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LABOUR'S FLAWED LAND ACTS 1947–1976

Introduction

Since 1945, many attempts have been made by both Labour and Conservative governments to pass legislation which would have direct or indirect bearing on land economics. Most of that legislation, from Labour's Town and Country Planning Act of 1947 down to the Conservative introduction of the Community Charge in the late 1980s, produced very important side-effects which were obviously not expected. These side-effects arose through a failure properly to appreciate certain fundamental economic principles, including the very meaning of the word "land".

Land reformers of various kinds have long contended that the adverse effects of the land tenure system prevailing in England and Wales, and also (with some important variations) in Scotland, lead directly and indirectly to a wide range of social and economic problems. Among these are high costs of housing, homelessness, unemployment, high taxation and recurrent industrial depressions. The present publication is primarily concerned with those particular aspects of the "land question", although some reference will be made to other aspects as well.

In the early part of the 20th Century, agitation for land reform became a major political issue. In 1903, the Conservatives enacted some important land legislation relating to Ireland, whose effects, good and bad, are visible in both the north and the south to this day. A few years later, their Liberal successors attempted to assess land values in Scotland as a preliminary to taxation, but were frustrated by the House of Lords. The land taxing clauses of Lloyd George's 1909 Budget inaugurated one of the most intense periods of political controversy in modern history. There was continuing interest in land reform in the inter-war years: substantial legal reforms achieved by the Conservative government in 1925; the derating of agricultural land in 1929; the effort of the Labour Government in 1931 to assess and tax land values; and the unsuccessful London Rating (Site Value) Bill of 1938.

We are here concerned with legislative measures which have been made, or attempted, since 1945. It will not consider all legislation which has some bearing on land – that would be an almost impossible task – but only the legislation which was primarily intended to secure for the community some of those land values which were created by the community, but in practice were captured by private individuals. It is the view of the author that in many – perhaps most – of these cases Parliament was motivated by creditable principles, but that the effects actually produced were widely different from those intended, and sometimes the very reverse, through a misunderstanding of the underlying economics. If Britain is to undergo a further spate of land legislation in the future, it is important that the strengths and weaknesses of past measures should be clearly understood, in order that avoidable errors should not be repeated.

Definition

The word "land" will be used repeatedly. The term is here usually employed in its economic sense, to cover all natural resources. In actual pieces of legislation, however, the word is used in its legal sense, which includes buildings and other developments set upon land. These two usages of the same word must perforce be followed, but it is important that the reader should appreciate the ambiguity.

The Town and Country Planning Act, 1947

i. The background

In the first half of the 20th Century, both the Labour and Liberal Parties were more or less formally committed to land value taxation. A considerable number of Conservatives, including Winston Churchill, showed much sympathy with the idea as well. When the Labour Party came to power in 1945, it was eagerly expected by many of its supporters, and by land reformers generally, that land value taxation would be introduced.

The Town and Country Planning Act which was passed in 1947 is famous for a number of its provisions. It greatly strengthened the control of local authorities over planning and land use. These elements of the Act are important, but they lie rather outside the present study. The provisions which are most relevant here are those which concerned "betterment" values.

The Act brought together the recommendations of the Scott, Barlow and Uthwatt Reports, which drew attention to the high cost to local authorities and government corporations of acquiring land for development. These Reports noted that, as soon as development was mooted, a "cloud" of value descended on the designated area, and up went the price of land. This "cloud" of land speculation followed the planners around the country.

If planning decisions by public authorities gave rise to increased land values, it was argued, then the "betterment" of land value should pass to the community, and not to the landowners. Hence a "betterment" charge should be levied. All increases in land values which were not related to planning permission, however, were to be excluded from this charge. The architects of the Act claimed that it would end land speculation, force land into use, and ensure that increased land values arising from the release of land for development accrued to the community.

ii. Provisions of the Act

The nasic provisions of the Act which are relevant here were as follows:

a. The right to develop land became a state monopoly, and permission to develop, or change the use of, land had to be bought from the newly-created Central Land Board. The definition of "development" was therefore not confined to construction on vacant sites and the re-development of existing buildings. It also included the change of use of buildings from one business to another.

