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Assessment Standards and Property Tax Equity in Florida

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NOTES

ASSESSMENT STANDARDS AND PROPERTY TAX EQUITY IN FLORIDA

The administration of the property tax has already been subjected to a continuous and seemingly exhaustive commentary. Yet, a revenue source that contributes some eighty-five per cent of all local government tax revenue in the United States,[1] approximately seventy-nine per cent of all local government tax revenue in Florida,[2] and one hundred per cent of all local school revenue in Florida is surely deserving of all the attention that can be paid it. The present inquiry is further justified by unique conditions attending the administration of the property tax in Florida, the effects of which have apparently not yet been thoroughly explored.

Only a narrow inquiry is intended here. The purpose will be to identify and discuss briefly those considerations that seem especially relevant to the problem of achieving an equitable administration of the property tax in Florida. Among the considerations to be discussed are: the homestead tax exemption; the nearly universal practice of underassessment; the existence of intercounty variations in levels of assessment; the inherent imprecision of the assessing process; and the enactment by the 1963 Legislature that purports to create a new standard for the tax assessment of real property.[3]

For such limited objectives, a simple, nontechnical notion of what constitutes an equitable administration of the property tax should be sufficient. Thus, the equity referred to is that which is due individual taxpayers and which relates directly to the financial burden that the property tax imposes on them. One would learn little concerning the equity of a tax simply by noting the *amount* of tax payable by an individual taxpayer. Rather, it is in the *relative burdens* of different taxpayers that the presence or absence of equity must be sought. If the relationships among the property tax burdens of all taxpayers of a given taxing jurisdiction are determined according to the sovereign will of the state, as expressed by its law-making organs, equity is substantially achieved so far as the administration of the tax is concerned. Conversely, to the extent that these relationships vary because of avoidable accident or according to the whim of some individual or group not possessed of law-making authority, equity is lacking.

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1. U. S. BUREAU OF THE CENSUS, TAXABLE PROPERTY VALUES IN THE UNITED STATES [hereinafter cited as CENSUS BUREAU], Table 1 (1959).
2. *Ibid.*
3. FLA. STAT. §193.021 (1963).

A discussion of the problems involved in achievement of equity is concerned almost exclusively with the process by which values are placed upon real estate for tax purposes. This results from the nature of the property tax itself. Since it is an *ad valorem* tax, the first step is necessarily that of locating the property, placing a value on it for tax purposes, and then determining the total value of all property within the taxing jurisdiction (county) that will be subject to the tax. This is the task of the tax assessor.[4] The second basic task is that of ascertaining the tax rate which when multiplied by the value of the property that is owned by a given taxpayer will determine his tax liability. This is the responsibility of the taxing authority—usually, the board of county commissioners[5] or the board of public instruction[6]—and is accomplished simply by dividing the amount to be collected as revenue by the total assessed value of the property subject to the tax.[7] The result of the computation is the rate (millage) — expressed in tenths of a cent per dollar of valuation — at which the total assessed value of property within the county must be taxed in order to raise the required amount of revenue. Multiplication of the assessed valuation of property owned by a given taxpayer by this rate (millage) will determine the actual amount of his tax liability. The third step in the administration of the property tax is simply to compute the tax liability of each individual taxpayer by multiplying the assessed value of his property by the prescribed rate, and then to collect the tax. This is the task of the tax collector.

The second and third steps present no problems for equitable administration. Computation of the tax rate is a mechanical operation, and, once computed, the rate is fixed and applies to all taxpayers within the county. In contrast, the assessment process is not only technical and highly discretionary, but assessed valuations are individually determined for each taxpayer. If individual tax burdens are not being equitably imposed, the reason must assuredly lie with some aspect of the assessment function.

In the following discussion, repeated reference will be made to "levels of assessment," a concept that is of great importance to a proper understanding of property taxation. "Level of assessment" refers to the ratio of the assessed valuation of given parcels of property to what is variously termed their "fair market value," "full cash value," or other similar term. Fair market value, in turn, has been defined as "that which a purchaser willing but not obliged to buy, would pay to one willing but not obliged to sell. . . ."[8]

4. FLA. STAT. §193.11 (1963).
5. FLA. STAT. §193.31 (1963).
6. FLA. STAT. §237.18 (1963).
7. *Ibid.*
8. Root v. Wood, 155 Fla. 613, 622, 21 So. 2d 133, 137-38 (1945); NATIONAL

Since an ad valorem tax is equitably administered when its burden on individual taxpayers is proportionate to the market values of their respective properties, it follows that ordinarily it would also be equitably administered when its burden is proportionate to values that bear a fixed relationship to market values — that is, when the same level of assessment prevails throughout the county.

Need for State-Wide Uniformity in Levels of Assessment

All would agree that a single level of assessment must prevail throughout each county. The issue whether equitable administration requires that a single level prevail throughout the entire state is a matter of public policy and can be so discussed. The proposition advanced is that equity in the property tax does demand a single, statewide level of assessment.

Uniform Application of the Homestead Tax Exemption

The principal factor that adds uniqueness to Florida's property tax problem is the homestead tax exemption. In general, this constitutional provision[9] authorizes the exemption from all property taxes, other than special assessments, of $5,000 assessed valuation of owner-occupied dwellings.

The interaction of the homestead exemption with intercounty variations in levels of assessment produces several inequities in the administration of the property tax. One of the more obvious of these is the fact that the exemption itself has a different value in different counties. To illustrate: in a county assessing property at one hundred per cent of market value, the exemption would excuse the owner-occupier from paying any tax on half of the value of a home costing $10,000. In another county that assessed at fifty per cent of market value, owner-occupied homes having a market value of $10,000 would be entirely exempted from taxation. In a third county that assessed at thirty-three per cent of market value, owner-occupied homes having a market value of $15,000 would be completely exempted. In short, if the homestead exemption is to bring the same benefit to taxpayers of all counties, it will be necessary for all counties to assess at the same level. This effect of the homestead tax exemption has, of course, been long recognized.[10]

Ass'n of Assessing Officers, Assessment Principles and Terminology 138 (1937).

9. Fla. Const. art. X, §7.

10. Crosby & Miller, *Our Legal Chameleon, The Florida Homestead Exemption*, 2 U. Fla. L. Rev. 346, 380-84 (1949); Erickson & Hodges, *Assessment and Collection of Ad Valorem Property Taxes*, 13 U. Fla. L. Rev. 455, 460-62 (1960).

