

## CHAPTER II.

### THE LONDON COUNTY COUNCIL RESOLUTIONS.

AS is well known, the London County Council have had this matter before them for some years. In 1898 they drew up a series of resolutions for presentation to the Royal Commission on Local Taxation, now sitting, and instructed the extremely able Chairman of the Local Government and Taxation Committee, Mr. B. F. C. Costelloe, to appear and support them. The resolutions and the examination appear in vol. ii. of the Evidence.<sup>1</sup>

The London County Council are agreed that, in the interests of the city, they are called on, not only to keep up and improve their present services, but to increase them. Greater efficiency and cost of administration; specific new services discharged by public authority; great structural improvements such as streets, embankments, bridges, and drains: these involve "continual increases of charge."

How are these services to be paid? Taxation being a payment for service rendered, if the people

<sup>1</sup> It must be a matter of sincere regret to all interested in these proposals that, since this was put in type, we have to record Mr. Costelloe's death.

demand new services they must be prepared to pay for them. But, as things are, the rates are levied on the occupiers, and these rates amount to 6s. 8d. per £. They are already considered too high, and any attempt to increase them meets with most determined opposition from the occupiers. It is quite true that those who occupy houses are people who get value for their money when they pay rates; that they are benefited by the services for which the taxation pays—by police protection, by sanitation, by cleaning and lighting, etc. But they are not the only people benefited. The ground-owners benefit because, in London, they have let their land, not in perpetuity as in Scotland, but on lease. On the expiry of the lease they enter into possession of ground which, partly owing to the improvements effected by the municipality, has steadily risen in value during the currency of the lease. Take, for instance, the Thames Embankment. Here was an improvement which added greatly to the value of every building estate in the neighbourhood. But the money to pay for it came out of the pockets of the occupiers. Now, among the new demands made on the municipality, the most urgent and the most costly are "arterial improvements" of the same nature: for example, the widening of the Strand, new bridges, etc. Without, then, committing themselves to the statement that occupiers' rates will not be increased, the London County Council think it reasonable to throw some part at least of the new burden on the other class which always benefits to some extent from local taxation, and will, in this case, benefit very substantially—those who own the site,

the ground value. The first proposal, then, is to find the new source of taxation in this class, and to impose a new rate, to be called Owners' Tax, of 6d. per £ on what is to be hereafter known as the Site Value.

This site value is not to be based on any actual rental received, nor is it to be found by division of the rateable value. It is to be determined by a separate valuation of the ground as apart from the buildings or the use to which it may actually be put; it is defined as "the annual rent which at the time of valuation may reasonably be expected for the land as a cleared site if let for buildings by an owner in fee"—the value of the site, in fact, if the buildings were burned down and the site was put up at auction.

It is the case, however, that the owning of the site in London is usually divided among several classes, and the proposed tax is to be distributed among the several owners in proportion to their beneficial advantage. Take such a case as this.<sup>1</sup> A landowner leases his ground for ninety-nine years at £900 a year. He receives this ground-rent, not from the owner of the buildings erected thereon, but from a middleman who has taken the ground from the original landowner, spent a very large sum on the buildings, and leased the whole for a similar period to a buildings-owner, charging for the improved ground-rent £3000. This middleman, then, is also a ground-owner at one remove. The buildings-owner draws £26,000 of rent from the occupiers. If, in the future, the amenity of the locality increases, he

<sup>1</sup>The case is taken from the evidence of Mr. R. Vigers, vol. ii., p. 135.

gets an extra rent which is due not to the increase in value of the buildings but of the situation—that is, he also gets a benefit from the rise in value of the site. Last come the occupiers. They pay the rent, and all the rates and taxes. Mark that even they may have a beneficial interest in the site if they have a lease: they may have the advantage of a comparatively low rent compared with others. But it is not proposed to touch these last beneficiaries, for the reason, I suppose, that they seldom have a long lease, and that any addition in value goes to the advantage of the buildings-owner at the next letting time, when the rent is raised. But, as rents rise, the burden on the occupiers of course gets heavier and heavier, and it is these occupiers who are considered unable to bear any more.