b. When "development", within the special meaning of the Act, required planning permission, it attracted a Development Charge. The Act, however, laid down twenty-two classes of undertakings or occupations which were to be considered as of a similar nature. A change of use within a class was not deemed to involve "development", and was therefore exempt from Development Charge. But a change of use from one class to another required planning permission and, if granted, attracted a Development Charge. As an example, shops as such were not a single class of use. The class into which a shop was placed depended on what it sold. A person could not change from selling sweets to selling meat, or vice versa, without planning permission – which, if granted, made him liable to a Development Charge.

c The method of calculating the amount of Development Charge payable was to take the assumed selling value of a property if it was confined to its present use – "existing use value", as this was called – and deduct this from the value of the property with permission for its development potential to be realised. The difference between the two values was taxed at 100 per cent.

d. A sum of £300 millions was made available as compensation to land owners who could claim hardship because their land was ripe for development, but the Central Land Board had refused them the right to develop.

The Act was passed in August 1947, and the planning sections took effect shortly afterwards. The rest of the Act, which included the Development Charge (s.61) came into effect in July 1948.

iii. Weaknesses of the Act

Although the Act was clearly an attempt to capture land values for the people, it had many practical defects. Anomalies and absurdities abounded, and even before the legislation came into operation many people in the professions concerned with development and use of land and buildings were alarmed at the complexity of rules, regulations and Orders. Mr Silkin, Minister of Town and Country Planning, admitted in a debate in the Commons (26 May 1948) to having second "or even third" thoughts on this "highly intricate matter". So complex was the Act that civil servants were sent round the country to address meetings on the workings of the Act for the benefit of those in local government and the professions who had to interpret, advise on, or administer the regulations.

But there were other defects of a more fundamental character. In the first place, the development charge which was intended to deprive the landowner of communally-created increases in land values fell only when the land was developed or redeveloped. Increases in land values arising from other causes remained with the landowners. In practice the vast majority of land value increases was of this kind, and these were therefore lost to the community.

In the second place, development was discouraged, since there was more profit to be made by improving property up to the limit of a change or use than improving or building beyond that level, when it would attract a Development Charge. The same applied to empty sites, which were used as car parks or for similar purposes. Idle land as such attracted no charge, and so site owners were encouraged to keep it idle, in the hope that – with a change of government – the financial provisions of the Act would be repealed.

A third weakness was that the Development Charge applied to the developed site as a "property", and not to the land itself. The greater the development the greater the charge, irrespective of the value of the land as a separate factor. This weakness seems to have derived from a fundamental misunderstanding of the nature of land values. These are determined not by the actual use to which a piece of land is put, but by its potential use in the mind of a prospective purchaser. People will often pay a great deal of money for a piece of land which is more or less derelict, because they think that they can use it in a way which will bring them profit.

Finally, landowners who had been refused the right to develop their land – whether or not they were entitled to a share in the £300 millions compensation – were disposed to withhold it from sale, in the speculative hope that it would increase in value without, of course, attracting the Development Charge. Thus land speculation, so far from being ended, was actually encouraged.

iv. Operation of the Act

As the Act came to be applied, a chorus of criticism and condemnation arose. Some, but by no means all, of this criticism was politically inspired. The Act was simply not working as the legislators had intended. There were examples from all over the country of frustration resulting from extortionate Development Charges, inconsistent rulings and valuations, absurd decisions, and differing interpretations of the regulations.

The Press reported numerous examples of the effects which the regulations were having on would-be developers, on those whose use changed from one class to another, and on those who innocently thought that they did not come within the scope of the regulations. One typical example was of a factory owner who was discouraged by the Development Charge from building on land that adjoined his factory. Instead, he erected two goal posts on the land, for his workers to play football. This was deemed a development, and charges were imposed on the goal posts. Another was of a man who bought his disused air raid shelter from the local Council. He was refused permission to use it as a tool shed unless he paid a Development Charge.

Many owners of small building plots who had previously bought them to build a house, faced a Development Charge which doubled the price they had paid for the land – the existing use value of which was deemed by the Central Land Board to be purely nominal. Valuers had no firm criteria for arriving at development values. They depended on the estimated value of the completed buildings, less the "existing use" – a vague and indeterminate concept. Many valuers had to back-track on their estimates when challenged on appeal.

