A comparison, solely according to phraseology, of the state constitutional provisions

A. The Nine Basic Types of Uniformity Clauses

An examination of the constitutional provisions which may be called basic uniformity clauses reveals nine typical clauses. The distinguishing characteristics of the several types relate to the manner in which the words "uniform" and "equal" are used. First it will be helpful simply to set forth the several typical clauses and indicate those states having such provisions. Any doubtful classifications of particular states will be justified later in this chapter.

The first two types of uniformity clauses are identified by the use of the word "value" and obviously have a close kinship.

Type I: Property shall be taxed according to its value.
Three states have substantially such a clause which serves as the primary uniformity provision. They are Arkansas, Maine, and Tennessee.

Type II: Property shall be taxed in proportion to its value.
Four states have substantially such a constitutional provision. They are Alabama, California, Illinois, and Nebraska. The third typical clause is closely related to Types I and II.

Type III: The legislature may impose proportional and reasonable assessments, rates, and taxes upon all persons and estates within the state.
Only two states, Massachusetts and New Hampshire, have such a basic uniformity clause.

The next three typical clauses are closely related because of the manner in which they use the words “equal” and “uniform.”

**Type IV:** There shall be a uniform rule of taxation.

Four states have substantially such a constitutional provision which serves as a basic provision. They are Michigan, New Jersey, Ohio, and Wisconsin.

**Type V:** Taxation shall be equal and uniform.

The four states having a Type V basic clause are Mississippi, Texas, West Virginia, and Wyoming.

**Type VI:** The legislature shall provide by law for a uniform and equal rate of assessment and taxation.

Six states have substantially such a constitutional provision serving as the basic uniformity provision. They are Florida, Indiana, Kansas, Nevada, South Carolina, and Utah.

There are two typical clauses, Types VII and VIII, which are framed in terms of “uniformity within classes.”

**Type VII:** Taxes shall be uniform upon the same class of subjects.

Thirteen states have this type of provision as a basic uniformity clause. They are Colorado, Delaware, Georgia, Idaho, Louisiana, Minnesota, Missouri, Montana, New Mexico, Oklahoma, Oregon, Pennsylvania, and Virginia.

**Type VIII:** Taxes shall be uniform upon the same class of property.

Seven states have this type of basic uniformity clause. They are Arizona, Kentucky, Maryland, North Carolina, North Dakota, South Dakota, and Washington.

Rhode Island and Vermont have no provision which
might be called a uniformity clause other than a provision similar to the following:

**Type IX:** There shall be a fair distribution of the expense of government.

Three states, Connecticut, Iowa, and New York, have no uniformity clause whatsoever.

**B. Analysis of Each State’s Uniformity Structure**

One purpose of this preliminary analysis is to justify the inclusion of each state within a particular group and to note any variations from the typical clauses. Another purpose is to describe the supplementary provisions which deal with particular problems of uniformity. In this way the uniformity structure of each state can be seen as an integrated whole. Within each group of states, after a discussion of the basic uniformity clauses, the following supplementary provisions will be described: (1) provisions concerned with the degree of uniformity required of the object of a property tax; (2) provisions concerned with the method of property taxation; (3) provisions concerned with the uniformity required of the effective rates of property taxes; (4) provisions expressly providing for different types of taxes.

No attempt will be made in this preliminary analysis to comment on historical trends. Each of the state studies in Chapter III contains an historical note, and a comparative summary of the historical growth of the uniformity clauses is included in Chapter V. The entire uniformity structure of each state is reproduced in the Appendix.

**1. States with Type I Clauses**

Three states—Arkansas, Maine, and Tennessee—make up the group having a basic uniformity clause of Type I:
"Property shall be taxed according to its value." The Maine uniformity clause, found in Art. IX, §8, of the 1819 Constitution, must be paraphrased somewhat in order to classify it as a Type I clause. The entire provision reads:

All taxes up on real [and personal] estate, assessed by authority of this state, shall be apportioned and assessed equally, according to the just value thereof; [but the legislature shall have power to levy a tax upon intangible personal property at such rate as it deems wise and equitable without regard to the rate applied to other classes of property.]

The phrase "and personal," modifying estate, was added by amendment in 1875. The proviso concerning the taxation of intangibles was added by amendment in 1913.

Arkansas and Tennessee fall more naturally into this group. In addition, their uniformity structures are much more elaborate than Maine's. The basic uniformity clause in each instance is similar to the following:

All property [subject to taxation] shall be taxed according to its value, that value to be ascertained in such manner as the legislature shall direct....

The Arkansas Constitution of 1874, Art. XVI, §5, includes the phrase "subject to taxation" and adds this clause: "making the same equal and uniform throughout the state." This last clause seems to refer to "value," so that the Arkansas Constitution does not contain a Type V uniformity clause: viz., "Taxation shall be equal and uniform." In the Arkansas provision the words "equal and uniform" are clearly subordinated to the "ad valorem" clause.

The Tennessee Constitution of 1870, Art. II, §28, omits the phrase "subject to taxation," and adds a clause reading "so that taxes shall be equal and uniform throughout the state." This additional clause places Tennessee in a unique
position. It is substantially identical to the Type V clause, which reads: “Taxation shall be equal and uniform.” However, it is suggested that the words “so that” subordinate this clause, making it a supplementary provision, with the result that the “ad valorem” clause is the basic uniformity provision in the Tennessee Constitution.¹ The words “so that” imply that equality and uniformity in taxation follow from taxing property “according to its value.”

Method of taxing property. None of the constitutions of these states have provisions other than the basic uniformity clause which are concerned with the method of taxing property. This is to be expected since the basic uniformity clause itself is phrased in terms of ad valorem taxation of property.

Object, property taxation. Both the Arkansas² and Tennessee³ constitutions require the exemption of specified property. The phrase in the Arkansas uniformity clause which reads “All property subject to taxation” must be reconciled with Art. XVI, §6, which states that “All laws exempting property from taxation other than as provided in this Constitution shall be void.” Article II, §28 of the Tennessee Constitution provides that “All property, real, personal or mixed, shall be taxed but” that certain enumerated classes of property shall be exempted. This provision is in addition to the following words of the basic uniformity clause: “All property shall be taxed according to its value...” Thus, both Arkansas and Tennessee have constitutional provisions which point to a likely requirement of universality.

¹ Compare the Ohio clause, infra, classified as Type IV. The basic clause in the Ohio Constitution reads: “Land and improvements thereon shall be taxed by a uniform rule according to value.” The words emphasize “uniform rule” rather than “according to value.”
² Ark. Const. Art. XVI, §5 (1874) and Amendments Nos. 12 and 22. In addition, Amendment No. 27 contains a permissive exemption.
Effective rates, property taxation. As pointed out previously, the Maine "uniformity clause" has been amended so that the "rate"—note the singular—on intangible personal property need not be correlated with the "rate" applied to other classes of property. In both Arkansas and Tennessee the basic "uniformity clause" is supplemented by a special provision which concerns uniformity in the effective rates of property taxes. In the constitutions of both of these states the basic uniformity clause is followed in the same provision by this clause:

No one species of property from which a tax may be collected, shall be taxed higher than any other species of property of the same value. . . .