Intercounty Variations in the Distribution of Individual Tax Burdens

Another result of the interaction between the homestead tax exemption and intercounty variations in levels of assessment is less recognized but equally important. It introduces serious intercounty distortions into the relationships among individual tax burdens, with the amount of the distortion increasing sharply as lower levels of assessment are encountered. A hypothetical example will illustrate. Suppose that two taxpayers, *A*, owning residential property worth $20,000, and *B*, owning residential property worth $30,000, occupy their respective properties and are therefore entitled to the $5,000 exemption. Note the changes that occur in the relationship between their respective tax burdens at varying levels of assessment.

Assessment Level	Taxpayer *A*	Taxpayer *B*	Percentage Excess of *B's* Burden Over *A's*
Assessed at 100%	$20,000	$30,000	
Less Exemption	5,000	5,000	
Amount Taxed	$15,000	$25,000	167
Assessed at 50%	$10,000	$15,000	
Less Exemption	5,000	5,000	
Amount Taxed	$ 5,000	$10,000	200
Assessed at 30%	$ 6,000	$ 9,000	
Less Exemption	5,000	5,000	
Amount Taxed	$ 1,000	$ 4,000	400

With the level of assessment at 100 per cent of market value, taxpayer *B* could reasonably expect that his tax bill would be two-thirds larger than that of *A's*. This relationship would result from assessment at a statutory level of one hundred per cent of market value and application of the homestead tax exemption. With assessment at fifty per cent of market value, however, *B's* tax burden would become double that of *A*. With the level of assessment at thirty per cent of market value, *B's* burden would zoom to four times that of *A*.

The levels of assessment hypothesized are not at all untypical. The 1963 report of county assessment levels reported by the Railroad Assessment Board[11] shows thirty-four Florida counties with levels of

11. Copies of the Board's mimeographed report of county levels of assessment

assessment below fifty per cent of market value. And, on the basis of an assessment-sales ratio study of selected assessment districts throughout the nation in 1956, the United States Bureau of the Census found an average level of assessment for Florida of thirty per cent of market value.[12]

The Existence of Fixed-Millage Districts

Whenever a *larger* taxing district is superimposed over two or more counties and a single fixed millage is applied to all property within the *larger* district, it becomes obviously advantageous to the taxpayers of any component county to have their property assessed at a lower level than in the other component counties. The reason is that the fixed millage applying throughout the superimposed district would then produce less revenue relative to the actual value of the property taxed in that county than it would in the other counties making up the superimposed district. The practice of underassessing in this manner has long been called "competitive underassessment."

Where there is a state ad valorem tax, the state itself constitutes such a district. Although Florida does not levy a state tax on real property,[13] it does make some use of the fixed-millage district device.[14] However, since such districts are not very numerous, this does not constitute a particularly important reason for requiring a state-wide level of assessment.

THE NEED FOR FULL VALUE ASSESSMENTS

Assuming now that a sufficient case has been made for requiring a single level of assessment throughout the state, does it matter greatly whether this state-wide standard is placed at full market value or some fraction thereof? It is true that approximately a dozen jurisdictions provide by statute for the assessment of property at some fraction of full value.[15] However, aside from the fact that there is no justification for such a policy, there are several reasons of varying cogency for requiring all assessments to be at full cash value.

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can be obtained from the Board's office in Tallahassee, Florida.

12. CENSUS BUREAU, Table 22.

13. FLA. CONST. art. IX, §2.

14. Examples are the Sebastion Inlet District, embracing Brevard and St. Lucie Counties, created by Fla. Laws 1919, ch. 7976, at 146 and the Florida Inland Navigation District, embracing Brevard, Broward, Dade, Duval, Flagler, Indian River, Martin, Palm Beach, St. Johns, St. Lucie, and Volusia Counties, created by Fla. Laws 1927, ch. 12026, at 625.

15. Note, 75 HARV. L. REV. 1374, 1377 n.28 (1962).

Full Value Assessments Minimize the Distortions Resulting From the Normal Imprecision of the Assessing Process

The task of explaining how underassessing aggravates such distortions is less one of describing mechanical relationships than of establishing the extent to which such distortions actually occur. For this reason, it is necessary to digress briefly in order to explain the terms in which the quality of the assessing function can be meaningfully discussed.

A commonly accepted statistical measure of quality performance of the assessment function is the *coefficient of dispersion*, which has been defined as "the percentage which the average of the deviations of the assessment ratios of individual sold properties from their median ratio bears to their median ratio."[16] In other words, the coefficient measures the accuracy of individual assessments, relative to whatever level of assessment prevails in the particular county. The lower the coefficient, the higher the quality of performance. And what constitutes an adequate performance? One standard that has apparently received some approval in professional circles is that suggested by the late Dr. John H. Russell, former director of research for the Virginia Department of Taxation. According to his standard, "an index as low as 20 should be considered a goal desirable of achievement and reasonably attainable, and that anything below this is to be considered as an excellent degree of equalization or uniformity." However, he continued, "an index as high as 45 should be judged cause for the gravest concern."[17]

This may seem an inordinately generous standard of performance, for it means, for example, that with the assessment level at one hundred per cent of market value, properties actually worth $25,000 could be assessed, *on the average*, as low as $20,000 or as high as $30,000, and this would be acceptable — even excellent — assessing. Moreover, this is to speak in terms of averages; assessments on some individual parcels would vary even more widely.

Confirmation of widespread imprecision in real property assessing can be seen in the results of a nation-wide study of assessment ratios that was undertaken by the United States Bureau of the Census.[18] The Bureau conducted an assessment-sales ratio study in 1,263 selected housing areas, based on an analysis of properties sold over a six-month

16. BIRD, THE GENERAL PROPERTY TAX: FINDINGS OF THE 1957 CENSUS OF GOVERNMENTS 53 (1960). For an explanation of the computations required in deriving this coefficient, see BIRD *op. cit. supra*, 53-54. For an illustration of the computation and use of the coefficient, see MEANS & MARTIN, COUNTY PROPERTY TAX ASSESSMENT IN FLORIDA 43-50 (1957).

17. Rountry, *Equalization at Market Value*, 24 APPRAISAL J. 222 (1956).

18. CENSUS BUREAU.

period of 1956. Only 158 of the 1,263 areas studied met Russell's standard of quality – that is, had a coefficient of dispersion of twenty or less. In nearly twenty per cent of the areas studied, the coefficient was actually greater than fifty.[19]

Ordinarily, dollar distortions vary directly with the level of assessment, and it does not matter greatly at what level property is assessed. However, Florida's situation is unique, in that the deduction from assessed valuation of the fixed amount of the homestead tax exemption has the result of magnifying the distortion as property is assessed at less than full value. Regardless of the quality of individual assessing this unavoidable distortion would be kept to a minimum by assessing all property at its full market value.

