various States may also work against uniformity in yield-tax legislation. Legally these differences are not an insurmountable barrier to uniformity, since constitutions can be amended, but in reality they are a barrier.

Related to the difficulty of amending the State constitutions is the local attitude toward forestry, and differences in attitude may call for different yield-tax laws. The people in one State, recognizing the importance of a healthy forest industry to the welfare of the State, may favor a form of tax treatment for forest land that would be unpalatable to the people of another State whose primary concern may be in obtaining maximum current taxes from all property owners. Differences in assessment practices may reflect these opposing attitudes and may call for different provisions in yield-tax laws. The attitude of the people in any State will affect the contents of a yield-tax law. Provisions will have to be adapted to local conditions. So unless a uniformity of attitudes and purposes can be established variation will have to be accepted.

#### WHAT A GOOD YIELD-TAX LAW SHOULD DO

The possibility that much of the dissatisfaction with yield-tax laws in operation may have come from expecting too much from them has already been discussed. This suggests that more careful consideration be given to the purpose of yield-tax legislation and to the means by which this purpose may be accomplished.

There seems to be more dispute about the means of collecting yield-tax than the objective. The end result universally desired is an improvement in forest practices, greater stability of ownership and management, and greater stability of the industries using products of the forest. The real questions are how these objectives can be achieved, how the yield-tax principle can help to achieve them, and how much can be expected from the yield tax.

The apparent object of some of the laws has been to require better forestry in return for tax concessions. These concessions may be either in the form of subsidy to forest landowners through lower taxes or aid to the landowners through the postponement of the tax on timber to the time of harvest. The forest practices required vary from reasonable protection from fire or destructive grazing to timber management and improved cutting practices. The general purpose of these laws is the same—promoting better forestry through tax concessions.

Other laws have apparently recognized that the uncertainty of future tax costs may be as serious a deterrent to forestry as a current high level of taxes, and they have attempted to eliminate one of the uncertainties of forest management by stabilizing this element of cost without offering any reduction in total tax payments. Some States have required improved forest practices on lands classified to take advantage of this certainty of tax payments, but the owners

of unclassified property not subject to the forestry provisions have been offered the same security through the opportunity to classify their lands whenever classification might be to their advantage.

There are two fundamental questions regarding the nature of a yield-tax law: Should the yield tax provide a subsidy to forest land-owners? Should a minimum level of forest practice be required of timber owners subject to the yield tax?

The question of subsidies is a difficult one. Before discussing it the concept of subsidy should be clarified. As the term is customarily used in connection with a yield tax a forest landowner receives a subsidy if his total tax payments, including the annual tax on land and the yield tax on his harvest, are less than he would have paid under the general property tax. If these two totals are equal no subsidy has been granted even though the largest part of the payment has been postponed. It is payment according to the principle of an income rather than an ad valorem property tax.

The first question in relation to the problem of subsidies is whether timber owners would need a subsidy if they were to practice forestry. Some of them unquestionably would—those who own land characterized by such poor quality, low growth rate, inaccessibility, or other factors that the returns from growing a crop of trees would not equal the costs under present or prospective conditions. But a further question is whether these lands should be devoted to forestry for commercial purposes. Will the Nation need the products from these lands? And could the public buy more in the form of timber production by encouraging more intensive forestry on the better lands? These questions cannot all be answered here, though it can be stated generally that, in view of the optimistic attitude of owners who have engaged in forestry, many do not require subsidies and many would not want them.

A second question is whether the subsidy granted through tax reduction would raise many forest lands from the submarginal to the marginal class so that forestry would pay its way. This would depend in part on the size of the subsidy. Total abatement of taxes could not raise some forest lands to the marginal level, and for many other lands taxes are such a minor element in the cost-return balance that tax reduction would have little effect.

Even assuming that subsidies are needed to encourage forestry and that the granting of subsidies would have the desired effect, a third question is whether the proper way to provide such assistance is through tax reduction. There are strong arguments against such hidden subsidies. Their removal from the yield-tax laws would remove one objection to these laws and give them an opportunity of wider acceptance. And if subsidies are needed to stimulate forestry they could be provided in other and more direct ways. The advantage of the direct method of subvention is that the public knows what the real cost is and the individual who is receiving the subsidy knows what he is getting.

A further advantage in keeping subsidies out of yield-tax legislation is that the effect in reducing current revenues to local taxing units is reduced and the net long-run effect is no reduction in revenue. Any diminution of the effect on local tax revenues helps to remove objections to the yield-tax principle and makes the administration of the tax simpler.