Other taxes. In the constitutions of both Arkansas and Tennessee the supplementary clause as to effective rates is coupled with a proviso which states that certain enumerated occupations and "privileges" generally are to be taxed in "such manner" as the legislature might deem proper. In addition, Art. II, §28 of the Tennessee Constitution provides:

The legislature shall have power to levy a tax upon incomes derived from stocks and bonds that are not taxed ad valorem.

4 Ark. Const. Art. XVI, §5 (1874); Tenn. Const. Art. II, §28 (1870). In addition the Tennessee Constitution has a special provision concerning the uniformity required of the rate applicable to a particular class of property. Article II, §28 provides: "The portion of a Merchant’s Capital used in the purchase of Merchandise sold by him to non-residents and sent beyond the State, shall not be taxed at a higher rate than the ad valorem tax on property."

5 Ark. Const. Art. XVI, §5 (1874): “... provided the General Assembly shall have power from time to time to tax hawkers, peddlers, ferries, exhibitions and privileges, in such manner as may be deemed proper.”

6 Tenn. Const. Art. II, §28 (1870): “But the Legislature shall have power to tax Merchants, Peddlers, and privileges, in such manner as they may from time to time direct.”
Miscellaneous. The Tennessee Constitution has a uniformity clause directed solely to local taxes. The Arkansas Constitution contains a unique provision, which is in effect a uniformity clause limiting local "special assessments."

2. States with Type II Clauses

Four states—Alabama, California, Illinois, and Nebraska—constitute the group having basic uniformity clauses phrased substantially like the Type II clause: "Property shall be taxed in proportion to its value." However, there is some diversity in phraseology. The clauses in Alabama and California most closely resemble each other and the typical clause. Article XI, §211 of the Alabama Constitution of 1901 provides that:

All taxes levied on property in this state shall be assessed in exact proportion to the value of such property. . . .

Article XIII, §1 of the California Constitution of 1879 provides that:

All property in the State except as otherwise in this Constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value. . . .

However, the effectiveness of this uniformity clause has been severely limited since 1933, when Art. XIII, §14, ¶4 was amended to increase the power of the legislature in respect to the taxation of personal property.9

7 Tenn. Const. Art. II, §29 (1870), providing as to county and town taxes that: "all property shall be taxed according to its value, upon the principles established in regard to State taxation."

8 Ark. Const. Art. XIX, §27 (1874): "... such [special] assessments shall be ad valorem and uniform."

9 Paragraph 4 of Art. XIII, §14 reads:

The Legislature shall have the power to provide for the assessment, levy and collection of taxes upon all forms of tangible personal property,
The Illinois and Nebraska basic uniformity clauses vary somewhat from the phraseology of the typical clause, yet they may reasonably be classified in this group. Article IX, §1 of the Illinois Constitution of 1870 reads:

The general assembly shall provide such revenue as may be needful by levying a tax, by valuation, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. . . .

The Nebraska Constitution of 1875 was amended in 1920 so that Art. VII, §1 now reads:

. . . taxes shall be levied by valuation uniformly and proportionately upon all tangible property and franchises, and taxes uniform as to class may be levied by valuation upon all other property.

Before 1920 the Nebraska uniformity clause was identical with the present Illinois provision except that the words "and franchises" appeared after the word "property." However, as in the California Constitution, the amendment limited the application of the basic uniformity clause to "tangible property and franchises," and provided a more liberal uniformity limitation for the taxation of "all other all notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, mortgages, and any legal or equitable interest therein, not exempt from taxation under the provisions of this Constitution, in such manner, and at such rates, as may be provided by law, and in pursuance of the exercise of such power the Legislature . . . may classify any and all kinds of personal property for the purposes of assessment and taxation in a manner and at a rate or rates in proportion to value different from any other property in this State subject to taxation and may exempt entirely from taxation any or all forms, types or classes of personal property.

Article XIII, §1 contains, in addition to the basic uniformity clause set forth in the text, a definition of "property" by enumeration so that it definitely includes intangibles. This is, of course, superseded by the amendment to Art. XIII, §14 providing for separate treatment of personal property.
property." The Nebraska uniformity clause obviously deviates substantially from the norm for this group. However, it falls more naturally under the Type II clause than any other, and its phraseology is not so different as to warrant a separate classification.

Method of taxing property. There are no provisions in the constitutions of these states, other than the basic uniformity clauses, which deal with the method to be used in taxing property. As under Type I, this is not unexpected, since the uniformity clause is framed in terms of ad valorem taxation of property.

Object, property taxation. Apart from the basic uniformity clauses, the following provisions are relevant in determining the uniformity required of the object of property taxes. The Alabama Constitution\(^\text{10}\) contains a provision requiring the exemption of specified property. The Illinois Constitution\(^\text{11}\) contains a provision which permits the exemption of specified property. The California Constitution\(^\text{12}\) contains both permissive and mandatory exemption provisions. In addition, the provision\(^\text{13}\) concerning uniformity in the taxation of personal property expressly provides that the legislature may exempt classes of personal property from taxation. The Nebraska Constitution\(^\text{14}\) contains both permissive and mandatory exemption provisions. In addition, exemption of property other than that specified is expressly prohibited.\(^\text{15}\)

Effective rates, property taxation. Provisions other than the basic uniformity clauses which concern uniformity in

\(^{10}\) Ala. Const. Art. IV, §91 (1901).
\(^{11}\) Ill. Const. Art. IX, §3 (1870).
\(^{12}\) Cal. Const. Art. XIII, §1 (1879), and numerous provisions providing for the exemption of certain classes of property. See the discussion of the California limitation in Chapter III, infra.
\(^{13}\) Art. XIII, §14, ¶4 supra note 9.
\(^{15}\) Ibid.
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effective rates are found in both the Alabama and California constitutions. Art. XI, §217 of the Alabama Constitution requires that the property of corporations and individuals "shall forever be taxed at the same rate." Article XIII, §14 of the California Constitution provides that personal property shall not be taxed at a greater rate than realty. In addition, both the Alabama and the California constitutions have provisions designed to prohibit the "double taxation" of certain representative property.

Other taxes. The Illinois and Nebraska constitutions have general provisions providing for taxes other than property taxes. The Illinois basic uniformity clause is followed by a proviso stating that certain enumerated occupations and "privileges" may be taxed uniformly as to classes. The Nebraska Constitution simply provides in Art. VII, §1 that "Taxes, other than property taxes, may be authorized by law." In the Alabama and California constitutions there

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16 The provision reads:

... no tax burden shall be imposed upon any personal property either tangible or intangible which shall exceed the tax burden on real property in the same taxing jurisdiction in proportion to the actual value of such property.


19 Ill. Const. Art. IX, §1 (1870):

... but the general assembly shall have power to tax peddlers, auctioneers, brokers, hawkers, merchants, commission merchants, showmen, jugglers, innkeepers, grocery keepers, liquor dealers, toll bridges, ferries, insurance, telegraph and express interests or business, vendors of patents, and persons or corporations owning or using franchises and privileges, in such manner as it shall from time to time direct by general law, uniform as to the class upon which it operates.

20 Ala. Const. Art. XIII, §§229, 232 (1901) (corporate franchise tax); Amdt. XXIII (inheritance tax); Art. XXII (net income tax).