Full Value Assessments Result in Higher Quality Assessing

Data are lacking to prove conclusively that the quality of assessing is lower in those Florida counties that assess at relatively low levels of assessment. However, the findings of the United States Census Bureau's study of 1956 suggest the existence of a relationship between quality of assessing and levels of assessment.[20] The Public Administration Service report summarizing those findings grouped the 1,263 assessment areas studied according to their median assessment ratios for nonfarm houses and found that there was a definite relationship between such level of assessment and the quality of assessment, as expressed in the coefficient of dispersion. The tabulation was as follows:[21]

Median Assessment Ratio for Nonfarm Houses (per cent)	Coefficient of Dispersion, Median Area
Under 20.00	37.3
20.0 - 29.9	32.0
30.0 - 39.9	25.1
40.0 or more	22.2

As can be seen, there is a positive relationship between level of assessment and quality of assessment. The author of the summary report suggested a reasonable explanation:[22]

> That drastic underassessment should tend to produce greater inequality of assessment is readily explainable. In his assess-

19. *Id.* at 81.
20. CENSUS BUREAU, Table 17.
21. BIRD, *op. cit. supra* note 16, at 58.
22. *Ibid.*

ment of houses the assessor is less likely to be concerned with deviations from the norm in terms of hundreds of dollars, when he is assessing at a small fraction of full value, than he would be with deviations in terms of thousands of dollars, when assessing at a large fraction of full value, although percentage-wise the first deviation may be much larger. The house owner, likewise, is likely to be less alert to inequalities of assessment when his house is assessed at only a small fraction of its value.

Full Value Assessments and Assessment Review Procedures

The only real external check on the quality of assessing takes the form of challenges by individual taxpayers. As stated above, the quality of the assessing process manifests itself in the extent to which assessment ratios of individual parcels vary, on the average, from the average assessment ratio for the county. In view of the inherent imprecision of the assessing process one would expect, therefore, that challenges to individual assessments should be very numerous, even in a county in which the quality of assessment is relatively high. Infrequency of challenges to individual assessments can only mean, then, that the review process has broken down in some respect and in any event cannot be taken as indicating the high quality of the assessments in a given county.

It is quite clear that some such breakdown has occurred in the assessment review procedures in Florida counties. In a previous study,[23] questionnaires were sent to all clerks of boards of county commissioners, which also sit as boards of equalization. Of the thirty-two counties responding, twelve actually reported that there had not been a single challenge to an individual assessment over the five-year period 1952-1956. The largest number of challenges reported for the five-year period was 438 by giant Dade County. However, even this was an insignificant number considering the large number of parcels on the Dade County tax roll.

Any thorough-going arrangement for the review of individual assessments must include at least these three elements: (1) administrative and judicial machinery and procedures by which individual taxpayers may challenge the valuations placed on their properties; (2) a standard of assessment that will enable individual property owners to become aware that their assessments are out of line; and (3) a realistic burden of proof that will afford the deserving property owner at least a reasonable chance of prevailing before the administrative and judicial tribunals that hear such challenges. The first of these requirements is ostensibly satisfied in Florida by statutory provisions

23. MEANS & MARTIN, *op. cit. supra* note 16, at 69.

by which boards of county commissioners serve as boards of equalization[24] and assessments are made reviewable by the circuit courts.[25] In any event, satisfaction of this requirement does not directly involve the assessing process. However, both of the others do and therefore must be briefly discussed.

The relationship between the prevailing level of assessment and the likelihood that the average taxpayer will even be aware that his assessment is out of line seems obvious enough to permit discussion in the abstract. Thus, even the taxpayer who is almost completely uninformed concerning the law and practice of property tax administration would surely become suspicious of an assessment that exceeded what he knew his property would actually bring on the market.

The level of assessment would be even more crucial to the awareness of the relatively well-informed property owner. It is likely, for example, that he would be aware of a statutory requirement that property be assessed at its full cash value, and it is this very knowledge that would probably make him loath to challenge any assessment that was less than he knew his property to be worth. Even if he did suspect that his property was assessed at a higher level than that of his neighbors, he might very well fear that a complaint would only result in his assessment being increased to the statutory level. In any event, there seems little reason to doubt that taxpayers would be much more likely to have the awareness necessary to motivate a challenge of their valuations with assessments pegged at full cash value.

The burden that a taxpayer must meet in order to obtain relief from alleged discrimination may also operate to inhibit the number of challenges that are made, for the taxpayer is not likely to pursue his remedies at all unless there is reasonable chance of success. Since the conditions upon which possible success may depend are largely defined by constitutional and statutory standards as they are applied by the appellate courts of Florida, it becomes necessary to identify these standards more fully and to note in general how they have been applied by the court.

For nearly a century the operative standard has been the statutory requirement that all property be assessed at its full cash value.[26] Actually, it is common knowledge that Florida tax assessors, in common with those of most other states,[27] have consistently valued property at varying fractions of full cash value. This has made it difficult to achieve meaningful review of individual assessments.

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24. FLA. STAT. §§193.25, .27 (1963).

25. FLA. STAT. §69.01 (1963).

26. Fla. Laws 1887, ch. 3681, §6, at 3.

27. BIRD, *op. cit. supra* note 16, at 31-35; Grounouski, *State Supervision of Property Tax Administration*, 10 NAT'L TAX J. 158 (1958).

In the 1919 case of *Camp Phosphate Co. v. Allen*,[28] the Florida court made the observation — correct for that time — that less-than-full value assessments did not, as such, result in inequity. Said the court:[29]

> The purpose of the statute in requiring property to be assessed at its full cash value is to secure uniformity and equality of burden upon all property in the state, and if all the taxable property of Citrus County was assessed on a basis of 50 per cent of its true cash value, the purpose of the constitutional provision has not been defeated, nor has the appellant been injured....
>
> The adoption of full value has no different effect in distributing the burden than would be gained by adopting 75 per cent, or 50 per cent, or even 10 per cent, as the basis, so long as either was applied uniformly. The only difference would be that, supposing the requirements of the treasury remained constant, the rate of taxation would have to be increased as the percentage of valuation was reduced. Therefore the principal, if not the sole, reason for adopting "full cash value" as the standard for valuations is as a convenient means to an end; the end being equal taxation.

This holding obviously offered little encouragement to the taxpayer alleging discriminatory assessment. Not only would he have to show that other parcels were assessed at lower levels than his own; apparently he would also have the burden of showing that the lower level of assessment was the one prevailing generally in the county.