Valuations under the Act were subjective and often perverse because of the underlying fallacy that the value of a plot is determined by what it is used for, or what is put upon it. Thus, two plots of land which on the market would fetch the same price had, by this reasoning, different values when used for different purposes.

At the root of these various defects was the fact that "land" was considered in its legal meaning, which included buildings and other improvements, and not in its economic sense, as natural resources alone. Thus the Development Charge was aptly named: it was a tax on development and use of land, not on the land itself.

But what of the claims that the Act would cheapen land, make it more readily available, and end speculation? Many landowners refused to part with their land, even under threats of compulsory purchase. They sat tight, awaiting new legislation, or a change of government. They had nothing to lose. Compensation for loss of development rights was indeterminate and they were not interested in parting with land at present-use value. Estate Agents reported that the supply of building land for sale had declined, and that when land was available its price was usually well above current-use value.

v. Partial repeal of the Act

A Conservative government took office in 1951, and in December 1952 the financial provisions of the Town and Country Planning Act were repealed. This ended the Development Charge, and also the obligation of the Government to distribute compensation to landowners.

Another provision of the Town and Country Planning Act, which has not been discussed above, had given public authorities the power to acquire land compulsorarily in certain circumstances. This was no new principle in English law, and had many precedents in – for example – the Canal and Railway Acts. In some cases, land had been acquired under the Town and Country Planning Act 1947 at less than its market value. This state of affairs was also altered by Conservative legislation. A new Town and Country Planning Act was passed in 1959, which entitled the landowner whose land was compulsorarily acquired to receive the market value, including any increases in market value arising from development plans.

The Land Commission

i. Principles

In 1964 the Labour Party returned to power, and in 1966 it received an increased majority. This gave it the opportunity to legislate once again for the recovery of betterment values, and to extend the powers of compulsory purchase of land.

There was no attempt to restore in their original form those clauses of the Town and Country Planning Act 1947 which the Conservatives had repealed, but an important new measure, the Land Commission Act, was passed in 1967. Its aims were said to be "to secure that the right land is available at the right time for the implementation of national, regional and local plans", and "to secure that a substantial part of the development value created by the community is returned to the community and that the burden of the cost of land for essential purposes is reduced".

ii. The Land Commission Act, 1967

To achieve these objectives, several legislative changes were made. The Act was long and complicated, but the following is a summary of its principal provisions.

1. A Land Commission was set up, and given wide powers to acquire land in advance of requirements, so that it could be available "at the right time". The Commission also received powers to manage land, and to sell or lease land at full market value – or, if need be, on concessionary terms (Part II of the Act).
2. A Betterment Levy was imposed at a uniform rate – initially 40% of the development value – when land was sold, leased or realised by development. It was intended to increase this proportion later by stages. Liability for the Betterment Levy was subject to certain allowances, exceptions and exemptions. The money was collected by the Land Commission and paid into the Exchequer (Part III of the Act).
3. A new form of land tenure, Crown Freehold, was created, which was qualified by covenants reserving to the Commission future increases in values arising from development or redevelopment. Where a concessionary Crown Freehold was sold for housing, a covenant prevented the house owner from selling at a profit representing the difference between the market value and the concessionary value of his holding.

As with the Development Charge under the 1947 Act, liability for the Betterment Levy awaited action by the landowner. In this case it was the sale or lease of land, or the carrying out of "material development" – a term defined in Section 99(2) of the Act.

The added value which the owners expected to gain by developing, selling or leasing their "land" was termed the "net development value". This value was arrived at by deducting a complicated "basic value" (essentially, the current use value) from the market value. When this calculation revealed a realisable value, a "chargeable act" or event arose. "Chargeable acts" included the sale, lease or development of land; compensation for revocation of planning and other permission; grant or relief of an easement; and certain other "chargeable acts" designated by Ministerial Regulations.

iii. Operation of the Act

A landowner became liable for "chargeable acts" after the first "appointed day", 6 April 1967. Thus there was a rush to start work before the deadline. This often entailed digging holes or trenches, or laying foundations, as token evidence that development had started before the appointed day.