If these conclusions are accepted one purpose of the yield tax may be stated affirmatively: The yield tax should remove timber from the application of the property tax and subject it to the principle of the income tax, with the tax paid at the time of harvest as nearly equal to the annual property tax payments foregone as it is possible to calculate it.

The question of including minimum forestry requirements is simplified somewhat if the yield-tax law contains no subsidy provisions. The principal justification of the forestry provisions is that they constitute a quid pro quo for the tax relief extended. If the yield-tax principle without subsidy is accepted as the equitable manner of taxing timber there is no tax relief for which the owner must make compensation.

There are many objections to combining forest-practice requirements with tax measures. If better forestry is required in the public interest it is needed on unclassified as well as on classified lands. If forest-practice regulations are to be effective they should be administered by competent forestry agencies and not by local assessors, town boards, or departments of revenue or taxation. And if the fear of regulatory provisions keeps owners from classifying their lands they are deprived of the advantages the yield tax might give them.

No one will dispute that a principal purpose and justification of the yield tax is to secure better forestry on privately owned lands. The question is simply whether minimum requirements in the law are necessary and whether the desired results can be achieved in other and better ways. Many believe that the purpose of the yield tax can be accomplished, without a specific requirement of minimum forest practices, by creating a more favorable economic environment for the practice of forestry. This is accomplished in two ways: by postponing the heaviest tax payments to the time when income is received from forest crops, and by making one of the future costs associated with forest ownership and management relatively certain.

The yield tax alone cannot create favorable opportunities for the practice of forestry on all land. It can only remove one possible obstacle. In conjunction with other measures it may make forestry attractive as a commercial enterprise. And if the public demands a level of forestry that is not being provided voluntarily by timber owners the solution would appear to be in forest practices laws that apply to all owners and that are administered as separate programs.

A second purpose of yield-tax legislation may be stated as the creation of a more favorable economic environment for the practice of commercial forestry. This is a limited objective but it may be a more realistic one than the requirement of minimum standards of forest practice.

#### GENERAL REQUIREMENTS OF A GOOD LAW

In spite of the recognized impossibility of drafting a uniform yield-tax law that would be best suited to all conditions and circumstances, it is still possible to indicate in a general way the requisites of a law to accomplish the purposes outlined above.

*The area covered by yield-tax laws should be increased.*—Many of the yield-tax laws in effect today have been criticized because the acreage of forest land classified under them is extremely small. The

existence of such laws has been justified on the grounds that they provide a measure of maximum tax payments an owner would have to make if conditions changed to make classification advantageous. Even with this advantage, it is still true that these laws are not as effective in improving economic conditions for forest ownership and management as they would be if they attracted greater areas for classification. Recognition must also be given to the fact that the existence of these laws tends to hold assessments on unclassified forest property down in some cases. But reliance on these indirect effects is less desirable than the realization of direct effects from laws with a greater attraction to forest owners.

The principle of the yield tax is the postponement of timber taxes until the time of harvest. But if only small areas are classified the advantage is not being realized. Yield-tax laws, if satisfactory in other respects, should be so written and administered as to include a larger part of private forest land.

Mississippi and New Hampshire have taken the direct approach to accomplish this by exempting all standing timber from the property tax and subjecting all forest products harvested to the yield tax. This approach has much to commend it in States where there is little mature timber in need of immediate harvest and where there are few if any owners who would be subject to heavy yield taxes within a few years without having had the benefit of not paying property taxes on mature timber. This approach could be applied in other States where there are considerable volumes of mature timber if stands over a certain age or containing more than a stated volume of timber were exempt from the law, and stands under these limits were automatically included. Providing for a progressive increase in yield taxes during the first years of classification is another way of dealing with this problem.

The number of owners and the area of land under classification could be increased greatly in States that wish to continue the method of optional classification now in effect. The reasons advanced for the small amount of land classified have been discussed (pp. 8-13). Removal of these objections should result in a considerably greater area of land being classified under optional laws.

Many of the reasons for the small area classified are closely associated with the optional provisions and would disappear under a law of general application. Among these are ignorance of the law and of its provisions; the red tape associated with applications, inspections, and approval; the opposition or indifference of public officers; and the requirements for eligibility. Even under an optional law many of these reasons for the small area classified could be removed. Some could be removed by changing provisions in the law; others would require a change in administration and in the attitude of public officers.