Since the 1930's however, owner-occupied residential property has been exempted from ad valorem taxes in an amount up to $5,000 of its assessed valuation, and, as related above, this rather unique provision introduced major distortions into the impact of the property tax on individual taxpayers. By 1944, the court in *Cosen Investment Co. v. Overstreet, et al.*,[30] had expressly recognized that "the logic of the opinion in *Camp Phosphate Co. v. Allen* [was] no longer applicable because the reduced value, even though uniformly lower, is no longer just."[31] At the same time, it observed, surely incorrectly, that since the adoption of the homestead exemption "the practice of assessing property has been in conformity with the statute, that is at one hundred per cent of its true cash value."[32] But whatever general assessment practices may have been at the time, this opinion provided

28. 77 Fla. 341, 81 So. 503 (1919).
29. *Id.* at 349, 81 So. at 506.
30. 154 Fla. 416, 17 So. 2d 788 (1944).
31. *Id.* at 417, 17 So. 2d at 788.
32. *Ibid.*

no encouragement for taxpayers seeking a reduction in a discriminatory assessment, for the court continued:[33]

> To grant appellant's request would require us to order a constitutional . . . official [to] act contrary to the statute and by so doing the effect of his act would result in rendering unequal the tax burden to the taxpayers of Dade County.

In other words, the court would not require the assessor to act contrary to the statute by reducing the complaining taxpayer's assessment, even though it could be shown that he had assessed other properties at a level below the statutory standard.

Of course, had the discrimination resulted from property being assessed at higher than the statutory standard of full cash value, there would have been no objection to reducing the offending assessment to the statutory level. Indeed, in a 1942 case,[34] the supreme court went a little further and held that in such a circumstance all the complaining taxpayer need show is assessment in excess of the statutory standard—he need not even prove discrimination. But this was no great concession, for the problem has always been that of underassessment, not overassessment.

The Second District Court of Appeal recently reiterated the notion that a taxpayer who has been discriminated against by having his property assessed at the statutory full cash value while other property was assessed at a lower level could not get relief by having his assessment lowered.[35] The taxpayer alleged that several other pieces of property similar to his own had been assessed at a much lower level. Even so, the court held that the trial judge should have granted a motion to dismiss on the ground that a complaint failing to allege that assessments were in excess of the actual full cash value of the property does not state a cause of action for injunctive relief against a tax assessment. Uncritically accepted was the statement from the *Cosen* opinion that since the adoption of the homestead tax amendment, property was actually being assessed at full value throughout the state. In a still more recent case,[36] the same court again refused to enjoin collection of taxes on property allegedly overassessed. Although agreeing that the assessments did seem unusually high on several of the plaintiff's parcels, the court nonetheless upheld the assessment on the ground that the testimony showed the assessor had followed the requirements of law.

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33. *Ibid.*

34. Schleman v. Connecticut Gen. Life Ins. Co., 151 Fla. 96, 9 So. 2d 197 (1942).

35. Sproul v. Royal Palm Yacht & Country Club, Inc., 143 So. 2d 900 (2d D.C.A. Fla. 1962).

36. Osborn v. Yeager, 155 So. 2d 742 (2d D.C.A. Fla. 1963).

One cannot tell from the published opinions whether counsel in either of these cases addressed argument to the possible application of the equal protection clause of the fourteenth amendment. Apparently they did not, although the respective courts might well have found the argument compelling. The leading decision of the United States Supreme Court concerning the application of this clause to local property tax assessments was that handed down in the case of *Sioux City Bridge Co. v. Dakota County*,[37] in 1923. There, a bridge company complained that the portion of its bridge that was in Nebraska had been arbitrarily assessed at full cash value, as required by law, although other property in the district was assessed at about fifty-five per cent of cash value. Upon proper complaint, the local board of equalization responded by raising the assessor's valuation. The trial court refused to set aside the board's action and the state supreme court affirmed, holding that the proper remedy in such a situation was not to lower the valuation of the bridge, but to raise the valuations on the properties that had been underassessed.[38]

The Supreme Court reversed, with Mr. Chief Justice Taft concluding that[39]

> such a result as that reached by the Supreme Court of Nebraska is to deny the injured taxpayer any remedy at all because it is utterly impossible for him by any judicial proceeding to secure an increase in the assessment of the great mass of under-assessed property in the taxing district. This Court holds that the right of the taxpayer whose property alone is taxed at 100 per cent of its true value is to have his assessment reduced to the percentage of that value at which others are taxed even though this is a departure from the requirement of statute. The conclusion is based on the principle that where it is impossible to secure both the standard of the true value, and the uniformity and equality required by law, the latter requirement is to be preferred as the ultimate and just purpose of the law. In substance and effect the decision of the Nebraska Supreme Court in this case upholds the violation of the Fourteenth Amendment to the injury of the Bridge Company. We must, therefore, reverse its judgment.

The rigor of the quoted language was slightly blunted when, in remanding to the lower court, the Chief Justice invited attention[40]

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37. 260 U.S. 441 (1923).

38. Lincoln Tel. & Tel. Co. v. Johnson County, 102 Neb. 254, 166 N.W. 627 (1918).

39. Sioux City Bridge Co. v. Dakota County, 260 U.S. 441, 446-47 (1923).

40. *Id.* at 447.

> to the well-established rule in the decisions of this Court . . . that mere errors of judgment do not support a claim of discrimination, but that there must be something more — something which in effect amounts to an intentional violation of the essential principle of practical uniformity.

But even discounted so, the thrust of the *Sioux City Bridge* case seems clearly against the course of opinion in Florida. However, assuming that rule to be binding in the circumstance posed, it still leaves an injured taxpayer with a nearly intolerable burden. Not only must he show that other properties similar to his are assessed at a lower percentage of full value, but he must also show that the lower level prevails generally throughout the county. In contrast, in a regime of full cash value assessments that were kept honest by a state equalization program, the injured taxpayer would only have to prove the full cash value of his own property — difficult enough, perhaps, but not an intolerable burden.

There is little doubt that systematic underassessment seriously undermines the program for the review of individual assessments. Therefore, in the absence of more compelling explanations, it seems fair to conclude that assessors intend the natural consequence of their policy and that underassessment is a consciously adopted device for avoiding the pressures of the assessment review program. Some profess to believe that it is merely a problem of achieving technical proficiency and that the answer lies in the provision of manuals and other assessment aids for the assessors. But this explanation simply does not satisfy. Although some Florida assessors may lack technical competence, others have proved themselves to be extraordinarily proficient. The point is fairly proved by findings of the Public Administration Service, based on the Census Bureau's study of assessment-sales ratios previously mentioned. The Service made a list of some eighty-four major local assessing areas across the country that had achieved a coefficient of dispersion of twenty or less. It is striking indeed that a disproportionate number of the areas on this roll call of excellence — six in all — were Florida counties.[41] Yet, for the most part, these counties have also persisted in assessing property at substantially less than its full cash value.

