Tax Commissioner Explains Stand on Tree Taxation in Jackson County

(Editor's note: This issue of orchard tree taxation in Jackson county has been the subject of considerable controversy here since last spring. The following statement by State Tax Commissioner Sam Stewart gives a detailed explanation of the commission's stand on the matter. It is in the form of an answer to William L. Smith of Central Point, whose letter to the commission protesting the taxation of trees and hearings which resulted appeared recently in the Mail Tribune.)

State of Oregon
State Tax Commission
Valuation Division
Salem

Dear Mr. Smith:

You letter of Oct. 7 poses a great number of questions relative to this commission's actions in Jackson county. As a citizen of this state, you have every right to be apprised of what action your state government is taking, and why. Believing firmly in that fundamental right, I shall attempt to the best of my ability to answer them.

The state is, as you are fully aware, divided into 36 counties, and certain county officers are provided by state law, both constitutional and statutory, to carry out state laws. Those officers concerned with carrying out the laws relating to the property tax are the assessor and the county board of equalization. It is expected that these county officers will carry out those state laws within their respective jurisdictions to the end that the law is applied uniformly in each county of the state, so that a taxpayer, regardless of the county he lives in, will be accorded uniform treatment. To insure that this state of affairs obtains, the state tax commission was created and given certain powers. One of those powers is as follows:

Law Cited

"The state tax commission shall exercise general supervision of the system of taxation throughout the state, and general supervision and control over the administration of the assessment and tax laws and over county assessors and county boards of equalization in the performance of their duties relating to taxation to the end that all taxable property is assessed uniformly according to law and equality of taxation according to law is secured."

It was recognized by the legislature in 1951 that the administration of the property tax was characterized by the grossest sort of inequities which could not be substantially eliminated by the commission issuing orders raising or lowering individual properties or classes of property but could only be done by insuring that the original appraisals were correct in the first instance. The legislature, on the basis of the foregoing, instituted the statewide reappraisal program, designed to reappraise all real property in the state over a 10-year period. This program was to be accomplished by the counties and this commission working together to accomplish this end. Pursuant thereto, Jackson county and this commission entered into an agreement to reappraise that county, commission appraisers to appraise, among other properties, all farm lands.

True Cash Value

The statutory basis of determining value for property tax purposes of any class of property is true cash value, defined as follows:

"True cash value of all property, real and personal, means the amount the property would sell for at a voluntary sale made in the ordinary course of business, under normal conditions, in accordance with rules and regulations promulgated by the state tax commission."

This definition of true cash value is practically synonymous with that of market value. For that reason the tax commission uses market value as the basis for its appraisals.

The rules and regulations of this commission provide that "market value as a basis for true cash value shall be taken to mean the amount of money or money's worth for which property may be exchanged within a reasonable period of time under conditions in which both parties to the exchange are able, willing and reasonably well informed." Market value is achieved by the use of one or more of three accepted appraisal techniques: (1) Cost, i.e., reproduction or replacement cost less depreciation, (2) Capitalization of income, and (3) Sales.

Factors Listed

The use of these methods requires consideration of a number of factors such as:

(1) Kind of orchard. (This because different fruit and nuts have entirely different income and cost patterns.)

(2) Variety of fruit. (This because varieties such as Red Delicious, Golden Delicious, Newtown, and Winesap apples command prices in excess of less faored varieties, thus indicating the income-producing capabilities of an orchard, as well as what a prospective purchaser would pay for the same.)

(3) Condition of trees.

(4) Topographic location.

(5) Age of trees.

(6) Market outlets.

Committee of Orchardists Here

Inasmuch as the persons best able to give this information were and are orchard owners, we organized in Jackson county, as in every other county where we worked, a committee of orchardists to assist us in valuing orchards. It was at this juncture that we found orchard trees were not being assessed by the assessor. The orchardists would not cooperate with us in determining values, and the assessor would not assess them unless ordered to do so by this commission.

The commision discussed the problem with other counties in the state, and with other states, and with profesors of agricultural economics at Oregon State college as well as with other state schools, notably Iowa State college. We learned that orchards were being assessed and were, further, in their opinion assessable. Dr. Blanch, of Oregon State college, is one with whom we discussed this matter, and I suggest you might find it of interest to discuss it with him. Further, it was the considered opinion of our legal staff and of the attorney general that orchard trees were legally assessable as an increment of value to the land.