Another obstacle to classification is the lack of tax advantage. This involves the matter of tax rates and requires that total payment under the yield-tax law shall not be greater than under the general property tax. The removal of this obstacle presents a real problem because, in order for a tax rate to be applicable for a full rotation period, it would be necessary to know future assessments and tax rates under the general property tax and the harvest value to which the yield tax would be applied. Obviously these cannot be known in advance. It

is true that in the absence of a contract with the owner tax rates could be adjusted periodically to equate expected payments under the two tax systems; but this practice would have the disadvantage of destroying the certainty of tax payments, which is so important to the owner.

Before this conflict can be settled it is necessary to decide whether the yield-tax law is to be a forestry measure or a revenue measure. Obviously there is no point in enacting a yield-tax law simply to provide for flexibility in tax rates to accommodate the budget needs of local government units. This flexibility is assured in the general property tax. The nature of the law must be to encourage better forestry. If the people of any State are seriously interested in better forest practices, they must accept the fact that local revenues will be disturbed by the enactment of a yield-tax law and either accept this disturbance or make provision to reduce it. The yield-tax law should offer an advantage to forest landowners, not through a reduction in total tax payments but in imposing the tax at the time of harvest and income. It should be attractive to all owners who are developing immature stands or who are trying to increase the volume of their growing stock to provide increased future timber crops.

In relation to coverage of the law, the problem of small holdings is particularly troublesome. Properties of less than 5,000 acres each comprise 75 percent of the private commercial forest land in the United States. The 261 million acres in this ownership group is divided among 4,200,000 owners, 97 percent of them east of the Great Plains. The average holding is 62 acres.

The yield-tax laws of general application include the small holdings but under the optional laws the total classified acreage of small holdings is quite small. The reasons for this situation—eligibility requirements, ignorance of the law, administrative opposition, complicated classification procedures, and lack of net tax advantage—were mentioned previously. These holdings will always present a problem under an optional law. Even under a general yield-tax law the administrative problem of inspection and collection of the yield tax may be great. There is much to be said for the Wisconsin law which permits special classification of such holdings, imposes a fixed annual fee called the "acreage share" in place of the general property tax, and levies no yield tax on the harvest. A similar provision could become part of any optional yield-tax law. A general law could provide for this method of taxing all holdings under a specified size.

*The yield-tax law should be simple.*—To be fully effective a yield-tax law must be simple in its provisions so that it can be readily understood, and it must be simple to administer. The Mississippi law, though it may be lacking in certain other respects, has the virtue of simplicity. This law contains no forestry provisions, but includes them in a separate Forest Harvesting Act. It simply exempts growing timber from taxation and imposes a yield tax (called a severance tax in the law) at the time of harvest. Collection of the tax is handled through the organization administering the sales tax. The larger mills and concentration yards purchasing timber and lumber from small operators deduct the amount of the yield tax from the

price paid and make the payment to the tax commission. Collections are thought to be almost 100 percent of the amount due.

The New Hampshire law approaches the Mississippi law in simplicity but contains provisions for the abatement of 30 percent of the yield tax if acceptable harvesting practices are followed. It also contains rather complex provisions for reimbursement of local taxing units. These, however, do not complicate procedures for the forest owner.

By its very nature an optional law cannot be as simple as a general yield-tax law. It must provide a procedure of application and approval, and if eligibility requirements are included, of inspections or hearings. Beyond this the provisions could be similar to those of a general law and they will be simple or complex depending on how much the law is meant to cover. If forest practices are covered in a separate law they can be left out of the yield-tax law. Complicated methods of assessing bare-land values can be avoided.

Oversimplification can, of course, result in the omission of provisions needed to make a law effective. Simplicity is not to be emphasized at the cost of other requisites.

*The yield-tax law should be adapted to present methods of forest management.*—Several of the yield-tax laws contain provisions excluding lands that bear merchantable timber. These provisions are not in the best interest of improved forest management. The typical forest property in the region east of the Great Plains is understocked. The annual growth is correspondingly less than the growth that is silviculturally possible and economically desirable. To bring these holdings to a sustained-yield basis which will yield the maximum economic return the stocking will have to be increased. This can be done only if the annual cut is held below the annual growth, and this means the retention in the stand of some trees that have become merchantable.

Merchantable timber may be defined as that portion of a stand which can be marketed profitably under given economic conditions. Financially mature timber, on the other hand, is timber that will no longer increase in value fast enough to earn a satisfactory rate of interest. Timber normally becomes merchantable many years before it reaches financial maturity.