JUST VALUE AS AN ASSESSMENT STANDARD

Although the argument so far has focused on the need for a statewide standard for assessments at full cash value, the analysis also

41. BIRD, *op. cit. supra* note 16, at 61. The Florida counties listed and their respective coefficients of dispersion were: Alachua, 12.4; Broward, 16.3; Dade, 19.3; Orange, 18.0; Palm Beach, 16.8; Pinellas, 17.0.

points toward other reforms that are needed to make the property tax an efficient and equitable source of local revenue. Thus, the hypersensitiveness of elected assessors to popular criticism that leads them systematically to underassess suggests the desirability of having assessors who are appointed rather than elected.[42] Similarly, the technical and discretionary character of the assessment function strongly supports the case for appointive assessors, but points equally to the need for a thorough-going program for state equalization of county assessment levels.

However, the point here is that such reforms — however crucial the need for them — would avail nothing in the absence of a statewide standard of assessments of the nature urged herein. This makes all the more incongruous the action of the 1963 Legislature in repealing the full cash value standard and substituting for it the so-called "just value" standard.[43] Indeed, this action was so momentous that no inquiry into the equity of the property tax can possibly ignore it.

History of Efforts to Enact "Just Value" Legislation

Beginning at least with the 1959 session of the Florida Legislature, determined efforts have been made to abolish the full cash value assessment standard — or, more accurately, to make certain that there would be no standard whatever. During that session, the legislature enacted Senate Bill 866, which was substantially the same as the 1963 "Just Value" Act. The 1959 version would also have substituted the requirement that property be assessed at its "just value" for the long-standing requirement that it be assessed at its "full cash value," and it similarly purported to provide a series of criteria that the assessor could employ in arriving at a "just valuation."

Governor Collins vetoed Senate Bill 866 and complained in his covering letter:[44]

> I cannot find from within the bill or from any outside reference a definable limit to the concept of "just valuation." The standard appears to be a purely subjective one and would mean whatever any assessor determined it to mean.
>
> If there is to be the uniformity of assessment levels as between counties which the Constitution requires; if there is to be any opportunity for a *review* of individual assessments, administrative or judicial, the law cannot accord unbounded discretion to the individual assessor.

42. See NATIONAL ASS'N OF ASSESSING OFFICERS, *op. cit. supra* note 8, at 19-26.
43. FLA. STAT. §193.021 (1963).
44. Letter From Governor Collins to the Secretary of State of Florida, June 19, 1959.

Comptroller Ray E. Green complained that this legislation would prevent the equitable assessment of railroad and telegraph properties, which is a state function, and pointedly asked, "Under this bill is there any way in which the assessments in a particular county can be compared with the assessments in another county as to equality?"[45]

Substantially identical legislation was introduced during the 1961 session, with House Bill 347 passing the House but dying on the Senate calendar. However, those seeking to abandon the full cash value standard persevered, and the 1963 session finally brought enactment of the just value bill,[46] this time with the signature of the governor. The act also contains provisions relating to millage control and to the assessment of personal property. However, only section 1, establishing the new assessment standard, is of concern here.

Section 1 of chapter 63-250 amends chapter 193, Florida Statutes by adding section 193.021, which reads as follows:[47]

> *Method of Assessment of Property.* The county assessor of taxes of the several counties shall assess all the real and personal property in said counties in such a manner as to secure a just valuation as required by §1, Art. IX of the state constitution. In arriving at a just valuation, the county assessor of taxes of the several counties shall take into consideration the following factors:
>
> (1) The present cash value of the property;
> (2) The highest and best use to which the property can be expected to be put in the immediate future; and the present use of the property;
> (3) The location of said property;
> (4) The quantity or size of said property;
> (5) The cost of said property and the present replacement value of any improvements thereon;
> (6) The condition of said property;
> (7) The income from said property.

"Full Cash Value" and "Just Value" Compared as Assessment Standards

A principal argument that was made on behalf of the passage of the "just value" legislation was that it was substituting certainty for uncertainty – that no one knew what "full cash value" meant and

45. Memorandum From Comptroller of Florida to Governor Collins, June 9, 1959.
46. FLA. STAT. §193.021 (1963).
47. *Ibid.*

that the administration of the property tax was hindered by the retention of such a vague standard.[48] This is nonsense. Those who made such an argument were confusing the problems of ascertaining full cash value and of defining it. It is certainly true that the task of evaluating property of a kind or quality for which there is no guidance from recent sales is often very technical and difficult. However, this would be equally true under any objective standard. On the other hand, there is no problem in defining full cash value and its several synonyms. They are frequently defined in judicial opinions.[49] They are concisely defined in the publications of the National Association of Assessing Officers.[50]

Preceding portions of this note have demonstrated the utility — indeed, the indispensability — of some such assessment standard as "market value," "full cash value," or some variant of these. Further testimony as to their utility can be seen in the fact that they are used for the same purpose in every other state. Thirty-five states require assessment at full value, whatever the terminology used. All of the others either require assessment at some percentage of full value or permit the operative percentage to be determined by local option.[51] Only Florida has abandoned altogether the use of an objective value standard.

On the other hand, the very expression "just value standard" is a misnomer. The very essence of anything purporting to be a standard is that it constitutes an external measure having at least some semblance of objective validity. Otherwise, how could any quality or condition be measured by it? Conversely, the question, What is just? can only be answered in each man's heart.

The complete absence of any quality of objectivity in the so-called "just value" standard plainly appears on the face of the legislation. As with earlier versions, section 193.021 purports to set out a list of seven factors that are to be considered in arriving at "just value." But which of the factors are to be resorted to on a given occasion? And what relative weight is to be given to each of those used? Such matters are simply left to the assessor. This amounts to such an unbridled discretion in the assessor as to constitute no standard at all.

In their apparently blind determination to free the assessors from any standard, the framers of the "just value" legislation misconstrued the settled significance of the factors listed for the assessment

48. This statement reflects an impression of the writer who was present during floor debate on earlier versions of this legislation. See also Duval County Taxpayers Ass'n, Inc., A Glossary of Tax Terms, Jan. 1964.

49. Root v. Wood, 155 Fla. 613, 622, 21 So. 2d 133, 137-38 (1945); County of Hillsborough v. Knight & Wall Co., 153 Fla. 346, 350, 14 So. 2d 703, 706 (1943).