21 Cal. Const. Art. XIII, §11 (1879) (income tax, "in such manner as shall be prescribed by law"); Art. XIII, §14 4/5 (insurance companies, gross premiums tax); Art. XIII, §16 (bank franchise tax measured by net
are numerous provisions authorizing particular taxes, including income taxes.

Miscellaneous. The Illinois\textsuperscript{22} and Nebraska\textsuperscript{23} constitutions have uniformity clauses designed especially for local taxes.

3. States with Type III Clauses

Two states—Massachusetts\textsuperscript{24} and New Hampshire\textsuperscript{25}—have as their basic uniformity clause a provision which reads substantially as follows:

The legislature may impose proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and persons resident, and estates lying within the state.

In addition, both of these state constitutions have provisions in their respective Bills of Rights which are pertinent to the uniformity limitations. Part I, Art. X of the Massachusetts Constitution reads:

Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty and property, acco

\textsuperscript{22} Ill. Const., Art. IX, §§9, 10 (1870):

\[§9\] . . . [municipal taxes] shall be uniform in respect to persons and property, within the jurisdiction of the body imposing the same. . . .

\[§10\] The general assembly . . . shall require that all the taxable property within the limits of municipal corporations shall be taxed for the payment of debts contracted under authority of law, such taxes to be uniform in respect to persons and property, within the jurisdiction of the body imposing the same.

\textsuperscript{23} Neb. Const., Art. VIII, §6 (1875):

. . . such [municipal] taxes shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same.

\textsuperscript{24} Mass. Const., Pt. II, Ch. I, Art. IV (1780).

\textsuperscript{25} N. H. Const., Pt. II, Art. 5 (1784).
cording to standing laws. He is obliged, consequently, to contribute his share to the expense of this protection. . . .

Part I, Art. 12 of the New Hampshire Constitution is substantially identical to the Massachusetts provision.

The basic uniformity clause of the New Hampshire Constitution must be reconciled with Art. 6 of Part II, which was amended in 1903 to read:

The public charges of government, or any part thereof, may be raised by taxation upon polls, estates, and other classes of property, including franchises and property when passing by will or inheritance. . . .

The provision is not too clear as to its purpose, but it will be shown in Chapter III that it has the effect of modifying the uniformity limitation as it theretofore had existed in New Hampshire.

The constitutions of both of these states have been amended to provide that special treatment may be given to forest lands, and to this extent a special class of property is established.

Other taxes. The uniformity clause in the Massachusetts Constitution is followed immediately by a clause reading:

[Power is given to the legislature] also to impose and levy, reasonable duties and excises, upon any produce, goods, wares, merchandise, and commodities, whatsoever, brought into, produced, manufactured, or being within the [state].

Also, the Massachusetts Constitution was amended in 1951 by the addition of Art. XLIV which provides for the taxation

26 Note that in the constitutions of Rhode Island and Vermont a provision such as this stands as the basic uniformity clause. See the discussion of states with Type IX clauses, infra.

27 Art. 6 was theretofore a provision relating to the periods required for the recurrent valuation of property.

of income. It is further provided that property, the income of which is taxed, may be exempted from the “imposition of proportional and reasonable” taxes as presently authorized by the constitution.

4. States with Type IV Clauses

Four states—Michigan, New Jersey, Ohio, and Wisconsin—constitute the group having some form of a Type IV uniformity clause: “A uniform rule of taxation.” There are marked differences in the scope and phraseology of their respective clauses. The more general clause is found in Art. VIII, §1 of the Wisconsin Constitution of 1848, which reads:

The rule of taxation shall be uniform. . . .

The Michigan uniformity clause is quite similar to the Wisconsin provision but is limited in its operation by a unique exception. Article X, §3 of the Michigan Constitution of 1908 reads:

The legislature shall provide by law a uniform rule of taxation, except on property paying specific taxes. . . .

In addition, Art. X, §4 of the Michigan Constitution provides that:

The legislature may impose by law specific taxes, which shall be uniform upon the classes upon which they operate.

The New Jersey uniformity clause is expressly limited in its application to the taxation of property. Article VIII, §1, ¶1 of the New Jersey Constitution of 1947 provides that:

Property shall be assessed for taxation . . . by uniform rules.

The uniformity clause in the Ohio Constitution is even more limited on its face than the other uniformity clauses in this
group. Article XII, §2, of the Ohio Constitution of 1851 was amended in 1929 to read as follows:

Land and improvements thereon shall be taxed by uniform rules according to value.

Object, property taxation. Both the Michigan and Wisconsin basic uniformity clauses are combined with supplementary clauses which, in effect, state that taxes shall be levied on such property as the legislature shall prescribe—intimating a freedom of selection, and possibly a freedom of exemption of property. The New Jersey Constitution, Art. VIII, §1, ¶2, provides that “Exemptions from taxation may be granted only by general law.” A rather ambiguous provision appears in the Ohio Constitution. Article XII, §2 contains the following clause:

... and without limiting the general power, subject to the provisions of Art. I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt [specified real property].

In addition, Art. II, §36 of the Ohio Constitution provides that forest lands may be exempted “in whole or in part.”

Effective rates, property taxation. Article VIII, §1, ¶1, of the New Jersey Constitution of 1947, which contains the basic uniformity clause, also contains the following pertinent provision:

All real property assessed and taxed locally or by the state for allotment and payment to taxing districts shall be assessed according to the same standard of value; and such real property shall be taxed at the general tax rate of the taxing

Prior to 1929 Art. XII, §2 read:

Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property, according to its true value in money. ...
district in which the property is situated, for the use of such taxing district.

There are two minor provisions in the Ohio Constitution which deal with effective rates. Article II, §36, provides for the exemption of forest lands "in whole or in part," and Art. XIII, §4, provides that corporate property "shall forever be subject to taxation, the same as the property of individuals."

Article X, §7, of the Michigan Constitution governs the ratio of valuation. It reads: "All assessment hereafter authorized shall be on property at its cash value."

Other taxes. Both the constitutions of Michigan and Wisconsin have general provisions authorizing "other" taxes, with separate uniformity provisions therefor. Article X, §4 of the Michigan Constitution provides that:

The legislature may by law impose specific taxes, which shall be uniform upon the same classes upon which they operate.

Article VIII, §1 of the Wisconsin Constitution was amended in 1908 by the addition of the following sentence:

Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided.

In the Ohio Constitution there are both general and specific provisions for "other" taxes. Article XII, sections 7 and 8, provide for an inheritance tax and for the taxation of incomes. Article XII, §10 is a general provision reading:

Laws may be passed providing for excise and franchise taxes and for the imposition of taxes upon the production of coal, oil, gas and other minerals.

All of these provisions were added to the Ohio Constitution in 1912.
5. States with Type V Clauses

Four states—Mississippi, Texas, West Virginia, and Wyoming—have a Type V uniformity clause: “[All] taxation shall be equal and uniform.” The Wyoming clause Art. I, §28, is in the Bill of Rights of the Wyoming Constitution of 1890, and includes the word “all.” The uniformity clauses found in the other three state constitutions omit the word “all” (Miss. Const. 1890, Art. IV, §112; Tex. Const. 1876, Art. VIII, §1; W. Va. Const. 1872, Art. X, §1). The Mississippi and West Virginia provisions have the additional phrase “throughout the state.”