There followed uncertainty in the land market, which was reflected in the reluctance of landowners to part with their land. They might wait for a change in government and the abolition of the Betterment Levy. For owners of developable land, waiting was often no problem. Land, they observed, always increases in value in the long run. They had nothing to lose. Instead of more building land becoming available for development, there was less. The decline in supply tended to raise the price of what land was available. It was reasoned that since in many cases the retention of 60 percent of development value was not sufficient to make their land available, they would be still less likely to do so when the levy increased as planned.

Thus the objects of the Act were not being realised. Land was less, rather than more, readily available, and the proceeds of the levy fell far below that expected. Instead of the £80 millions expected in a full year, only £15 millions were raised in 1968–69 and in the following year only £31 millions.

Sir Henry Wells, Chairman of the Land Commission, came under fire, particularly from builders, who complained that land was not forthcoming as promised. According to the property correspondent of the Observer, 1 December 1968, Sir Henry had threatened to resign because of unfair criticism. "...I am tired of being nagged by builders. I am trying to help," he said, and blamed the planning authorities for not releasing more land.

During the life of the Labour Government of 1964–70, criticism of the Land Commission continued. It was labelled unjust, wasteful, and too complex to understand properly – even by professional advisors. And the Betterment Levy was self-defeating, in that realisation of its objects depended largely on action by landowners – whose interests were often better served by taking no action at all.

iv. Repeal

The Land Commission and the Betterment Levy were eventually abolished by the Conservatives after they came to power in 1970. Subsequently a land hoarding tax, aimed at penalising people who had obtained planning permission for their land but had not proceeded with the development, was proposed, but came to nothing. Then in 1973 came the collapse of property prices, and many land speculators burned their fingers and were in serious straits.

The Community Land Act 1975 and the Development Land Tax Act 1976

i. The two Acts

Labour's third post-war attempt to regulate, control and manage land development and to collect development value for the community, took the form of two linked but separate measures.

The first was the Community Land Act 1975, which had objects along the same lines as its predecessors: "to enable the community to control the development of land in accordance with its needs and priorities". The second was the Development Land Tax Act 1976, whose objects were the same as those of the Development Charge and the Betterment Levy: "to restore to the community the increase in value of land arising from its efforts".

ii. The Community Land Act

This Act, which came into effect on 6 April 1976, was considered by many to be a half-way house to land nationalisation. Local authorities were given the power to acquire land for public ownership, by agreement or by compulsory purchase. The Secretary of State was empowered to dispense with a public enquiry as preliminary to a compulsory purchase order. Local authorities, having acquired land, had the responsibility of seeing that it was developed, either by themselves or by others.

The price to be paid was the market price, less any Development Land Tax (see below) payable by the owner. Thus the basis was current use value, which would exclude any "hope value" of the land being later developed for other purposes. The power of local authorities to acquire land became mandatory when a Duty Order was made by the Minister. The cost of buying land, including costs of administration and interest payments, etc., would be financed initially by borrowing, and would be repaid from the proceeds of disposals. Ultimately, purchases would be paid for directly by the proceeds of disposals.

Land for commercial and industrial development was to be made available on ground leases, of normally not more than 99 years. Land for residential purposes was to be disposed of either freehold, or by way of a building licence granted to the builder. Eventually the freehold would be conveyed to the house owner.

iii. The Development Land Tax

The Act which introduced this tax came into effect in August 1976. Unlike the other Act, this was based on proposals for taxation of development gains which had first been made by the previous Conservative government.

The tax was to be administered by the Inland Revenue authorities, and operated in conjunction with Capital Gains Tax. It was charged on the realisation of development value. This could occur either by disposal of an interest or by "deemed disposal" on the carrying out of development. The tax was 80 per cent of the gains realised, except for allowances for low gains. It was intended that the rate should eventually be raised to 100 per cent.