50. NATIONAL ASS'N OF ASSESSING OFFICERS, *op. cit. supra* note 8, at 138.

51. Note, 75 HARV. L. REV. 1374, 1377 n.28 (1962).

function. To begin with, the factors appear to have been culled from a draft copy of an assessing manual that was prepared some years ago under the direction of the comptroller's office.[52] However, the very reason for their inclusion in the manual was to assist the assessors in arriving at "full cash value," then the statutory standard. Each of the factors listed has a long and respectable history as an aid to real property appraisal. But the "just value" act subverts this tradition by adding "present cash value" to the list and permitting the assessors to use all or any of them as their unrestrained discretion may dictate.

The incongruity of this use of these well-known factors stands revealed in yet another way. Factors 2 through 7 of the new section 193.021 are all actually reflected in the first factor listed — cash value. Thus, all things equal, one would naturally expect to pay more for property that was appropriate to some high-income use; that had a good location; that was of large extent; that would cost a great deal to replace; that was in good condition; and that brought in a good income. In other words, factors 2 through 7 are of a nature that they should assist the assessor in finding full cash value, absent other information, such as recent sales of comparable parcels. As the Florida Supreme Court, speaking through Justice Davis, once put it:[53]

> If similar value is commonly bought and sold, the price which it brings is the best test of the value of the land under consideration and the assessors need look no further. But where an established market is non-existent the process of valuation must comprehend not only one but *all* of the influencing factors going to make up intrinsic value.

One can only conclude that those who so persistently and successfully advocated the "just value" legislation intended the natural consequence of its eventual passage — the complete abandonment of an objective assessment standard which would permit the achievement of either intracounty or intercounty equalization. If there were any doubt of this, it should be quickly dispelled by a moment's consideration of an earlier, even more blatant, attempt to accomplish the same thing by another avenue. In the 1959 legislative session, the same legislator who finally steered the "just value" bill to final adoption introduced a series of bills that were obviously designed to free Florida's tax assessors from the restraint of any objective statutory standard.

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52. Memorandum From Comptroller of Florida to Governor Collins, June 9, 1959.

53. City of Tampa v. Colgan, 121 Fla. 218, 231, 163 So. 577, 582 (1935).

These bills would simply have substituted the phrase "assessed value" for the phrase "full cash value" throughout chapter 193 of the Florida Statutes. Thus, the basic section, 193.11 (1), would have read, in part, "The county assessor of taxes shall assess all property at its assessed value."[54] Section 193.22 would have been amended to read that the assessor should make a personal inspection of unimproved lands "and assess the same as lands at their assessed value. . . ."[55] Section 193.13, relating to returns of personal property by taxpayers, would have provided that if the assessor should "have reason to believe that the valuation of any item of property is too small, he shall increase the same to its assessed value."[56]

These and other bills of the series were given an unfavorable report by the House committee on finance and taxation and therefore failed to become law.[57] Nevertheless, their very introduction is compelling testimony as to the real purpose behind the "just value" legislation subsequently adopted. The "assessed value" bills were simply blatant attempts to enact into law circular language that was obviously meaningless. The purpose must have been the same as that later accomplished by the "just value" act – that is, to escape the embarrassment of an objective (that is, meaningful) statutory standard.

Actually, the assessors, who are constitutionally elected officers and therefore greatly deferred to by the courts, have never been greatly embarrassed by the full cash value standard. Accordingly, some have suggested that the real reason for the enactment of the just value legislation was to permit tax assessors to discriminate systematically against homestead exempt property. It is true that this would be one way to bring otherwise exempt property onto the tax rolls. However, a power to discriminate against a class is also a power to to discriminate against individuals. This is the very antithesis of tax equity.

Equalization by Judicial Decree

After the preparation of the foregoing portions of the present note, the Supreme Court of Florida handed down its opinion in the case of *State ex rel. DuPont Plaza Center, Inc. v. McNayr*.[58] The potential implications of this opinion are sufficiently noteworthy to warrant relatively detailed treatment here.

54. Fla. H.R. 479, 1959 Sess.
55. Fla. H.R. 487, 1959 Sess.
56. Fla. H.R. 489, 1959 Sess.
57. Fla. H.R. Jour. 1198 (1959).
58. Case No. 33,538, July 1, 1964.

The DuPont Plaza Center Case

The owners of certain commercial property in Dade County sued in circuit court for mandamus to require the taxing authorities of Dade County to double all assessments on the 1964 tax roll in order to bring them to one hundred per cent of "just value," on the average. The county assessor appeared and admitted that all property was carried on the tax roll at one-half of its "just value," as fixed by him. Relators alleged that the effect of this practice was to discriminate in favor of homestead exempt property by inflating the value of the constitutional exemption. The chancellor ordered the respondents forthwith to complete the 1964 tax roll "at just valuation."[59]

The supreme court recognized the great importance of the case and agreed to hear oral argument on appeal immediately. By a per curiam opinion in which all the justices joined, and which incorporated the final judgment and peremptory writ entered by the chancellor, the supreme court affirmed. Mr. Justice Ervin submitted a specially concurring opinion.

The chancellor's reasoning, adopted by the supreme court, was simply that the county tax assessor had no authority under the law to fix the valuation for tax purposes at a fractional part of "just value." " 'His discretion ran out at that point' where he arrived at just valuation."[60]

In oral argument before the supreme court, the county urged the court to withhold the enforcement of the peremptory writ until it could complete an effective reassessment program by 1966. The court responded to this plea by pointing out that a similar argument had been made in the 1961 case of *State ex rel. Glynn v. McNayr*,[61] and continued, "we think enough time has now elapsed and that these appellees are entitled to have their clear, legal right enforced."

Probable Impact of the DuPont Plaza Center Case: Maximum View

The greatest impact that this holding could possibly have would be for it to provide a binding precedent for similar holdings in the other sixty-six counties of the state. Indeed, if all county assessors were judicially required to multiply all assessments by a factor which would raise their respective average levels of assessment to one hundred per cent of market value, the result would be the realization of the precise reforms recommended in the present note. There would then be a state-wide assessment standard; that state-wide standard

59. State *ex rel.* DuPont Plaza Center, Inc. v. McNayr, Docket No. 64L681, Circuit Court for Dade County, June 1964.

60. *Supra* note 58, at 4.

61. 133 So. 2d 312 (Fla. 1961).

would be fixed at one hundred per cent of market value; and the so-called "just value" standard would be set aside in favor of a restored full cash value standard.

It is extremely unlikely, however, that the decision will have any such impact as this. Rather, it appears that the *DuPont Plaza Center* holding was possible in the Dade County setting only because of the fortuitous coexistence of two factors that are not likely to recur in most other counties and will therefore have little force as precedent. These factors were: (1) the assumption that the "just value" standard imposed by the 1963 Legislature[62] is synonmous with "market value" or "full cash value"; and (2) the availability of an authoritative determination of the average level of assessment that happened to prevail in Dade County.