Thereafter, during the time that our farm appraisers were in Jackson County, the value of the trees was taken into consideration on the basis of the factors heretofore mentioned. Orchards were classified with age and condition being given the most consideration. Average orchards were classed as A orchards; those below average but still producing, as B orchards those below average but still producing, as B orchards; young non-producing orchards were classed as C, with no value assigned; and old, deteriorated orchards and orchards planted on land totally unsuited for orchards, in class D, also with no value being assigned thereto.

Went on Premises

It cannot be denied that better appraisals would have been achieved had we received the cooperation of the orchardists, but failing to receive same we did the best we could under the circumstances. We did, in appraising the orchard property, and here I wish to emphasize, actually go on the premises so as to determine such factors as age, condition, kind of fruit, and location.

During this period, efforts were continually made to achieve the cooperation of the orchard committee as well as of the Assessor, to no avail. Realizing that definite action was necessary, as time was running out within which to get the values on the roll and proceed with the orderly collection of taxes, we ordered the board of equalization then in session to place upon the roll the value of orchard trees. This action was taken pursuant to ORB 306.130, which provides as follows:

"The state tax commission may do any act or give any order to any county board of equalization or county assessor as to the valuation of any property or class of property which the commission deems necessary so that all taxable property is assessed according to law and equalized between taxpayers, between counties and between taxing units to the end that equality of taxation according to law shall be secured."

Suggested Figures

The board of equalization was at no time ordered to use the values achieved by our appraisers. In fact, the board came to Salem and suggested to this commission that they use values of $50 per acre on apples, $75 per acre on stone fruit, and $100 per acre on pears. The orchardists, however, would not accept this modification of commission values although this commission had informed the board that those values were acceptable to it if the board believed that those values properly represented the values which should be applied. The board, upon the refusal of the orchardists to accept this modification, then ordered the assessor to use the values achieved by this Commission's appraisers.

The board, however, did not comply with ORS 309.090, which required that five days' notice of this action be given and a hearing held for each taxpayer involved. Appeals were then prosecuted to this commission by counsel for a great number of orchardists, including yourself, all of which alleged that the action of the board of equalization was void because of failure to give this type of notice.

The commission agreed with counsel for yourself and the orchardists in general contention, and ordered the board to reconvene, give the five day's notice, and hold hearings as required by law. The board, however, declined to do so, whereupon the commission acted pursuant to ORC 309.400, which provides in relevant part as follows:

" . . . If a county board of equalization fails to comply with any order or requirement of the commission, the commission may make the correction or change in the assessment roll, and the corrections and changes shall be a part of the record of the proceedings of the board of equalization. If the commission raises the valuation of any property or adds property to the assessment roll it shall give notice for the same time and in the same manner as is required in like cases for county boards of equalization."

Sent Notices

This commission, in compliance with the foregoing, sent out the five days' notice to each taxpayer involved and is holding the hearings required. At those hearings you will be able to present your evidence as to why the values achieved by tax commission appraisers on your properties are too high. If you prove your contentions, relief will be granted. As proof of that assertion, this commission has already on the basis of hearings held to date, determined that errors in some instances have been made, and is even now preparing orders to the assessor to adjust the assessment roll in those instances.

A final word as to my actions in this matter: As a state tax commissioner, it is my duty to enforce the law as it exists. It is not for me to apply that law in one area, in one way, and in another area in another, nor am I to enforce the law on the basis of whether I believe the law is good or bad. I do not make the law. That prerogative lies rightly with the legislature. If the legislature should subsequently change the law, I will enforce that change. If the courts should reject the interpretation of our legal department and the attorney general, I shall follow the court's interpretation. Until such time as the legislature does change the law, or the courts rule contrary to our position, I shall continue to enforce the law as it presently provides, without reference to person, class or locality, who wish it to read otherwise.

I trust that this letter has fully explained my position. If it fails in that regard in any way, please do not hesitate to write me further.

Very truly yours,
Samuel B. Stewart,
Commissioner.

'Honesty Evaluator' Appraises Applicants

Chicago—(U.P.)—John Reid, a nationally known lie-detector expert, has announced a new type of employment application form called the "honesty evaluator." The form is designed to appraise the trustworthiness of persons who apply for jobs which may offer an opportunity to steal.

Reid says the form consists of 158 questions (many of them similar to standard form queries) which can, through interpretation, serve as a guide to the applicant's reliability.

Reid said that "polygraph" lie detector tests which were used to assess the "honesty evaluator" proved the new form highly reliable.

Athletics Course Presented on Video

Vermillion, S. D.—(U.P.)—The University of South Dakota has a unique course at athletics which it also presents on television.