The net development value to be taxed was the proceeds of disposal, less the highest of three basic values – a convoluted formula which roughly equated with current use value. There were exceptions, exemptions, allowances, conditions and special cases – all set out in 94 pages of explanatory notes containing examples, calculations and expositions to guide those who either had to deal with the Act or to advise others.

iv. Criticisms of the two Acts

Conferences organised by professional bodies to explain and interpret the two Acts, and to conjecture how they would work, were held in several towns. Speakers and audiences alike were highly critical, revealing the uncertainty and frustration engendered by this land legislation. Most of the criticism was levelled at the Community Land Act. The Conservatives promised to repeal it; but they were willing to go along with the Development Land Tax if it was nearer 60 per cent instead of 80 to 100 per cent.

v. Fate of the two Acts

The Community Land Act ran into difficulties after the Government's spending cuts of December 1976 reduced the borrowing capacity of local authorities by £70 millions. This severely restricted their acquisition of land, as there were no other funds available for the purpose. Meanwhile, pressure for repeal continued. A typical comment came from the President of the Incorporated Society of Valuers and Auctioneers: "Any suggestion that the Act should be retained and amended because the threat of repeal causes a greater level of uncertainty, should be opposed. A bad Act is a bad Act. A house of cards is no sounder because it has mosaic tiles on it." (Estates Gazette, 2 April 1977)

When the Conservatives came to power in 1979, they soon repealed the Community Land Act and reduced the Development Land Tax to 60 per cent. The Development Land Tax was eventually repealed in the Finance Act 1985.

Summary

Post-war Governments, particularly Labour Governments, have repeatedly legislated with the object of making more land available for use, bringing down land prices, curbing speculative profits arising from the implementation of regional and national plans, enabling local authorities to acquire land cheaply and collecting for the community those land values which were created by the community. A great many people whose politics were not Labour have sympathised strongly with these objects.

Yet legislators who have attempted to deal with such problems have been unwilling to look beyond expedients like betterment levies, bureaucratic control of land use, and semi-nationalisation. Although the Acts were eventually abolished by political action, this was nothing more than the *coup de grace* to legislation which was manifestly not achieving the objects for which it was originally introduced.

The Acts failed for a variety of reasons. In the first place, they were complex pieces of legislation, and the more complex a law is the more likely it will be riddled with anomalies and unintended side-effects.

In the second place, there has been real confusion about what the word "land" means in different contexts, and people who sought to produce an effect on land in one sense of the word often in practice produced a completely different effect.

Thirdly, the legislators have been preoccupied with the speculative profits made by dealers and developers. This has led them to concentrate on capturing some of the gains which arise at the point of development and sale, or when planning permission is granted. Yet the value of land at any time does not differ in any essential from subsequent increases in land value. The value is merely the aggregate of increases which have accumulated since the time when land had no market value, and should not be treated differently from more recent increases. All that a betterment levy or similar expedient does is to tap the pool of land value at a point in time and to draw off a little; but in general it keeps the status quo.

Fourthly, there was no attempt to harness the self-interest of landowners. Instead of inviting cooperation, the Acts provoked resistance or inertia.

Fifthly, the effect of the post-war land legislation on all three occasions (1947, 1965, 1976) was to deter development and the better use of land, to encourage land hoarding by owners and to produce an artificial scarcity of sites.

An effective and satisfactory way of achieving the essential objects which the three post-war Labour Governments all seem to have had in mind would have been to levy a tax on all land values – vacant land included, and regardless of its state of development. The value of different sites of land vary enormously according to a variety of factors which (unlike the value of improvements) have nothing to do with the activities of the landowner or his predecessors in title. These factors include fertility, the presence of minerals, ease of communications, proximity of towns, and the kinds of use permitted by planning and other environmental legislation. These factors would all be taken into account in assessing the tax.

A full exposition of the theory and practice of land-value taxation may be found elsewhere – but, briefly, its virtues are as follows.

1. It treats all landowners alike.
2. It takes cognisance of increases or decreases in land values at revaluations.
3. It is a natural and buoyant source of revenue.
4. It is payable irrespective of the actual state of development, and acts as an incentive for owners of idle land for which development is lawfully permitted (e.g. in decayed inner cities) to develop it or put it on the market.
5. The tax cannot be avoided or evaded.
6. Land would be cheaper to buy and dearer to hold. As more land was made available, its price would fall, and therefore houses, etc., would be cheaper to buy.

The success of any measure of land reform will depend not so much upon what it sets out to accomplish, but on how strictly it conforms to the principles and logic of land economics.