Both factors were essential to the decision. The first was made necessary by the action of the 1963 Legislature in repealing the existing, objective statutory standard of "full cash value" and enacting in its place the "just value" standard, which is utterly devoid of objective meaning. The *DuPont Center* decree could not have been entered without resort to an objective standard, whether real or assumed. The second factor was necessary, first, to overcome the usual judicial deference to the discretion of the tax assessor and, second, to permit the computation of a multiplier, or factor, which, when applied to all individual assessments, would bring the average level of assessment in Dade County to one hundred per cent of market value. In this instance the multiplier was "2."

No extended discussion is required to show that neither of these factors is likely to recur in other counties in subsequent suits. The most obvious reason why the assumed identity between "just value" and "market value" will be unlikely to recur is that these terms are simply not synonymous. To assert that they are would be to assert that the legislature has enacted legislation that is meaningless and that Governor Collins was needlessly concerned when he vetoed an earlier version of the "just value" legislation.[63] Moreover, one expressing this view would also be overlooking the language of the 1963 legislation which makes "present cash value" merely one of seven factors to be considered in arriving at "just value."[64] The whole cannot be identical to one of its parts.

Of course, neither the supreme court's opinion in the *DuPont Plaza Center* case nor the chancellor's findings and decree which were incorporated therein actually held that "just value" meant the same as "market value" or "full cash value." For reasons of their own, both

62. FLA. STAT. §193.021 (1963).
63. See text accompanying note 44 *supra*.
64. See text following note 52 *supra*.

parties had simply assumed this unlikely identity. Then, apparently pursuant to the common judicial canon that courts should not seek out constitutional issues that have not been raised by the parties, both courts simply acquiesced in the assumption that had been indulged by the parties. Thus, reference is made to property being placed on the tax roll "at 50% of the just valuation," and the peremptory writ orders the taxing authorities of Dade County to "complete a tax roll for the year 1964 containing all the taxable property in the County, at just valuation . . . ."

The second factor-precedent for the *DuPont Plaza Center* holding was the availability of an authoritative determination as to the prevailing level of assessment. In this particular case, the court was unable to proceed on the basis of the most authoritative determination possible — the testimony of the county tax assessor himself that his 1964 tax roll had been made up on the basis of fifty per cent of the just valuation as ascertained by him.

But what would have been the result had the assessor not been so cooperative? What if he had simply testified that the tax roll had been made up on the basis of the just values of the properties listed? In this event, the court would certainly have been faced with the necessity of defining "just value," a task not confronted in the *DuPont Plaza Center* opinion. But even if the court held the 1963 "just value" legislation to be invalid and reverted to the earlier, "full cash value" standard, it would still be confronted with a long line of precedents expressing judicial deference to the discretion of the tax assessor.[65]

In the absence of testimony by the assessor himself as to the percentage of market value or "just value" actually prevailing in the county, to what other sources of such information could the parties or the court turn? It is doubtful that the findings of the Railroad Assessment Board are sufficiently dependable to support a decree of the kind issued in *DuPont Plaza Center* or that the court would accept them for that purpose. Moreover, *ad hoc* ratio studies suffer from certain inherent limitations and are also inordinately expensive for private financing. In short, refusal of the assessor to testify that he had assessed at some specified fraction of just value would apparently cast a nearly insurmountable obstacle in the way of a *DuPont Plaza Center* type decree.

Apparently *DuPont Plaza Center* marks the first time that the court has been asked to order a mechanical, across-the-board increase

65. State *ex rel.* Glynn v. McNayr, 133 So. 2d 312 (Fla. 1961); Armstrong v. State *ex rel.* Beaty, 69 So. 2d 319 (Fla. 1954); Schleman v. Connecticut Gen. Life Ins. Co., 151 Fla. 96, 9 So. 2d 197 (1942); Buchanan v. City of Tampa, 134 Fla. 618, 184 So. 104 (1938); Hackney v. McKenney, 113 Fla. 176, 151 So. 524 (1933); City of Tampa v. Palmer, 89 Fla. 514, 105 So. 115 (1925); Camp Phosphate Co. v. Allen, 77 Fla. 341, 81 So. 503 (1919).

of a whole tax roll. If so, this too suggests the uniqueness of the circumstances involved. In other words, it would seem that in no previous case has a sufficiently authoritative determination of the average level of assessment been available to the complainant.

The 1948 case of *State ex rel. Kent Corp. v. Board of County Commissioners*[66] is instructive, both as an example of the kind of complaint that comes closest to that involved in the *DuPont Plaza Center* case and as an illustration of the court's response when the second of the above-indicated factors is missing. A paragraph from the court's opinion in that case will serve to describe the essential facts of the case as well as the judicial attitude that has heretofore governed in such circumstances:[67]

> Relator claims that properties were arbitrarily assessed at less than 25 percent of their actual cash value thus discriminating in favor of the home owners who enjoyed an exemption up to $5,000 under the Constitution, Article 10, Section 7, F.S.A. Const. The assessor offers evidence that his assessments are in keeping with actual cash value. He admits, as charged by relator, that properties have sold for much more than their assessed value. He is an elected constitutional officer and doubtless familiar with the wide range of fluctuating values in real estate. While his opinion is not conclusive by any means, it is entitled to great weight; especially so in this case where it bears the approval of the trial court. He has, no doubt, witnessed times when purchasers would seldom buy at the assessed value and in recent years owners would seldom sell at the assessed value. Between these wide ranges in prices the assessor must strike a value of full, actual cash value to conform to the statute. . . .
>
> We are unable to say that the assessor acted arbitrarily, capriciously or discriminatorily and, therefore, the judgment is not erroneous.

The sharp contrast between the attitude of the court in *Kent* and in *DuPont Plaza Center* can be explained largely in terms of what the court was asked to do. In *Kent*, it was asked to order the assessor to reassess at full value — a highly discretionary task. In *DuPont Plaza Center*, the court was asked to order a doubling of every assessment on the tax roll. As the chancellor properly pointed out, such an order "in no wise controls the tax assessor's discretion."[68]

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66. 160 Fla. 900, 37 So. 2d 252 (1948).
67. 160 Fla. at 902-03, 37 So. 2d at 253.
68. *Supra* note 58, at 4.

Probable Impact of the DuPont Plaza Center Case: Minimum View

To deny to the *DuPont Plaza Center* decision an immediate, statewide legal impact is certainly not to deny that it has great importance as a definite step toward needed reform of the property tax. Although the holding may have little force as precedent because based largely on fortuitous circumstances, it nevertheless achieves substantial immediate reform for an area of the state which includes approximately twenty per cent of its population. In Dade County, at least, most of the advantages urged in the foregoing pages for full value assessments will apparently have been effected. In addition to this immediate impact, moreover, there is further gain of uncertain degree in the encouragement that the holding will give to taxpayers throughout the state to push for legislative reform of the property tax.