Each of these four states has at least one additional provision which could serve as a basic uniformity clause. Mississippi, Texas, and West Virginia have a “proportionality clause” substantially identical to the Type II provision, viz., “[All] property shall be taxed in proportion to its value.” In each instance this clause appears in the same provision containing the basic uniformity clause. The Mississippi clause omits the word “all.”

The fourth state—Wyoming—has an additional provision which is somewhat similar to the Type IV clause, viz., “A uniform rule of taxation.” Article XV, §11 of that constitution reads:

All property . . . shall be uniformly assessed for taxation, and the legislature shall prescribe such regulations as shall secure a just valuation for taxation of all property.31

30 The West Virginia basic uniformity clause remains in this form. However, fundamental changes have been made as to its effectiveness by amendments in 1932 which state certain exceptions thereto. See the discussion under “effective rates.”

31 This final clause as to a “just valuation for taxation of all property” is substantially the same as that clause which supplements the basic uniformity clause of all states except one having a Type VI clause: “The legislature shall provide by law for a uniform and equal rate of assessment and taxation.”
The Mississippi Constitution has a third provision which could serve as a basic uniformity clause. In Art. IV, §112—which contains the two provisions already referred to—the following clause is found:

Property shall be assessed for taxes under general laws, and by uniform rules, according to (its true) value.\textsuperscript{32}

Object, property taxation. In both the Mississippi and West Virginia constitutions there are few significant provisions, other than the uniformity clause along with the supplementary clause already referred to, which concern the uniformity required of the object of property taxes. In the Mississippi Constitution the only provisions are sections 182 and 192, which permit industrial exemptions under certain conditions. The West Virginia Constitution provides for both mandatory and permissive exemptions of property in Art. X, §1. And in Art. VI, §53, it is provided that forest lands may be defined and classified, and may be “exempted from all taxation or be taxed in such manner . . . as the legislature may” provide.

The Texas and Wyoming constitutions are more definite on this issue. In the Texas Constitution, Art. VIII, §1 requires certain exemptions,\textsuperscript{33} and Art. VIII, §2 permits certain other exemptions. Article VIII, §2 concludes:

. . . all laws exempting property from taxation other than the property above mentioned shall be null and void.

In Wyoming a contrary approach is found. Art. XV, §12, which requires the exemption of certain property, with this direction concludes: “and such other property as the legisla-

\textsuperscript{32} Note the similarity of this provision to the basic clause in the New Jersey Constitution, discussed with other Type IV states, \textit{supra}.

\textsuperscript{33} In addition there are numerous provisions in the Texas Constitution providing for the mandatory exemptions of specific property. See the discussion in Chapter III, section E, \textit{supra}. 
Effective rates, property taxation. Only the Mississippi and West Virginia Constitutions have provisions other than the basic uniformity clauses which concern the uniformity required of effective rates. A minor provision in the Mississippi Constitution, §181, provides that corporate property "shall be taxed in the same way and to the same extent as" individual property, with certain exemptions. The effect of the basic uniformity clause in the West Virginia Constitution was radically altered by an amendment in 1932. The basic clause remained the same. However, this proviso was added: "subject to the exceptions in this section contained." In effect, the exceptions which follow divide all property into five classes and set an aggregate maximum rate for all taxes assessed upon any class. The significant point is that different amounts were set up as the maximum rate for each of the classes.

Other taxes. In the Wyoming Constitution the only provision concerning other taxes is Art. XV, §3 which provides for a gross products tax on mines, etc., in lieu of taxes on "the lands." The West Virginia and Texas Constitutions have both general and specific provisions referring to other taxes. Article X, §1 of the West Virginia Constitution contains the following clause:

The legislature shall have authority to tax privileges, franchises, and incomes of persons and corporations and to classify and graduate the tax on all incomes according to the

84 The following clause also accompanies the basic uniformity clause in Art. X, §1 of the West Virginia Constitution:

No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value. . . .

Of course, this sweeping limitation must be read in the light of the 1932 amendments set forth in the text.
amount thereof and to exempt from taxation, incomes below a minimum to be fixed from time to time.

Article VIII, §1 of the Texas Constitution contains the following clause, which is placed immediately after the basic uniformity clause:

The legislature may impose a poll tax. It may also impose occupation taxes, both upon natural persons and upon corporations, other than municipal, doing any business in this State. It may also tax incomes of both natural persons and corporations other than municipal, except that persons engaged in mechanical and agricultural pursuits shall never be required to pay an occupation tax. . . .

Article VIII, §2 contains a second basic uniformity clause which is applicable to "occupation taxes." It provides that such taxes shall be "equal and uniform upon the same class of subjects within the limits of the authority levying the tax. . . ."

Miscellaneous. West Virginia is the only state in this group which has a uniformity clause applicable solely to local taxes.

6. States with Type VI Clauses

Six states—Florida, Indiana, Kansas, Nevada, South Carolina, and Utah—have a Type VI basic uniformity clause. In each of these states, except Indiana, the effectiveness of that clause has been substantially limited by subsequent amendments which leave the basic clause unchanged

35 Art. VIII, §17 contains a provision similar to the Illinois provision discussed supra. It provides that "The specification of the objects and subjects of taxation shall not deprive the Legislature of the power" to tax other objects and subjects "consistent with the principles of taxation fixed in this Constitution."

36 Art. X, §9 "... such [local] taxes shall be uniform, with respect to persons and property within the jurisdiction of the authority imposing the same."
while providing for special treatment of intangible property. Each state has a uniformity clause reading substantially as follows:

The legislature shall provide [by law] for a uniform and equal rate of [assessment and] taxation, [and shall prescribe such regulations as shall secure a just valuation (for taxation) of all property]. . . .

The basic clause is followed immediately by a provision excepting property of described characteristics which may be exempted by law.

There are three significant variations on the basic clause. The uniformity clause in the Florida Constitution of 1885, Art. IX, §1, omits the words “assessment and,” thus reading “a uniform and equal rate of taxation.”37 The uniformity clause in the Kansas Constitution of 1859, Art. XI, §1, does not have the “just valuation” clause.38 The third significant variation, one of addition rather than omission, is in the uniformity clause of the Utah Constitution of 1896, Art. XIII, §3. That clause reads as follows:

The Legislature shall provide by law a uniform and equal rate of assessment and taxation on all [tangible] property in the State, according to its value in money, and shall prescribe by law such regulations as shall secure a just valuation for taxation of such property, so that every person and corporation shall pay a tax in proportion to the value of his, her or its property. . . .

The italicized words are those found only in the Utah uniformity clause. The word “tangible,” modifying “property,” as well as a provision for special treatment of intangible property, was added by amendment in 1930.

The uniformity clauses in the remaining three states of

37 In addition, the Florida provision omits the words “by law” and “for taxation.”

38 In addition, the Kansas provision omits the words “by law.”
this group are identical with the typical clause (Ind. Const. 1851, Art. X, §1; Nev. Const. 1864, Art. X, §1; S. C. Const. 1895, Art. X, §1). With the exception of the Utah provision, all of the uniformity clauses in this group are followed in the same provision by the "exceptions" clause which permits certain exemptions of property.