Though merchantable timber can be marketed at a profit, the maximum profit is obtained if timber is held until it is financially mature. To improve forest practice and the economic attractiveness of forestry, owners should be encouraged to build up their stands and to include merchantable but financially immature timber in the stand. This encouragement is not given by denying to owners of merchantable timber the right to classify their lands under the yield tax.

Another way in which present yield-tax laws may work against forestry is in their failure to exempt from the tax timber that is cut to improve the residual stand rather than for its commercial value. Many stands contain trees of inferior species that have little value in the market, limby trees, crooked trees, or trees otherwise so defective they have little value. Good forest practice requires the removal of these trees to open up the stand for reproduction of sound, well-formed trees of the more valuable species. Frequently the removal of these low-value trees will cost more than the products will sell for. The



imposition of a yield tax on their harvest, as is done if a uniform scale of values is used in assessing the tax, adds to the cost of stand improvement and discourages the best practice of forestry. These low-value trees removed in the interest of stand improvement could well be exempt from the yield tax. The same is true of young trees removed in a thinning operation and of salvage, often of low value, removed in post-logging operations to reduce fire hazard and increase the utilization of forest material.

*The yield-tax law should provide continuity of relationship.*—If a yield-tax law is to improve the economic environment under which forestry operates it must establish relations between the owner and the taxing jurisdiction that are of fairly long duration. An owner faced with the alternative of liquidation of his timber or management for continuous crops, or one who is considering alternative methods of forest management, must estimate future costs and returns. Some of these estimates must contain large elements of uncertainty. Among them are the unknown risk of loss from fire, insects, or disease; an unknown future market; and other uncertainties. But the removal of any uncertainty will help, and the yield tax can do this by determining future tax liability for land and timber.

Many of the present laws give classified lands a continuing status. Others provide for long contracts, such as for 50 years, with the right of renewal. But a few limit the period of certainty to a relatively short period—a period shorter than the time required to bring a young stand to financial maturity. Such provisions may defeat one of the main purposes of the yield-tax law.

Continuity of classification is not enough, however, if during the period of classification there is a possibility that the owner's taxes may be increased. The owner has greatest security under a long-term contract that establishes the rate of the yield tax and that sets a fixed annual-acreage payment on the land in place of the property tax. He has a little less security if the assessed value of the land is fixed but he is subject to variations in local tax rates. He has even less security if both the assessed value of his land and the local tax rate are subject to revision. He has greatest security in absolute terms if the yield tax is a fixed sum per thousand board feet cut, but greatest security in a relative sense if the tax is fixed as a stated percentage of value. Under the latter situation his security is greatest if he pays the tax on the actual market value of the products harvested, as determined by himself or by a board that considers local or individual variations in the value of products. He loses security if the value of products harvested is established by a board or commission without reference to local values or with power to set values not in accord with true market values.

A good yield-tax law should provide the owner with the greatest possible degree of continued certainty of tax liability consistent with other considerations. The principal other consideration is the need of taxing jurisdictions for stable or increased revenues. This aspect will be discussed later.

*The yield-tax law should provide for equitable taxation.*—During recent years the strongest criticism of the general property tax on forest land has been that it is inequitable. Certain classes of owners complain about discrimination in assessment. Absentee owners are said to be assessed at higher values than resident owners, big corporations claim

they pay more than small owners, owners of merchantable timber complain of higher assessment ratios than are applied to cut-over lands, and many who are neither friends, kin, nor political supporters of assessors complain about inequitable assessments.

The yield-tax principle can be applied to make forest taxation more equitable, but the law must be drafted properly and administered efficiently to do this. Even under a yield-tax law some owners may pay more than others having comparable holdings. The inequities can come from the tax on land or from average values established for timber harvested that fail to recognize local differences in quality, accessibility, etc.

If the assessed value of classified lands is fixed by law and tax rates are left to local determination the owners of classified land within any given tax jurisdiction will be treated uniformly, but they may pay more or less in taxes than owners of similar land in other towns or counties. A certain amount of variation among local governmental units may be justified on the basis of benefits received, but such variation is not in accord with the ability-to-pay principle. Payment according to this principle can best be accomplished by establishing an annual per-acre fee for land in place of the property tax.

The yield tax can result in inequitable taxation if values on which the percentage tax is paid are established on a uniform basis for an entire State by a board or commission. Separate values are set for different species, but the average value established for any species need not be the actual market value of timber harvested by any owner. Those harvesting timber of lower value will pay a higher percentage of true value than will those cutting timber of higher value. This inequity in the yield tax can be reduced by establishing base values for different zones. It can be eliminated by permitting each owner to assess the value of his harvested timber, and then subjecting his figures to review.