Still another potential gain from the ruling is that it may result in voluntary compliance in some counties. Some assessors may believe that they are legally bound to equalize at full value. Others may simply seize upon the ruling for support in resisting ubiquitous pressure for underassessment. Currently there is some apparent movement in this direction.[69]

These gains from the *DuPont Plaza Center* holding cannot accurately be said to have been won at the cost of aggravating existing inequities in the tax roll, as was argued by counsel for the county. As demonstrated above,[70] far from aggravating existing inequities, such a mechanical raising of all assessments would instead minimize the distortions caused by existing inequitable assessments. For this reason, the supreme court was correct in refusing to heed the county's plea for additional time, even though it had acquiesced to a similar plea on the occasion of the *Glynn* case[71] in 1961. In the *Glynn* case, the question was whether the county would be required to adopt a different tax roll which was alleged to contain numerous inequitable assessments, and the plea for additional time made sense. In the *DuPont Plaza Center* case, on the other hand, the question was whether the county was to be required to increase all assessments in the same degree. Here, the plea for additional time made little if any sense, and was properly refused.

Legislative Opportunity

Regardless of which view is taken of the legal impact of the *DuPont Plaza Center* decision, the most important result is to be

69. The Fla. Times Union, July 15, 1964, p. 1, cols. 2-3.
70. See text preceding note 11 and following note 19 *supra*.
71. 133 So. 2d 312 (Fla. 1961).

found in the opportunity that is presented for rational legislative action. Taken together, the short term and long term implications of the holding seem to point unerringly in the direction of eventual state equalization of county assessment levels at full market value. The legislature's opportunity is to recognize both the inevitability of state equalization and the choice that is presented between equalization by judicial decree, on the one hand, and a program of administrative equalization, on the other.

The judicial process is a most inefficient instrument for such a purpose as this. For one thing, there are the difficulties of proof, already adverted to, as with the determination of prevailing levels of assessment. For another, there is the fact that equalization by judicial decree could only proceed spasmodically and perhaps incompletely, as aggrieved taxpayers brought appropriate actions in individual counties. Perhaps even more serious, each action brought would be decided on the basis of a separate, independent determination of the prevailing level of assessment, usually the product of an *ad hoc* ratio study by a separate group or individual. In view of the fact that any equalization program worth the name would require the issuance of orders for all sixty-seven counties every year, the inadequacy of the judicial process for the function becomes all the more obvious.

The alternative to equalization by judicial decree is administrative equalization, and it is much to be preferred. The essential features of an adequate program for state equalization would be these:

> (1) A state agency that is generously staffed with expert appraisers.
>
> (2) A continuous study by this agency of assessment ratios in every county, according to a reasonable classification of different kinds of property. Incidentally, the trained personnel of the state equalization agency would also be available to provide technical assistance to the tax assessors of every county, to assist in county reassessments, and so forth.
>
> (3) Based upon this continuous ratio study, annual equalization orders issued to every county, pursuant to which every assessment would be multiplied by that factor which would bring the average level of assessment of the particular county to one hundred per cent of market value.

It should not be thought that an equalization program is needed only because county tax assessors are unable or unwilling to provide uniform assessments. To the contrary, even the most dedicated performance by the assessors would not obviate the need for such a program. The need would still exist if only because of the highly

technical nature of the assessment function and of the inherent imprecision that characterizes it.[72]

But neither should it be thought that only negative benefits would accrue to the people of Florida from the enactment of an adequate program of administrative equalization. The benefits reasonably to be expected would include these:

(1) The constitutional balance between the burdens of exempt and nonexempt property would be restored in every county.[73]

(2) Basic equity would be restored to the property tax, in the sense that the distribution of the property tax burden among individual taxpayers would be that resulting from constitutional and statutory provisions.[74]

(3) The practice of competitive underassessment would be eliminated from Florida's fixed-millage districts.[75]

(4) Tax assessors would finally be excluded from policy-making which is properly the responsibility of boards of county commissioners and boards of public instruction.

(5) Equalized valuations would be available to provide a more accurate basis for the distribution of Minimum Foundation school funds. Since all local school revenue comes from the ad valorem property tax, it follows that equalized valuations provide the only accurate basis for the distribution of these funds. The present Minimum Foundation Law formula is valid only to the extent that it duplicates the distribution that equalized assessments would produce. There is little reason to believe that the present formula does this.[76]

CONCLUSION

The foregoing discussion has purported to demonstrate that the property tax in Florida can never be an efficient and equitable source of local revenue unless the assessment of property for tax purposes is held to an objective standard that applies on a state-wide basis and that the full cash value standard is the one best calculated to fill the need. It also sought to prove that the Florida Legislature committed grave error when it repealed the full cash value standard in favor of the so-called "just value" standard and that a necessary first step toward improving the administration of this important tax must be

72. See text preceding note 18 *supra*.
73. See text accompanying note 10 *supra*.
74. See text preceding note 11 *supra*.
75. See text preceding note 13 *supra*.
76. Means & Martin, *op. cit. supra* note 16, at 85-90.

the earliest possible restoration of the full cash value standard.

Because the holding of the Florida Supreme Court in the recent *DuPont Plaza Center* case depended heavily upon certain circumstances that are not likely to recur in other counties, it will probably have relatively little force as precedent. Even so, it will probably have considerable importance as dramatizing the need for legislative action consisting of the enactment of a comprehensive program of state equalization of county levels of assessment at one hundred per cent of market value.

Although the court was here able to avoid the question of the constitutional validity of the 1963 legislation establishing the so-called "just value" assessment standard, the same question will almost certainly be raised by subsequent actions in other counties which *DuPont Plaza Center* will encourage. The constitution commands the legislature to "provide for a uniform and equal rate of taxation," and to "prescribe such regulations as shall secure a just valuation of all property . . . ."[77] If these commands add up, at the very least, to a requirement that the legislature assure that the ad valorem tax bear equitably upon all taxpayers, it seems patent that the legislative performance has fallen far short of the constitutional mandate. Not only has the legislature failed to assure the equitable impact of the property tax, but by the passage of the just value legislation, it has actually made the equitable administration of the tax impossible. Although restoration of the full cash value standard will not of itself assure this equity, it is an absolutely necessary first step toward that goal. Enactment of a realistic program for the state equalization of county levels of assessment at full cash value would be a logical and important second step.

ERNEST E. MEANS

77. FLA. CONST. art. IX, §1.