South Carolina and Utah have additional provisions in their constitutions which could serve as basic uniformity clauses if they stood alone. Article I, §6 of the South Carolina Constitution provides that:

All property subject to taxation shall be taxed in proportion to its value.

And Art. XIII, §2 of the Utah Constitution provides:

All [tangible] property in the state, not exempt under the laws of the United States, or under this constitution, shall be taxed in proportion to its value.

These provisions, of course, are Type II clauses.

Intangible property, special treatment. In all of these states, except Indiana, the constitution has been amended by the addition of a provision removing the taxation of intangible personal property from the scope of the uniformity clause. There is considerable variation among these amendments. The Kansas and Utah provisions are similar. In Kansas a 1924 amendment takes the form of a proviso inserted in Art. XI, §1, immediately after the uniformity clause, so that the section now reads:

The legislature shall provide for a uniform and equal rate of assessment and taxation, except that mineral products, money, mortgages, notes and other evidence of debt may be classified and taxed uniformly as to class as the legislature shall provide.

In the Utah Constitution a 1930 amendment altered the
words of the basic uniformity clause itself—it refers now to "tangible" property, and a just valuation of "such" property. In addition, the following sentence was added to the same provision, Art. XIII, §3:

Intangible property may be exempted from taxation as property or it may be taxed in such manner and to such extent as the Legislature may provide.

However, a maximum rate of five mills is provided therefor.

In the South Carolina Constitution the uniformity provision, Art. X, §1, was amended in 1932 by the addition of a new paragraph which states that the legislature may provide for the assessment of "intangible personal property" "at its true value in money" for purposes of state and local taxation. A low maximum "total" rate is provided and any tax on such property other than pursuant to this amendment is prohibited.

Florida provides for a more limited separate treatment of intangible property. By an amendment in 1924, an "exception" was made to the uniformity clause, Art. IX, §1, so that the legislature may now provide for "special rate or rates on intangible property," with a maximum rate of two mills. The rate was raised to five mills by an amendment in 1944. Such special rate or rates are exclusive of all other state and local taxes. The 1944 amendment also added a proviso to the effect that a recordation tax of two mills might be imposed in lieu of all other intangible assessment on certain secured obligations.\(^{39}\)

\(^{39}\) In 1940 Art. IX, §2 of the Florida Constitution was amended to provide that no levy of ad valorem taxes on property other than intangible property is to be made by the state. Thus, the overall structure presents this picture: intangible property is to be taxed only by the state, and such taxation is governed as to uniformity by the proviso to Art. IX, §1. Tangible property, real and personal, is to be taxed only at the local level.
The most limited special treatment for intangible property is found in Nevada. In 1942 the exemption clause in Art. X, §1, which also contains the uniformity clause, was amended to require the exemption of intangible property.\(^{40}\)

**Object, property taxation.** The Indiana and Kansas Constitutions have no provisions other than the uniformity clauses which deal with uniformity of the object in property taxes. In Florida Art. IX, sections 1 and 2 provide that the state shall tax intangible property and the local units shall tax tangible property. Article IX, §13 provides for a motor vehicle license tax "in lieu" of taxation of motor vehicles for personal property taxation. Article XVI, §16, provides that corporate property shall be subject to tax unless used for certain enumerated purposes. There are provisions for both mandatory\(^{41}\) and permissible\(^{42}\) exemption of property. In Nevada the only supplementary provision dealing with uniformity in the object of property taxes is Art. VIII, §2, which provides that corporate property shall be subject to taxation the same as property of individuals. In South Carolina, Art. X, §4 of the constitution requires certain exemptions, and Art. VIII, §8 permits industrial exemptions. Article XIII, §2 of the Utah Constitution contains both mandatory and permissive exemptions.

**Effective rates, property taxation.** In addition to the numerous provisions already discussed, in Nevada and South Carolina there are certain other clauses concerning uni-

\(^{40}\) The provisions read:

... shares of stock (except shares of stock in banking corporations), bonds, mortgages, notes, bank deposits, book accounts and credits, and securities and choses in action of like character are deemed to represent interest in property already assessed and taxed, either in Nevada or elsewhere, and shall be exempt.

\(^{41}\) Art. IX, §§9, 11; Art. X, §7.

\(^{42}\) Art. IX, §1.
formity in effective rates. Article VIII, §2 of the Nevada Constitution provides that corporate property “shall be subject to taxation the same as property of individuals.” Article III, §29 of the South Carolina Constitution provides that “all taxes upon property, real and personal, shall be laid upon the actual value of the property taxed. . . .”

“Other” taxes. With the exception of Nevada, all of the states in this group have provisions concerning “other” taxes. In Florida, Indiana, and Kansas there are only special provisions. The Florida Constitution expressly prohibits the taxation of inheritances and income in Art. IX, §11. This is a unique provision. Indiana, in Art. X, §8, provides that a tax upon incomes may be imposed, “from whatever sources derived, at such rates, in such manner, and with such exemptions as may be prescribed by law.” The Kansas Constitution, Art. XI, §2, also provides for a tax on incomes, which may be graduated and progressive. Article XI, §10 grants the power to levy “special taxes, for road and highway purposes, on motor vehicle and on motor fuels.” South Carolina has a general provision in its section containing the uniformity clause, Art. IX, §1, which provides that a “graduated tax on incomes” and “a graduated licence on occupations and business” may be imposed. The Utah Constitution, Art. XIII, §3, provides for the taxation of incomes, which tax “shall be” graduated. A general provision in Art. XIII, §12 reads:

Nothing in this Constitution shall be construed to prevent the Legislature from providing for a stamp tax, or a tax based on income, occupation, licenses or franchises.

Miscellaneous. Both the Florida and the South Caro-

43 Article IX, §5 provides that the legislature may authorize local taxes, “and all property shall be taxed upon the principles established for State taxation.”
7. States with Type VII Clauses

Thirteen states—Colorado, Delaware, Georgia, Idaho, Louisiana, Minnesota, Missouri, Montana, New Mexico, Oklahoma, Oregon, Pennsylvania, and Virginia—constitute the group having a Type VII basic uniformity clause. There are variations in the precise phraseology, on the basis of which five subgroups may be established.

Three states (Minn. Const. 1857, Art. IX, §1, as amended 1906; N.M. Const. 1911, Art. VIII, §1, as amended 1914; Okla. Const. 1907, Art. X, §5) have a clause which simply provides as follows:

Taxes shall be uniform upon the same class of subjects.

There is a variation in the New Mexico provision, which reads: “. . . taxes shall be equal and uniform upon the subjects of taxation of the same class.” This is the only provision in this group which varies from the basic words identifying this type clause, viz., “uniform upon the same class of subjects.” The variations described below concern additional phrases attached to the basic words.

Two states (Mo. Const. 1945, Art. X, §3; Mont. Const. 1889, Art. XII, §11) have a basic clause which contains a “territorial” phrase and reads as follows:

Taxes shall be uniform upon the same class of subjects within the territorial limits of the authority of levying the tax.

Four states (Del. Const. 1897, Art. 8, §1; La. Const. 1921, Art. X, §1; Pa. Const. 1874, Art. 9, §1; Va. Const.