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ENQUIRY COMMITTEES AND LAND-VALUE RATING (1952–1976)

There has been no attempt to legislate for SVR since 1938, when the LCC sought permission to apply the principle to London, but the Parliamentary Bill failed in the Commons. Nevertheless, there have been several enquiry committees which dealt with the subject. There were also two land valuations of Whitstable, Kent, which, in conjunction with extensive overseas experience, effectively demonstrated the practicability of raising local government finance exclusively from site values. (1)

The Simes Committee

The first and most important of the enquiry committees was the Erskine Simes Committee (2), which reported in 1952. The Enquiry dealt exclusively with SVR, and its Report became treated as an authoritative source for subsequent enquiries. The Committee was appointed in 1947, and its terms of reference were:

"To consider and report on the practicability and desirability of meeting part of local expenditure by a separate assessment of site values, having regard to the provisions of the [1947] Town and Country Planning Act and other factors."

The Enquiry Committee took four and a half years to produce its Report, and was divided in its conclusions. Six members, comprising the majority, found that meeting any part of local expenditure by SVR, having regard to the Town and Country Planning Act, was neither practicable nor desirable. Three members dissented, and submitted a minority report.

The enquiry was cramped by the restriction imposed on the Committee that it was not to consider the possibility of any change to the provisions of the Town and Country Planning Act. It had to consider whether SVR could be fitted into this complex Act, with its wide-ranging restrictions on the use of land, its compensation to landowners and its charge for development permission.

Although the Committee acknowledged the force of much evidence in favour of SVR, it repeatedly came up against the instruction that it should have regard to the financial provision of the 1947 Act – which effectively nullified the value of this evidence. The minority report attempted, with much difficulty, to reconcile SVR with the 1947 Act, and indeed a case of a kind was made out. But with the practical difficulties involved, that case was hardly likely to seem wholly convincing.

Some excellent factual chapters on the background to the British rating system, and on the working of SVR abroad, were contained in the majority report. The testimony as to the workability of SVR, however, was of little value because the 1947 Act was largely incompatible with SVR. Thus the Committee was able to say, "Insofar as we have been impressed by the historical case for the rating of site values, we are nevertheless of the opinion that the evidence from overseas is not relevant in the conditions of Britain today."

However, by no means all of the Committee's arguments against SVR were based on the difficulties engendered by the 1947 Town and Country Planning Act. On the question of who bears the rate or tax on land values, the Committee stated clearly that "it remains on the landlord". Despite this, the Committee cited an imaginary circumstance which purported to show that the site-value tax could be passed on to tenants in higher rents. A variation of this argument was used when the Committee made its objection to the rating of agricultural land. It was suggested that this would increase the price of food. Yet, conversely, after agricultural land was derated in 1923 and 1929, food did not become cheaper. Nor did derating benefit the tenant upon whom the rate was charged as occupier; the landlord raised his rent to absorb the rate relief. If agricultural land were rated today under a system of SVR, either the landwoner would pay the charge directly, or the tenant, as initial payer, would deduct it from the rent.

The Committee expressed doubts whether SVR would be adequate to meet the financial needs of local government, estimating that the land value of the country would be only twenty to fifty percent of the orthodox valuation for rating. But an examination of the basis used for rating valuations reveals how such a low figure was estimated. The valuation was on land and buildings taken together in their existing use, with the building in its existing condition. Thus, the poorer the development the lower the valuation, with the real value of the land concealed in the composite value. Furthermore, under the rating system which existed at the time, vacant land and agricultural land, however valuable, were excluded from the valuation.

The Committee's view was finally confuted by the two valuations of Whitstable (3), conducted by independent bodies – the Rating and Valuation Association and the Land Institute respectively – a number of years after the report of the Simes Committee, which demonstrated that the value of the land alone was of the same order as the composite value produced under the established system of valuation.

Despite the examples given of the working of SVR in other countries, the Report argued that experience there had indicated that it is difficult to eliminate all improvements in the assessment of land values. As a consequence, the Report claimed, the rating of land values failed to achieve the desired purpose of raising revenue solely from the economic rent of land. We were invited to infer from this that because in some cases it is not possible to separate the value of land from the value of improvements with absolute perfection, we should keep the old system that disregards completely the vital difference between them. One may reflect that the "imperfections" which troubled the Simes Committee do not stand in the way of the many market transactions involving redevelopment of sites, where the value of land alone needs to be known.