Inequities may result also in the relationship between taxes on timberland and taxes on other forms of property. The objective of the yield tax is not to reduce the taxes paid by timberland owners, unless they have been unreasonably high, but to postpone payment. The total taxes paid on land and products should represent a fair share of the cost of running the town or county.

The difficulty is not so much in establishing this fair share through tax rates on land and products as it is in maintaining it. If government costs increase, and if the land and yield taxes are fixed, the tax burden on other property will have to be increased and the equity originally established will be destroyed. The alternative is to increase forest land and yield taxes, but this removes the certainty of costs so important to the forest landowner.

The problem may not be as serious as it appears to be. Increases in government costs usually result from an increase in population and a corresponding need for expanded services or from a decline in the purchasing power of the dollar. An increasing population usually results in an increase in taxable values which will offset increased operating costs. A decline in the value of the dollar which raises government costs also increases stumpage values and collections through the yield tax. These effects are not exactly compensating, of course, but they provide an argument for the establishment and maintenance of fixed rates for forest land and products harvested.

*The yield-tax law should provide for effective administration.*—The experience of many States demonstrates that the purpose of the yield tax can be defeated by poor administration. The law itself cannot assure good administration, but the provisions of the law can be such that the incentive to poor administration is reduced.

If the assessment of land values is left to local officials and is subject to periodic revision, taxes on classified land may be higher than on unclassified land. Many local assessors are not convinced of the desirability of the yield-tax principle. They resent the removal of property from their tax rolls. To continue in office they find they must maintain or increase tax revenues. Many owners have found that their land taxes after classification have been as great as the land and timber taxes were before classification. Fixed assessments or fixed acreage fees are solutions to this administrative difficulty.

The difficulty is not entirely solved by fixed payments on classified land, however. The assessor may feel that any individual should pay a certain amount in taxes. If, through classification, the payment on forest land is reduced, the assessor may increase the assessment on other property of this owner to make up the loss. The true solution of this problem is better standards of assessment, but these are slow to come. The Missouri law attempts to prevent inequitable assessment by providing that "the assessor shall not increase the valuation of property other than forest lands owned by any person so as to make up for loss of taxable property value because of the forest crop lands tax relief herein provided for." Such a provision might or might not be effective. It does not remove the incentive to increase the valuation of other property. The New Hampshire law removes the incentive by providing for the reimbursement of cities and towns for the amount of revenue lost through the exemption of timber. This may be the most effective way to protect the owners of classified land.

Under an optional law which sets up standards of eligibility for classification, administration may be good or poor. Local administration may defeat the purpose of the law if local officials are opposed to it and refuse to approve applications for eligible land. Or lack of proper inspection may result in the classification of lands that are not being devoted to forestry. For uniformity in administration the function of inspection and approval should be carried on under the authority and supervision of a State board or commission, acting through local representatives who can apply uniform standards to local situations.

*The yield-tax law should provide for declassification of forest land.*—Under an optional law an owner should be permitted to withdraw his lands from classification if he desires to use them for some purpose other than forestry. Under either an optional or general law the State should reserve the right to place any property back under the general property tax if its use is not consistent with the purpose of the law.

A declassification tax should be imposed. If withdrawal is made by the owner the fairest method is to require payment of the difference between the amounts paid while the land was classified and the amount that would have been paid under the property tax. The assessment of the yield tax on the merchantable timber at the time of withdrawal

might impose an unduly severe penalty on the owner if his lands at the time of classification were stocked with merchantable timber.

If land is declassified by State action because the owner has failed to devote the land to the required purpose a penalty may justifiably be included in the declassification tax. This would help to pay the administrative costs associated with the classification and declassification of land that was not devoted to forestry or was put to a use contrary to the purpose of the law. If the penalty is desired the declassification tax could be the yield tax on merchantable timber or the difference between the tax on classified and unclassified land with interest, whichever is the greater amount.

*The yield-tax law should not disturb local revenues unduly.*—The optional yield-tax laws in effect have not disturbed local revenues appreciably. This has been due largely to the fact that relatively small areas of land have been classified under these laws. There exists, however, a great potential capacity to reduce local revenues. Reports from individual counties where timber has been cut heavily, where large areas of cut-over land have subsequently been classified, and where yield taxes have been small, indicate that serious problems of local finance have developed.