To put it another way. The occupiers pay £26,000 of rental to the buildings-owner; of this the buildings-owner pays £3000 to the middleman as “improved ground-rent”; and the middleman pays £900 to the ground-owner. It is these various site-owners who are to supply the new fund.

The tax will be laid nominally on the occupiers, but they, if at a rack-rent, are entitled, without any power of contracting out, to deduct it wholly from their rents. In turn the buildings-owner deducts a proportion of the tax corresponding to what he pays to the middleman; and the middleman in turn deducts a proportion of the tax according to what he pays to the ground-owner. Thus, in our example, suppose the site value is assessed at £4000. The municipality gets—at 6d. in the £—£100 from the occupiers. But they deduct it from the £26,000 they

pay to the buildings-owner as house-rent. The buildings-owner in turn deducts £75 from the £3000 he has contracted to pay the middleman, thus paying £25 of the tax. The middleman in turn deducts £22 10s. from the £900 he has contracted to pay to the ground-owner, thus paying £52 10s. of the tax. Finally, the ground-owner pays £22 10s. of the tax.

Let us be quite clear, then, that this is a new price for new bread and butter ; a new tax to be paid out of new service. In other words, the new improvements will put a new rental into the pockets of the site-owners ; and, to tax them in this way, is to tax either on the principle of ability to pay or on that of benefit received, for in this case the two principles come together—the new benefit received creates a new ability to pay. The object, be it remembered, is “not to lessen the burden of the occupier, but to prevent that burden from increasing.”

The answer which will be given to all this is that the site-owners are already paying their full share, and that to tax them by themselves will be double taxation. It is an old answer and a strong answer ; but, as it is shown in almost every newspaper one opens that it is not understood by the people, and is slurred over by those to whom it is inconvenient, I make no apology for making it as clear as I can.

Several years ago I bought a house in Glasgow, and became liable for the feu-duty payable on the site. A few years after, I was called on to pay two years' feu-duty in one year—a “duplication.” I was annoyed, and asked my lawyer what this meant.

He said, "I told you this duplication every nineteenth year was in the feu-charter: it is your own fault if you did not calculate on it." Again, just this month, I got a letter from a legal firm demanding £1 6s. 3d. for teinds uncollected since 1885. Again I wrote to my lawyer, using the terms, I am sorry to say, "Is this swindle legal?" Again comes the answer, "Perfectly legal: it is in the feu-charter." Then I went to him and asked how many more liabilities were contained in that feu-charter, and was told, "Only one; if you die, your heirs will have to pay another duplication. But," he added, "a contract is a contract, and moreover it is a fair contract, inasmuch as you went into it with your eyes open and for your own benefit. These duplications are a part of the price: if it had not been for them, the annual feu would have been larger." It must be understood, however, that this is merely an illustration to introduce the subject, and must not be pressed beyond that.

The argument against the taxation of site-owners has two expressions, an external and an underlying one. Externally, it assumes this form: that the proposed tax is an interference with contracts. Is it not in the bond that the ground-owner pays no rates and taxes? A contract is a contract: it is one of the best results of our political constitution that contracts are sacred; to interfere—even for Parliament to interfere—is a precedent which might lead us far.

The underlying argument is that the contract was a fair one; that the rates and taxes were considered in the price. The ground-owner does pay the rates,

inasmuch as he has had to deduct from the annual price received for the ground the anticipated value of the rates. This was Mr. Goschen's argument in 1870, and he went the length of assuming that, in ordinary circumstances, the ground-owner paid all the rates.