44 Art. VIII, §6; Art. X, §5. Local taxes shall be “uniform with respect to persons and property within the jurisdiction of the body imposing the same.”
1902, Art. 13, §168) have clauses identical with the second variation above, except that the clauses read “All taxes. . . .” Two states (Ga. Const. 1945, Art. VII, §1, ¶3; Ore. Const. 1859, Art. I, §32) have clauses identical with the second variation above, except that the clauses read “All taxation. . . .” Two states (Colo. Const. 1876, Art. X, §3; Idaho Const. 1890, Art. VII, §5) not only have the word “All” modifying “taxes,” but also add a clause as to “just valuation” which is similar to the clause which commonly modifies the Type VI basic clause. Thus, the uniformity clause found in those two states reads:

All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal.

Additional uniformity clauses. Similar to the development found in practically every other group, there are several states in Group VII which have clauses in addition to the basic uniformity clause capable of serving as a basic clause if they stood alone. Four states in this group—Montana, Oregon, Idaho, and New Mexico—have such a supplementary uniformity clause. The Montana Constitution contains a Type VI clause combined with the “just valuation” clause, such as is found attached to the basic clause in Colorado and Idaho. Article XII, §1 of the Montana Constitution of 1889 reads:

. . . [T]he legislative assembly . . . shall levy a uniform rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, except that specially provided for in this article.

This provision is substantially identical to the basic Type III clause.
The constitution of Oregon also contains a provision similar to the Type VI clause, but it varies by substituting the word "rules" for "rate," so that Art. IX, §1, reads:

The Legislative Assembly shall . . . provide by law uniform rules of assessment and taxation. All taxes shall be levied and collected under general laws operating uniformly throughout the State.

However, the provision is of general nature and could serve as a basic clause in the absence of other provisions. As a matter of fact, the clause resembles the Type IV provision in the use of the word "rules."

Idaho has a separate provision which is practically identical to the provision of the Illinois Constitution, classified as Type II. Article VII, §2 of the Idaho Constitution reads:

The legislature shall provide such revenue as may be needful, by levying a tax by valuation, so that every person or corporation shall pay a tax in proportion to the value of his, her, or its property, except as in this article hereinafter otherwise provided.

New Mexico also has a provision which might be classified as Type II, although it is limited in application, and—as contrasted to the other "supplementary" clauses found in this group of states—the New Mexico provision is coupled with and precedes the basic clause. Article VIII, §1 reads:

Taxes levied upon tangible property shall be in proportion to the value thereof, and taxes shall be equal and uniform upon the subjects of taxation of the same class.

Elaboration of the basic clauses as to classes of property.

Five of these thirteen states—Georgia, Idaho, Missouri, Oklahoma, and Virginia—have provisions which permit the classification of property or "subjects." The Georgia and Missouri provisions are similar in this respect, both establish-
ing in the constitution the permissible degree of classification of property. The Georgia Constitution of 1945, Art. VII, §1, ¶3, which also contains the basic uniformity clause, provides as follows:

Classes of subjects for taxation of property shall consist of tangible property and one or more classes of intangible personal property including money. The General Assembly shall have power to classify property including money for taxation, and to adopt different rates and different methods for different classes of such property.

In the Missouri Constitution of 1945, Art. X, §4(A) provides for classification of property in the following manner:

All taxable property shall be classified for tax purposes as follows: class 1, real property; class 2, tangible personal property; class 3, intangible personal property. The general assembly, by general law, may provide for further classification within classes 2 and 3, based solely on the nature and characteristics of the property, and not on the nature, residence or business of the owner, or the amount owned. . . .

The Idaho, Oklahoma, and Virginia provisions are more general. The Idaho Constitution, Art. VII, §3, provides:

The word "property" as herein used shall be defined and classified by law.

The Oklahoma Constitution, Art. X, §22, takes a negative approach, providing:

Nothing in this Constitution shall be held or construed, to prevent the classification of property for purposes of taxation; and the valuation of different classes by different means or methods.

The Virginia provision which contains the basic clause, §168, simply adds the following:
The general assembly may define and classify taxable subjects. . . .

The sentence concludes with a reference to the power to classify property for purposes of subjecting it to either state or local taxes, but not both. It should also be pointed out that the Montana Constitution, Art. XII, §17,—in contrast to the permissive provision of the Idaho Constitution—defines property by providing:

The word property as used in this article is hereby declared to include moneys, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership. . . .

Structure of each state. Of course the above provisions take on additional meaning against a background of the entire uniformity structure of the state constitutions. The Colorado uniformity clause, in Art. X, §3, is accompanied by a proviso requiring a minimum personal property exemption. Also, Art. X, sections 4 and 5 require the exemption of described classes of property. Article X, §6 provides: "All laws exempting from taxation, property other than that hereinbefore mentioned, shall be void. . . ." A proviso in section 6 permits motor vehicles to be classified, and the levying of a "graduated annual specific ownership tax thereon," with the tax being "in lieu of all ad valorem taxes upon such property." Article X, §17 of the Colorado Constitution provides that "The general assembly may levy income taxes, either graduated or proportional . . . , and may, in the administration of an income tax law, provide for special classified or limited taxation or the exemption of tangible and intangible personal property."

There are few provisions in the Delaware Constitution other than the basic uniformity clause. The basic uniformity clause in Art. VIII, §1 is followed by this exemption proviso:
"but the General Assembly may by general laws exempt from taxation such property as in the opinion of the General Assembly will best promote the public welfare." Article X, §4 provides for a special mandatory exemption of certain school property.

In Georgia the basic uniformity clause is accompanied by the provision which establishes certain limits within which property may be classified. The same section, Art. VII, §1, ¶3, deals further with the particular problems of method of property taxation and effective rates. It is provided that the general assembly may "adopt different rates and different methods for different classes of such property." In Art. VII, §1, ¶4, a very long provision sets forth permissive exemptions, and concludes: "All laws exempting property from taxation, other than the property herein enumerated, shall be void." A minor point is dealt with in Art. VII, §2, ¶4, wherein it is provided that property of public utilities might be valued by different methods "but not at a greater basis of value or at a higher rate of taxation than other properties."

In Idaho the basic uniformity clause, as described above, is accompanied by the "just valuation" clause. The section, Art. VII, §§5, concludes: "Provided, that the legislature may allow such exemptions from taxation from time to time as shall seem necessary and just. . . ." Article VII, §4 contains a mandatory exemption. The "supplementary" clause in the Idaho Constitution, which concerns "proportional" taxation of all property, in Art. VII, §2, is joined by a clause covering nonproperty taxes. The latter reads: "The legislature may also impose a license tax (both upon natural persons and upon corporations, other than municipal, doing business in this state). . . ." This section concludes with a permissive exemption of improvements on land. Furthermore, Art. VII, §3, as already described, provides that "The word 'property' . . . shall be defined and classified by law." Idaho is the
only state having a provision relating to double taxation generally, as contrasted to some particular problem thereof. A proviso in Art. VII, §5 reads: "... duplicate taxation of property for the same purpose during the same year, is hereby prohibited."