Report of the Royal Institute of Public Administration

In 1956, the R.I.P.A. produced a Report which examined possible new sources of local revenue (4). In the section dealing with SVR, the Report gave a fair account of its operation in other countries, stating that where it had been adopted it appeared to be successful.

The Report, however, introduced an important qualification, declaring that "with the single exception of Denmark, it is used in countries of extensive land areas and new urban development." Returning to the theme a little later, it says:

"We accept the argument that site-value rating encourages the development of land. For that reason it is a useful tax, especially in an expanding country with a large area of land, but it is of less interest in a country like Great Britain."

The Danish exception itself invalidated the argument. There is, however, an even more fundamental objection. That Britain has a relatively small area of land makes it more, not less, necessary, to ensure that the land which is available for expansion is not left idle or underdeveloped, whilst making no contribution to the local services which help maintain and raise its value.

The Report agreed that SVR would tax the development value of land; but it claimed that this could be done equally successfully by taxing buildings as well, or by applying a capital gains tax. The purpose of SVR, however, is not to tax just development values; it is also to tax all existing land values (which are far greater and more significant), and to exempt buildings and other improvements.

The Study Group considered it was a fallacy to suppose that the landowner bore the whole burden of the site-value rate. The owner, it declared, will pass on to the occupier as much of the rate burden as the market forces of supply and demand will permit. The error of the Study Group's view turns on the fact that supply and demand between tenants and landowners for landed property would remain unaffected by the site-value tax. Thus, E.R.A.Seligman wrote, in Shifting the Incidence of Taxation:

"If land is taxed according to its pure rent, virtually all writers since Ricardo agree that the tax will fall wholly on the landowner, and that it cannot be shifted to any other person, whether tenant, farmer or consumer... the point is so universally accepted as to require no further discussion."[1]

Government Green Paper 1971

As the Government of the day was considering proposals to reorganise local government, a Green Paper was published, discussing financial implications (5). It considered trends in local government expenditure,

1 Richard G. Lipsey makes the same point in his standard textbook. "*An Introduction to Positive Economics*", 5th edition, London, 1979, p.370: "The tax cannot be passed on to consumers.".

possible additional sources of revenue, improvements of the rating system, and the future system of control of government grants.

In considering additional (not alternative) sources of revenue, various options were examined, but none was specifically recommended. They included local income tax, sales tax, payroll tax, duties on motor fuel and vehicles, lotteries, and site value rating. In the examination of SVR, there was little evidence of original thinking, and the misconceptions of the Simes report were repeated without further consideration.

The Green Paper did not deny the main argument for SVR – that land values are created and sustained by the community generally, and by the expenditure of public money specifically. Ignoring the basic principles of SVR, though, it switched the argument to development values.

"It may be pointed out that capital gains tax may be paid on the development value of land when it is sold, and the Government have recently, when abolishing the Land Commission, made it known that in their view this is the appropriate way for the community to share development value."

This sleight of hand, which substituted development value for all existing land values (including the potential value for development, if realisable), switched attention from the real purpose of the site-value tax to the capital gains tax. This was the same ploy as used in the R.I.P.A. Report. It also repeated the Simes and R.I.P.A arguments that SVR, while having relevance in under-developed countries, has little in a country like Britain, where

"the need is to channel and organise development in the best possible way, rather than simply to encourage it." This ignores the fact that site values reflect planning decisions and there is no point in not encouraging it within this context.

That the present system discourages improvement of property has, said the Paper, "some validity"; but then it went on to say that, under a site-value tax, property will sometimes be taxed before the improvements are actually made. But to state that potential improvements are taxed when land values are taxed is to misunderstand the whole purpose of SVR. To suggest that only actual improvements, not potential improvements must be taxed, misses the point that under SVR the tax falls exclusively on land, in accordance with its optimum use within existing planning and other relevant law; buildings and other developments are exempt.

The Green Paper then argued that SVR would not tax the current income or resources of the taxpayer, only his prospective and potential resources. But the use or otherwise of a resource whose value is the result of the presence and activity of the community as a whole is the owner's own responsibility. He enjoys the benefits, whether he uses them or not. To make a tax contingent upon action by the taxpayer is contrary to the whole principle of taxing land values. This was the rock on which both the Development Charge of the Town and Country Planning Act and the Betterment Levies of the Land Commission Act foundered.