To put it in the concrete. A ground-owner and a builder are calculating the price to be paid for a plot of ground. The ground-owner wants to get as much as he can. The builder is calculating what he is able to give. Suppose there are ten houses in the terrace he proposes to build. Tenants will be prepared, he calculates, to give £100 in rent for each house, knowing that they will have to pay another £33 in rates. The £100 of rent for each house will enable the builder to get a profit on his capital and labour and leave a balance of £10. This £10 per house is the utmost he can pay in ground-rent. If more is demanded he will not build. And the tenants, he calculates, cannot pay more than £133 in rent *and* rates, or they will not take the houses. If it were not for the rates the tenant could pay £133 in rent, which would leave £33 plus £10 = £43, as ground-rent. As, then, the ground-owner gets only £10 instead of £43, it is he who pays the rates. He gets, as it were, £43 and pays £33 in rates.<sup>1</sup>

<sup>1</sup> It seems to me that there is a flaw in this argument as it stands, which has not, I think, been noticed. It is the statement that the ground-owner, if there were no rates, would get a price higher by the full amount of the rates. But it is surely forgotten that the rates are payment for valuable services rendered by the municipality: that a house with roads, light, drainage, police, etc., is not the same as a house without these things.

To take an analogy. Two houses in a terrace are offered for sale at £3000. I am willing to pay £3000 for such a house. But I am told that there is a feu-duty on the one of £20, while the other is freehold. I at once capitalise the feu-duty, say at thirty years' purchase, and reduce my price for the one to £2400. Who is it pays the feu-duty? Undoubtedly the seller of the house.

The argument, then, is that this was not only a contract, but a fair contract: that the owner, while contracting that the occupier should send an annual cheque for the rates, did himself pay them in anticipation in the form of a reduced annual price. And this is backed by no less an authority than Mr. Goschen.<sup>1</sup>

Suppose now we assume that, in the original contract, it was understood, and intended, and calculated on that the ground-owner should pay all the rates. I may say that it is admitted in the frankest way that it would be a fair contract—that the site-owner would really pay all the rates—if the rates were calculable. But, it is said, the buyer never calculates on paying more than the average rates of the time. If ground is being leased now for ninety-nine years, the person who takes the lease bases his calculation of ground-rent on the fact of his having to pay six and eightpence per pound of

<sup>1</sup>See also Sir Robert Giffen, *Memoranda presented to the Royal Commission on Local Taxation*, p. 97: "The idea of the separate rating of ground values arises from a misunderstanding of the real incidence of rates. As that burden falls *ab initio* upon the ground landlord, diminishing the sum of capital or income he is able to obtain for his property, there is really no separate ground value to be assessed."



rates : he cannot be expected to base his calculations on rates increasing above that figure. At least if one did, others would not.

The obvious answer to this is : Well, so much the worse for the lessee ; he should have foreseen the inevitable trend of local rates.

Mr. Costelloe's reply again is : It was impossible that he could have foreseen the recent increase. It is always and necessarily a "blind bargain" ; to use his words, "The pull is always against the tenant." This blind bargain argument will repay consideration.

"A person who took a lease of any house in London in 1869 contracted to pay rates and taxes. At that time nobody understood or supposed in any way that the State was going to take up the enormous burden of the charge of national education. When Parliament did so in 1870 it was then commonly supposed that the charge would run to a maximum of about 3d. in the £. Since then we know that it has run to something much nearer a shilling. Nobody ever discussed the effect on existing contracts. . . . The result is that you are putting upon the tenant a burden which he never contemplated in any way, and could not have foreseen."<sup>1</sup>

Surely, however, this is to put the argument on a wrong foundation. The London County Council is proposing to put a new tax on the site-owner, on the ground that he chiefly will benefit by the new improvements for which the tax pays. It is taxation according to benefit. But the argument here

<sup>1</sup> Question 20,084, vol. ii. of Evidence.

suddenly shifts its ground and asks for the relief of the occupier on the plea of unexpected burden. Now, it is one thing to tax a man because he benefits: it is another to tax him because another man bears too much burden. It reminds one absurdly of the justification urged for West-end shopkeepers charging high prices: that many of their customers do not pay their accounts!