The Louisiana Constitution is the most detailed of the forty-eight states. This is the result of the numerous provisions dealing with particular taxes—at times, in what amounts to a complete statutory form which is amended as frequently as statutes are amended. For each of the taxes, the degree of uniformity required is spelled out in the special provision. Article X, §4 of the Louisiana Constitution is a general property exemption provision, listing a great many classes of property to be exempted. The section begins with the following words: "The following property, and no other, shall be exempt from taxation. . . ." There are several other property exemption provisions. A provision in Art. X, §1 governs the ratio of valuation to be used in taxing property, but the provision must be read along with Art. X, §12, providing that "all real estate . . . shall be valued at actual cash value." Article X, sections 1 and 21 provide for special treatment of forest lands and natural resources.

The Minnesota Constitutional uniformity structure consists primarily of the basic uniformity clause, to which there is attached a proviso reading: "but" certain enumerated classes of property "shall" be exempted. By subsequent

45 Art. X, §1 (income tax); Art. X, §7 (inheritance tax); Art. X, §8 (license taxes generally); Art. X, §9 (taxation of banks); Art. VI, §22 and Art. VI-A (statutory scheme for motor fuel and motor vehicle taxes).
46 Art. X, §§4, 9, 22; Art. VI, §16.2.
47 The provision reads:

The valuations and classification fixed for State purposes shall be the valuation and classification for local purposes; but the taxing authorities of the local subdivision may adopt a different percentage of such valuation for purposes of local taxation.
 amendment a "permissive" exemption of certain personal property was added. All the other Minnesota provisions relative to uniformity are provisions for particular taxes: Art. IX, §1A, spells out the requirements for an occupation tax as to mining; Art. XVI, §3 provides that motor vehicles may be taxed on a more onerous basis than "other personal property," but that a tax pursuant thereto is to be in lieu of all others except local wheelage taxes; Art. XVIII, §1 provides for special treatment of forest lands; Art. XVIII, §3 provides for a fuel tax; Art. XIX, §4 establishes an in lieu aircraft tax.

As stated above, the Missouri Constitution supplements the basic uniformity clause in Art. X, §3 with Art. X, §4, which spells out the particular requirements of uniformity to some degree. It reads:

(A) All taxable property shall be classified for tax purposes as follows: class 1, real property; class 2, tangible personal property; class 3, intangible personal property. The general assembly, by general law, may provide for further classification within classes 2 and 3, based solely on the nature and characteristics of the property, and not on the nature, residence or business of the owner, or the amount owned. . . .

(B) Property in classes 1 and 2 and subclasses of class 2, shall be assessed for tax purposes at its value or such percentage of its value as may be fixed by law for each class and for each subclass of class 2. Property in class 3 and its subclasses shall be taxed only to the extent authorized and at the rate fixed by law for each class and subclass, and the tax shall be based on the annual yield and shall not exceed eight percent thereof.

Moreover, in Art. X, §6, both mandatory and permissive exemption of named classes of property are provided for, the section concluding: "All laws exempting from taxation property other than the property enumerated in this article, shall be void." Article X, §7 provides for special treatment
of forest lands, and Art. X, §5 for the method of taxing railroads. A sentence of Art. X, §4(A), provides for other taxes in a negative way:

Nothing in this section shall prevent the taxing of franchises, privileges or incomes, or the levying of excise or motor vehicles license taxes, or any other taxes of the same or different types.

As stated above, the basic clause in Art. XII, §11, of the Montana Constitution is supplemented by a clause of the "uniform rate" Type. Section 1 also contains a general provision as to license taxes: "The legislative assembly may also impose a license tax. . . ." Article XII, §1a permits the graduated and progressive taxation of income. Article XII, §3 provides for special treatment of mines and mining claims, and Art. XII, §2 contains both mandatory and permissive exemptions. Montana has a provision relating to a particular problem of double taxation. Art. XII, §17, which defines "property," concludes:

. . . but this shall not be construed so as to authorize the taxations of the stocks of any company or corporation when the property of such company or corporation represented by such stocks is within the state and has been taxed.

The uniformity structure of the New Mexico Constitution is quite limited. It consists simply of the uniformity clause in Art. VIII, §1, mandatory exemptions in Art. VIII, §3, and a permissive exemption in Art. VIII, §5.

Oklahoma has a rather lengthy constitution, but the uniformity structure is not particularly complicated. Article X, §5 contains the uniformity clause, and Art. X, §22, as described above, refers to the classification for methods of valuation. Article X, §6 and Art XII-A provide for the exemption of described property, and Art. V, §50 states: "The Legislature shall pass no law exempting any property within
this State from taxation, except as otherwise provided in this Constitution.” Concerning the problem of effective rate, Art. X, §8 reads: “All property which may be taxed ad valorem shall be assessed for taxation at its fair cash value. . . .” Article X, §12 is a general provision referring to “other” taxes than property taxation by way of a lengthy enumeration of types of taxes.

Oregon has as its uniformity structure only the uniformity clause and the supplementary clause, described above, in Art. IX, §1, and Art. I, §32, respectively.

The uniformity structure is also fairly simple in Pennsylvania. Article IX, §1 contains the uniformity clause, and a proviso reading: “but” the legislature may by general laws exempt from taxation certain named classes of property. Article IX, §2 reads: “All laws exempting property from taxation, other than the property above enumerated shall be void.”

Virginia has one of the more lengthy uniformity structures. Section 189 provides for the permissive exemption of industries, and Section 183 reads: “Unless otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes. . . .” Section 171 provides that “No State property tax for State purposes shall be levied on real estate or tangible personal property, except the rolling stock of public service corporations. . . .” This provision is, of course, pertinent to the classification referred to above concerning classes for either state or local property taxes. Dealing with effective rates, section 169 provides that all assessments of tangible property shall be at “fair market value.” A proviso to that section reads: “The general assembly may allow a lower rate of taxation to be imposed for a period of years by a city or town upon land added to its corporate limits, than is imposed on similar property within
its limits at the time such land is added.” Section 170 pro-
vides for a tax on incomes, a license tax upon business which
cannot be reached by the ad valorem system, and state
franchise taxes.

8. States with Type VIII Clauses

Seven states—Arizona, Kentucky, Maryland, North Caro-
lina, North Dakota, South Dakota, and Washington—con-
stitute the group having a basic uniformity clause of Type
VIII: “Taxes shall be uniform upon the same class of prop-
erty.” There are variations in the precise phraseology of the
basic clause, on the basis of which the seven states may be
divided into sub-groups.

Five states (Ariz. Const. 1912, Art. IX, §1; Wash. Const.
1889, Art. XI, §176, as amended 1911; Ky. Const. 1891,
§171, as amended 1915; N.D. Const. 1829, Art. XI, §176,
as amended 1919; S.D. Const. 1889, Art. XI, §2, as
amended 1918) have a clause providing as follows:

[All] taxes shall be uniform upon [the same class of prop-
erty] [all property of the same class] [within the territorial
limits of the authority levying the tax].