Dr. John Van Why, professor of health and physical education, said his course, entitled "Appreciation of Athletics," has grown nationally in interest. The professor believes the course is the first of its kind anywhere.

"Appreciation of Athletics" strives to improve spectator conduct and at the same time develop an interest in athletics. Novices also learn the technicalities of such sports as football and basketball.

Swimming Pool Has Zoo Along Shore

Louisville, Ky.—(U.P.)—An ex-convict, John C. Maas, who loves animals, runs one of the few swimming pools in the country with a built-in zoo on its shore.

Maas' zoo boasts a lioness, bear cubs and monkeys because of the study he made of animals while a prisoner at La Grange State Reformatory. He purchased most of the animals for $200 from a "small but hungry zoo" going out of business in Ft. Wayne, Ind.

Patrons of his swimming pool stroll around the zoo area between dips in the pool. Maas hopes to add to his animal collection and someday to present it to the city, which lacks a zoo. At present, Maas is looking for a bargain in an elephant or tiger cub.

They'll Do It Every Time — Registered U. S. Patent Office — By Jimmy Hatlo

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Back Stairs: Ike May Rest in Florida

By MERRIMAN SMITH
United Press White House Writer

Denver — (U.P.)—Backstairs at the temporary White House:

The President apparently is under the assumption that he will spend the period of convalescence at his farm in Gettysburg, Pa. His medical advisers, however, are toying with the idea that he might be more comfortable somewhere in south Florida during late November and December.

No decisions have been made, but when the President is in an acceptive mood, he undoubtedly will be asked how he feels about Florida.

Rainbow trout show up occasionally on the President's menu at Fitzsimons Army Hospital. The supplier? Sherman Adams, the assistant to the President.

Adams, an ardent fly-caster, went fishing last Sunday up in the mountains near Nederland, Colo., northwest of Denver, and had pretty good luck.

Some of the Washington reporters who have been covering the President out here for more than two months are being rotated by their home offices. The experienced White House men are being sent home for a couple of weeks of rest before taking over what promise to be a long chore of covering the President's post-hospital recovery period.

One of the increasingly popular outdoor sports in the vicinity of Fitzsimons Army Hospital where the President is a patient is watching Mr. Eisenhower through binoculars while he is sunning himself on his eighth floor terrace.

Furthermore, the President has his own set of binoculars and peers back at the people who are watching him.

Most frustrated photographer in Denver this week was Charles F. Hanseni a local amateur who spent three straight days on the lawn beneath the President's sundeck, hoping for a shot of the Chief Executive.

Hansen connected a 35-mm. camera to his 45-power telescope and waited patiently for the President to come close to the terrace railing and wave to the people below.

While Hansen was rigged up for the pictures, the President stayed away from the railing. Finally Hansen packed up his equipment and went home.

To wait any longer, he said, might put him in bad with his office.

Truck and Promise Plague Fire Laddies

Canton, Ill. — (U.P.) — The Canton city council is plagued with a fire truck that just won't wear out.

The truck was purchased 15 years ago with funds donated by Canton area farmers. In return, the Canton city council agreed to give free rural fire protection during the life of the truck.

Now the rural fire protection is becoming too much of a financial burden, but the truck won't wear out.

Alderman Manley Staley proposed that the truck be declared worn out even though it still has a lot of life left in it.

"It the city keeps on repairing that truck, it'll last forever," Staley said, "we've got to take some sort of action."

Staley's proposal was shelved until the first of the year.

Yellowstone National Park, the nation's oldest, was created in 1872. The newest is Everglades National Park, created in 1947.

Biggest Back Yard Planted to Bulbs

Lisse, Holland—(U.P.)—The man with the biggest backyard in the world planted his spring bulbs this month.

He is Willem vanderLee, a Dutch landscape architect charged with filling the 75 acres of Holland's Keukenhof Gardens with tulips, hyacinths, daffodils, and other spring-flowering bulb.s

VanderLee's job requires the combined talents of a botanist and an adroit diplomat. Not only must he see that more than 1,000,000 bulbs are properly planted, but he must placate 80 individual exhibitors, all of whom have their own ideas about placing the bulbs.

The 75 acres are planted from a master plan. Every year, the entire crop of bulbs is removed, the shapes of the beds changed and the Keukenhof re-planted.

VanderLee had this advice for American gardeners:

"Plant your tulips six inches deep and six apart, then sit back and relax until next spring and you will have flowers that will make you proud."