The argument was sound so long as the subject was a new tax to pay for new arterial improvements *benefiting the site-owner*. But when the past and the prospective increase of the education rate are used to buttress up the argument, it must be pronounced fallacious unless it can be shown that the benefit of education is an "arterial improvement." The most that can be said for it is that the benefit of this tax has not, perhaps, gone exclusively to those who paid it, the occupiers. Education is, in short, one of those expenses which should not, in point of theory, be allocated on ground of individual benefit, but on grounds of equal burden, equal sacrifice. It is rather difficult to see how this *can* be allocated equitably on a local basis. But at any rate it gives no support for a new tax which is specifically local, and is pre-eminently fitted for allocation by benefit.<sup>1</sup>

<sup>1</sup>The education rate and the poor rate are generally disturbing elements to theory. They are, in their nature, imperial taxes—general burdens which benefit the nation but cannot be allocated to individuals in the measure of the benefit. But, for well-understood reasons, they are locally administered and locally raised, and, being so, they are assessed on the local basis of rental. And where the rental is not an adequate expression of general ability there is an anomaly. But, as a local income-tax has never been found possible, it is easier to state the anomaly than to suggest a remedy. Cf. p. 33.

But putting aside this argument drawn from the education rate—which is, after all, only a slip in reasoning—the contention is that, as improvements are always being made and rates always increase, the occupier is always paying something on which he did not calculate; the ground-owner is always enjoying something on which he did not calculate; and the remedy is to tax this receiver of extra benefit.

Beyond this there is another argument. Whatever be the economic truth about the real incidence of the rates, says Mr. Costelloe in substance, the occupier always *thinks* that he pays them; this being so, he fights to the utmost against any increase in them, and so improvements which should be made cannot be made. Sanitation, police, education, etc., must wait because the occupier pays the rates in the first instance and thinks he pays them in the end. Therefore, it is contended, it is expedient that the new rates at least should be put obviously on another class who undoubtedly benefit. If it be the case, he adds triumphantly, that the occupiers do not pay the rates, why object to this new rate being put honestly on the class on whom it must fall, and so disarm the hostility of the rate-payers? But if it be true that the occupiers really pay the rates—and Mr. Costelloe believes that they do—then it is obvious that here is a new rate which they should not pay.

It is right to say at this point that, in order to do every justice to the London County Council proposals, I have argued the case on the assumption which is prominently put forward—that the Owners'

Tax is a new tax for prospective improvements. Mr. Costelloe, however, does not conceal that it might be more than this; namely, that some part of the tax might be used to relieve occupiers of their present burden: it might be a rearrangement, not an addition. Mr. Harper's calculation is that, roughly, £15,000,000 is the true site value of London. Under the proposed scheme, the occupiers will continue to pay rates as now on the rateable value (structural plus ground value determined on the old system), which is £36,000,000. The new tax, at 6d. on £15,000,000, would yield £375,000. Considering that the rates paid in London now are over £10,000,000, it may be granted that the £375,000 might very well be spent in new arterial improvements. But, if the tax rises to 2s.,<sup>1</sup> and a new revenue of £1,500,000<sup>1</sup> came into the local treasury, there certainly would be a temptation to apply some of it in reduction of occupiers' rates. And while Mr. Costelloe says that "any such tax as we propose would never do more than countervail the increase of site values which will happen in London within the same tract of time," it is questionable whether he is speaking of the 6d. or of the 2s.<sup>2</sup>

<sup>1</sup> "Would you say how far you would go?" "I have said quite frankly that we discussed, and I myself strongly favoured, in the committee and in the council, the suggestion of an immediate limit of 2s. I do not myself suppose that either we would desire to pass or that any Parliament would allow us to pass some limit of that kind for very many years to come."—Mr. Costelloe, Question 20,202, vol. ii. of Evidence.

<sup>2</sup> When writing this, I asked Mr. Costelloe which figure he meant, but illness prevented him replying.

Such, then, is the contention of the London County Council. I think it will be agreed that reasons have been advanced which deserve serious and respectful consideration. What I should emphasise is that the argument takes its stand on the ground of benefit received by and measurable to the payer of the new tax. It does not propose or justify confiscation. It is not in the least a demand for throwing all taxation on land values. While the Council does not promise to limit the new tax to 6d. or even to 2s. in the future, it is, says Mr. Costelloe, "preposterous really to suggest, except for the purposes of a joke, that any of us is proposing a 20s. in the £ tax."<sup>1</sup> It is not even contended that land values absorb all the benefit of local taxation. All that is said is: Here is a new service which we are going to render to the citizens; this new service will chiefly inure to the ground-owners; and this service accordingly should be paid for chiefly by them.