The Arizona, Washington, and North Dakota provisions use
the phrase “the same class of property,” but only Arizona
and Washington include the word “all.” The Kentucky and
South Dakota provisions use the phrase “all property of the
same class,” and both omit the word “all” which modifies
taxes. Except for South Dakota, all of the above states have
the phrase concerning territorial limits. Other minor differ-
ences are: in Kentucky the phrase “all property of the same
class” is modified by the phrase “subject to taxation”; and in
North Dakota the word “property” is modified by the
phrase “including franchises.” The provision in the North
Carolina Constitution of 1868, Art. V, §3, as amended in
1935 may be differentiated from the above group, although there is little real substantial difference. It reads:

Taxes on property shall be uniform as to each class of property taxed.

The provision in the Maryland Constitution of 1867, Art. XV, Bill of Rights, as amended in 1915, may be legitimately included in this group despite considerable difference in phraseology. It reads:

[All taxes [state and county] . . . shall be uniform as to land within the taxing district, and uniform within the class or subclass of improvements on land and personal property which the respective taxing powers may have directed to be subject to the tax levy.]

Additional uniformity clauses. Two states have supplementary clauses of some other basic type. Section 174 of the Kentucky Constitution provides that:

All property . . . shall be taxed in proportion to its value, unless exempted by this Constitution. . . .

This corresponds, of course, to the Type II clause. In the South Dakota Constitution, Art. VI, §17 reads as follows:

. . . all taxation shall be equal and uniform.

However, it should be pointed out that in each of the above instances, these “supplementary” clauses are found in the constitutions as originally drafted, while the basic clauses have reached their present status by way of subsequent amendments. This explains any apparent conflict.

Elaboration of the basic clauses as to classes of property permitted. In both Maryland and Washington there are provisions which establish certain minimum classes of property. In each of these two states, the effect of such provisions is to establish real property as a minimum class, with personal property being subject to further classification. In Maryland
the basic uniformity clause itself, Art. XV of the Bill of Rights, is framed in terms of minimum classes of property. “Land” is established as a single class, with “improvements” and “personal property” subject to being “sub-classified.” Article VII, §1 of the Washington Constitution, which contains the basic uniformity clause, also states that “All real estate shall constitute one class.” A proviso adds that “the legislature may tax mines and mineral resources and lands devoted to reforestation by either a yield tax or an ad valorem tax at such rate as it may fix, or by both.” In addition, the Washington Constitution defines “property.” Article VII, §1 states: “The word ‘property’ as used herein shall mean and include everything, whether tangible or intangible, subject to ownership.”

Structure of each state. Of course, the above provisions of each state take on additional meaning against a background of the entire uniformity structure. In Arizona, in addition to the basic uniformity clause in Art. IX, §1, there is a provision (Art. IX, §2) setting forth both mandatory and permissive exemptions of property. That section concludes: “All property in the state not exempt . . . under this constitution, or not exempt by law under the provisions of this section shall be subject to taxation. . . .” Article IX, §11, ¶2, which was added in 1940, imposes a motor vehicle license tax “in lieu of all ad valorem property taxes on any vehicle subject to such license tax.”

Kentucky has a number of provisions in addition to the basic uniformity clause, as amended, which is in §171. The same section authorizes the classification of property to be subject to local taxation, the provision reading: “The General Assembly shall have power to divide property into classes and to determine what class or classes of property shall be subject to local taxation.” This provision was added at the time of the amendment of the basic uniformity clause.
Section 174 remains in its original form, and contains the second "uniformity clause." In addition, it has a provision dealing expressly with a particular problem of rates, providing that "all corporate property shall pay the same rate of taxation paid by individual property." Section 170 remains in its original form and contains mandatory exemptions. It concludes: "and all laws exempting . . . property from taxation other than the property above mentioned shall be void." Section 3, still in its original form, provides that "no property shall be exempt from taxation except as provided in this Constitution." Section 172 provides that "All property, not exempted from taxation by this Constitution, shall be assessed for taxation at its fair cash value, established at the price it would bring at a fair voluntary sale."

There are no relevant provisions in the Maryland Constitution, other than the uniformity clause which defines to some degree the minimum classes of property, as described above.

In North Carolina the uniformity clause, Art. V, §3, is accompanied by a provision, Art. V, §5, which sets forth both mandatory and permissive exemptions.

In North Dakota the only relevant provisions are in the same section which contains the basic uniformity clause, Art. XI, §176. There are certain mandatory exemptions. Since the amendment of 1911 adding the present basic uniformity clause, the section has been further amended in 1919 to add a provision which states that "the legislature may by law exempt any or all classes of personal property from taxation." "Improvements" are to be considered personal property.

In South Dakota the section containing the basic uniformity clause, Art. XI, §2, also contains a clause which affirms a freedom of selection for the legislature. It reads: "The legislature is empowered to divide all property includ-
ing moneys and credits as well as physical property into classes and to determine what class or classes of property shall be subject to taxation and what property, if any, shall not be subject to taxation." However, there remain some provisions which appeared in the constitution as originally drafted. Article VI, §17 contains the second uniformity clause, and Art. XI, §4 provides that "The legislature shall provide for taxing all moneys, etc.," and also for the taxing of property employed in banking, "so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals." Article XI, sections 5 and 6, contain mandatory exemptions, and Art. XI, §7, still in the original form, provides that "All laws exempting property from taxation other than that enumerated in sections 5 and 6 of this article, shall be void."

In Washington the section which contains the basic uniformity clause and establishes certain classes of property, Art. VII, §1, also sets forth both mandatory and permissive exemptions.

9. States with Type IX Clauses

Rhode Island and Vermont constitute the group of states having a Type IX basic uniformity clause: "There shall be a fair distribution of the expense of government." These two states are often listed with those states categorized as having no uniformity provisions at all. However, in each of these states there is a single provision which serves the purpose of a basic uniformity clause. The Rhode Island Constitution of 1843, Art. I, §2, reads:

All laws . . . should be made for the good of the whole; and the burdens of the state ought to be fairly distributed among its citizens.

The Vermont Constitution of 1793, Ch. I, Art. 9 reads:

. . . every member of society hath a right to be protected
in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion toward the expense of that protection. . . .

There are no other provisions in either of these two states which deal with particular problems of uniformity.

10. States Without Uniformity Clauses

Three states—Connecticut, Iowa, and New York—have no constitutional provisions which might be called basic uniformity clauses. Any general limitation upon taxes of some degree of uniformity is found in the "equal protection" clauses—or the equivalent of such clauses—of those states (Conn. Const. 1818, Art. I, §1; Iowa Const. 1857, Art. I, §6; N.Y. Const. 1938 [1894], Art. I, §11).

In addition, in Iowa and New York there are provisions dealing with particular uniformity problems. Both states have clauses preventing discrimination in certain cases. In the Iowa constitution, Art. VIII, §2, provides that "The property of all corporations for pecuniary profit, shall be subject to taxation, the same as that of individuals." In New York, Art. XVI, §4 prohibits discrimination as to rates and method of taxation as between corporations established under United States laws and corporations under New York laws engaged in similar businesses. In addition, New York also has a provision relating the taxation of intangibles, Art. XVI, §3, which reads:

... Intangible personal property shall not be taxed ad valorem nor shall any excise tax be levied solely because of the ownership or possession thereof, except that the income therefrom may be taken into consideration in computing any excise tax measured by income generally. . . .

New York also has a provision concerning exemptions. Article XVI, §1 provides that "exemptions from taxation may be granted only by general laws."