The seriousness of the problem under a law of general application or under an optional law expected to be widely used will vary according to forest conditions and present methods of taxation in different States. The most serious loss of local revenue resulting from a general or wide application of the yield-tax principle might be expected in areas containing large volumes of mature timber on which the property assessment recognizes these timber values, which will be subject to clear cutting before the land is classified, and which will be replaced by a new crop only after many years. The least effect will be felt in areas where timber values are not recognized in current assessments, where timber stands are made up of many age classes, and where production subject to the yield tax is carried on at a fairly regular rate. The first situation, the serious one, has been characteristic of some of the counties in northwestern Oregon. The second, the least serious one, is illustrated by the State of Mississippi where county revenues actually have been increased under the yield tax.

The disturbance of local revenues may be the result of either of two circumstances. If total payments under the yield tax are made equal to what payments under the property tax would have been, the taxing jurisdiction will suffer only a postponement of revenue, to be made up when yield-tax payments increase. But if total payments under the yield tax are less than payments under the property tax would have been, the local unit suffers from both a postponement of revenue and an absolute loss of revenue.

The first situation resulting from the postponement of revenue may be taken care of in a number of ways. If the current reduction in revenue is small the local government may be able to absorb it through economies or slight increases in the tax rate. If the reduction is too great to be absorbed and the county has ample borrowing power it can issue bonds or other evidences of indebtedness to which yield-tax receipts are pledged. Or the State may set up a fund from which counties are reimbursed to the extent of revenue losses due to the exemption of timber from the property tax, the fund to be replenished

from yield-tax receipts. It has been suggested that a procedure be established whereby Federal funds could be made available to the States at low interest rates for the reimbursement of local government units. The suggestion has not been developed but it has certain merit inasmuch as the whole Nation is concerned with the problem of improved forest practices and the economic conditions affecting the commercial practice of forestry.

The second situation under which total tax receipts over a long period are reduced through operation of a yield-tax law is a more difficult one to solve. It is a situation in which many government units may find themselves in a period of rising prices and costs. Though the rates of taxation originally established in the law were designed to equal payments under the property tax, increased costs of government, higher assessments, and higher tax rates may destroy this balance.

One alternative is to change the rates under the yield tax. This would be highly undesirable. It presumably would be impossible if the owner has entered into a contract with the State. Legally it might not apply retroactively to areas previously classified and would discriminate against new applicants. Repeal of the law and the enactment of a new one with higher rates would be a breach of faith on the part of the State. It would destroy confidence in the yield-tax law and would remove the element of certainty so necessary to a long-range forestry program.

A second alternative is to let the local governments cope with the problem individually. This also would be undesirable. The burden would fall with unequal weight on the different local units. In the areas where the problem is most serious opposition might develop to further classification of forest land under an optional law, and prospective applicants would be discriminated against if they were denied classification.

A third alternative is the reimbursement of local units for tax losses on a permanent basis. This would require continued appropriations from State funds and would mean that all other residents of the State would contribute to the establishment of an economic condition favorable to forestry. This alternative has the advantage of maintaining security of tax costs for the forest owner and of eliminating the revenue losses to local government units. It has a possible disadvantage in that it might not be politically expedient and that farming or industrial areas would refuse to support appropriations for the benefit of forested areas. If it can be made to work it is the best of the alternatives.

*The yield-tax law should have popular support.*—This may be the most difficult requisite to achieve, but it is also one of the most important. The other requisites may be impossible to meet if popular support is lacking. There may be some value in an optional law that is opposed by its administrators, that is hamstrung by eligibility requirements, that establishes a tax disadvantage for classified lands, that provides only a short period of certainty for the owner, and that makes no provision for the stability of local government revenues, but the value is hard to discern. Yet such laws are on the books—the results of compromises made with opposing interests or a lack of understanding of the real function of a yield-tax law. If these laws were first

attempts, subject to constant improvement, they might be justified. But some of them have remained unchanged and ineffective for many years.

To gain public support to the extent necessary to make a yield tax work, the people of a State must be aware of the importance of forestry to the general economy and convinced that some sacrifice in current revenue is justified by the results to be obtained. The people must realize that although forest management is of value to the owner of forest land, an ample and stable supply of forest products is also important to the economy of the whole State.

The public is well aware of the importance of forest-fire protection and appropriations for fire control are willingly made. The purposes of fire control and of establishing favorable economic conditions for the practice of forestry are about the same—to assure future supplies of timber and to eliminate or reduce the risks of forest management. Tax relief is not as spectacular as fire control. It may not be as greatly needed. But in terms of relative cost it may, in many areas, be of equal value in bringing about a healthy economic condition for the practice of forestry.