The objections also are evident enough.

*First.*—It is a taxation of capital. Suppose we grant that the site-owners will benefit from the future tax: it is their capital which will show this benefit, not their income. Till the lease expires, or till the interest is sold, the site-owner, whether the original, the improved, or the buildings-owner, receives only his contract revenue. The benefit is a deferred one: why should not the taxation be deferred too?

Imperial taxation certainly takes no notice of capital increment unrepresented in actual income. A man may hold £1000 of stock in a gold mine

<sup>1</sup> Question 20,200, vol. ii. of Evidence.

which has never paid a dividend, but has risen in value from one pound per share to ten. His £1000 stock is then worth £10,000, but he pays nothing in income-tax till he sells his stock or the mine begins to pay dividends.

Mr. Costelloe here is as bold as when he said that it was a "perfectly fallacious argument that the tenant had contracted to pay all the rates and taxes whatever they might be."<sup>1</sup> "I see no reason myself," he declares, "why there should be a rigid exclusion of capital values from taxation."<sup>2</sup> It is, he thinks, a "financial superstition." In other words: when it is argued that, the benefit being deferred, why should not the taxation be deferred too? the answer is that taxes are not retrospective. At the end of the lease the owner suddenly enters into possession of a largely increased capital sum. But the government does not then enter into possession of a corresponding proportion. Meanwhile the local authority has had to raise money, and it has been raising it from the occupiers, who presumably receive small share of the benefit.

It might be argued, similarly, as regards imperial taxation, that the country has been losing in not taxing capital increment. Our mine-owner is gradually growing rich potentially; but the revenues of the country have to be raised every year, and they are raised from the others who are not getting rich potentially, but are getting a steady income annually: their taxation is heavier because he escapes.

It is clear, then, why Mr. Costelloe argues for a municipal death-duty. He says in effect: The

<sup>1</sup> Question 20,084, vol. ii. of Evidence.    <sup>2</sup> Question 19,988, *ibid.*

imperial government *does* tax capital at the time when it is most convenient to get payment. If our mine-owner died, his heirs would pay duties on £10,000 not on £1000. For the same reason, the site-owner at death should pay a municipal death-duty on capital. But as he does not, and as there is little chance of the government agreeing to a municipal death-duty, this Owners' Tax is another way of arriving at the same result.

*Second.*—It will be noticed that the site value on which the owner is to be assessed is not the actual realised value. It is the value which would be realised if the site were put to its adequate use. It is the "cleared value"—the sum which might "reasonably" be counted on if the buildings were burnt down, and the bare site sold at Tokenhouse Yard. In many cases, no doubt, this value is being realised and rated on, and the "rateable value" contains an adequate expression of the real site value; but in perhaps 30 per cent. of the cases it does not.<sup>1</sup>

It seems to me that there are enormous difficulties in the way of such a valuation, and I shall deal with them at length in another chapter; but it is only fair to say that official and expert valuers told the Royal Commission on Local Taxation that "there is no material difficulty"—at least no greater difficulty than there is now in the case of the rateable value—and that the first cost would not be more than £40,000.<sup>2</sup> One witness said, "I might get out on the back wall of a garden of a house which is one of twenty, and I could see at once that

<sup>1</sup> Mr. C. J. Harper, vol. ii. of Evidence, p. 32.    <sup>2</sup> *Ibid.*, p. 32.

the sites are practically the same in shape and size; and that one inspection will do for twenty hereditaments as to site.<sup>1</sup> My contention is that it is the one house which presents the difficulty. And in innumerable cases it is clear that houses are not in a row, but of all heights, depths, and frontages, and so of different site advantages.

I have tried to show that these proposals are worthy of respectful attention and scientific criticism, inasmuch as, whether right or wrong, they are at any rate based on an intelligible and recognised principle—benefit received. I turn now to proposals which have not this justification.

<sup>1</sup>Mr. C. J. Harper, vol. ii. of Evidence, p. 31.