Other "objections" were advanced, based on illustrations which do not stand a moment's examination. They include a misrepresentation of the Whitstable Pilot Survey, conducted by the independent Rating and Valuation Association. The Green Paper argued that: "site value rating could price amenities out of existence. Under the rules adopted for that study, rates on the local golf course, for example, would have increased seventy-fold."

This "example" missed the crucial point that the owners had already applied for planning permission to develop the land. This – if granted – would have destroyed the golf course anyway. As it turned out, permission to develop was refused, and therefore the SVR would have been levied only on the restricted value of its permitted use.

Another objection advanced was that owners of land are less easily identified than occupiers, and collection and recovery would be more difficult. However, it has been a long-established principle that a charge upon a landowner may be payable by the easily-identified occupier, who would then be authorised to deduct it from his rent. This principle applied under the old Schedule A income tax on property owners. Nowadays, compulsory registration of title to land in England and Wales (it already exists in Scotland and Northern Ireland) is progressively overcoming this alleged difficulty, and legislation to accelerate such registration could in any case be brought in.

The Layfield Committee

The Committee of Enquiry into Local Government Finance led by Mr (later Sir) Frank Layfield, Q.C., was set up in 1974, and presented its Report in 1976 (6). The Report recommended that the then-existing rating system should be retained, but that domestic dwellings should be assessed on capital or selling values in place of annual or letting values, because there was more evidence of the former than of the latter. It further recommended that agricultural land and buildings should be rated, and that a local income tax should be levied as an additional source of finance. The estimated cost of administration – then – was £100 millions a year. The Committee rejected a local fuel tax; taxes on profits of local businesses; a pay-roll tax; a share of national taxes; and site-value rating.

There was no new thinking in the Report. Most of the arguments had been well rehearsed over the years among politicians, professional bodies, journalists and interested parties. Above all, Layfield relied on the Simes Report, and ignored the subsequent repeal of the financial provisions of the Town and Country Planning Act 1947, which had vitiated the earlier study from the outset. All in all, the examination of SVR was dealt with in one paragraph in the body of the Report, although it was given four pages in the annexe. The real purpose of SVR was side-stepped:

"Whether site-value rating is an appropriate basis for promoting land use or taxing developments gains is debatable."

However, the Committee concluded that the Development Land Tax took care of the taxation of development value – therefore "a local tax on site values loses its relevance". Like so many other studies, this missed the point that the object of SVR is to collect existing land values, as well as development values.

The Layfield Report went on to repeat other old fallacies from other Reports: the argument that a site-value tax could be shifted on to a tenants; that amenities would be priced out of existence; that the landowner would be taxed on a development he could not realise. There was an interesting twist to the "passing the tax on" argument. In commenting that landowners living outside the local authority area would be deprived of local votes, the Committee not only failed to notice that owners of developments who live elsewhere are also voteless, but effectively conceded that the owners of land do bear the site value duty themselves. Why else would an absentee want a local vote? It is not surprising that one critic described the Report as "the non-event of the year".

Conclusion

During the period when these various enquiry committees have sat to consider site value rating, one or other of a succession of land reform Acts was in operation. These Acts were alleged either to inhibit the introduction of SVR, or already to be serving its main purpose. The confusion of a development tax with an ad valorem tax on all land values has persisted throughout. However, the financial provisions of these Acts have long been repealed, and therefore those objections to SVR which were based upon them are no longer relevant.

The two Whitstable valuations have shown that most of the other criticisms were unfounded. Despite conclusive evidence to the contrary, opponents of SVR continue to claim that the Whitstable site valuations would have "priced amenities out of existence", and to quote the Simes Report as though nothing had happened since.

NOTES

(1) See general bibliography (page 24) for references not cited in this article.

(2) *The Rating of Site Values*. Report of the Committee of Enquiry. HMSO 1952.

(3) *The Rating of Site Values*. Report of a pilot survey at Whitstable, Rating and Valuation Association, 1964. Update of the same by the Land Institute, 1974.

(4) *New sources of local revenue*. Report of a Study group of the RIPA. George Allen & Unwin, 1956.

(5) *The future shape of Local Government finance*. July 1971. HMSO.

(6) *Local Government Finance 1976*. HMSO

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