N.S.W. School of Social Science

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"The Valuation of Land"

By M. D. HERPS, A.C.I.V.

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The Legal and Economic Aspects of Land Valuation.

By M. D. HERPS, A.C.I.V.

(1) Introduction.

For the past two thousand years the European civilised state has steadily grown in complexity and diversity, whilst broad principles have remained unchanged. Our forefathers measured the passage of time with the sand-glass, for the same purpose as we use the precise wristlet watch or the exact electric clock. There is a great difference between these two inventions, yet each is a contrivance for measuring time. In like manner we still find it necessary to make a living as did our ancestors, and, like them, we may only satisfy our desires by applying our native strength, skill and ingenuity (which we call labour) to the resources and opportunities of nature (which we call land). Material progress, even if pushed to the limits of imagination, will never rid us of our dependance upon nature.

We are apt to regard the valuation of land as an innovation, yet I cannot conceive of a time when man did not, consciously or unconsciously, assess the relative worth of one piece of land over another, whether in pounds as we do, in cubes of compressed tea, as did the Chinese, or in cattle, as was once the practice of the ancients. It is as erroneous to think that the practice of land valuation was the discovery of a certain American economist as that the principles of war were discovered by Adolf Hitler. In point of fact, the most efficient system of land valuation ever made in Britain was that ordered by William the Conqueror, the record of which is to be found in the Doomsday Book; it was efficient because it was effective for those rude times. There can be no doubt, however, that modern economic theories have given the science of land valuation a great impetus.

The principles of land valuation were well settled long before the modern term "land value rating" was heard of; and he who would search out those principles must look for them in the common and statute law of the land. Long before the passing of the Valuation of Land Act or of the Land and Income Tax Assessment Act, there existed a set of what might be termed unwritten rules which are supposed to have grown up silently alongside the English Constitution, and which were used to guide those whose duty it was to value land. These rules are part of what we call the Common Law, that body of law which is supposed to have existed from time immemorial and which is to be found mainly in the decisions of the Common Law Courts. But the Common Law concerning land valuation has been greatly elaborated, explained and replaced by many legislative enactments, most of which have been passed in the last half-century.

In New South Wales the most important of these Acts are: (1) The Land and Income Tax Assessment Act of 1895 (now almost wholly superceded by the Local Government Act of 1905-1919; (2) the Public Works Act; (3) Stamp Duties Act; (4) Sydney Corporation Act (1932); (5) Crown Lands Consolidation Act of 1913; (6) various Closer Settlement Acts; (7) Valuation of Land Act.

The Federal Government has also passed a number of Acts dealing with land valuation, the most important being: (1) The land Tax Assessment Act of 1910; (2) the Lands Acquisition Act of 1906; and (3) the Estate Duty Assessment Act. Moreover, every other State of the Commonwealth, besides New Zealand and other parts of the British Commonwealth, have each passed Acts having to do with the valuation of land.

(2) Definition of Land, etc. (A.)

Before actually explaining the principles of land valuation, I must draw your attention to the legal definition of the terms land, owernship, improvements and valuation.

Let us consider firstly the legal definition of land and see to what extent it accords with its economic definition. It is a law of the human mind that we cannot reason about things without mentally separating them into classes, and we class things together whenever we observe that they are alike in any respect. A definition, therefore, is a brief statement of the qualities which are just sufficient to mark out a class. Therefore, an object can come under several definitions, according to the point of view of the investigator. For instance, if we wish to classify together immovable things we will put buildings and other permanent structures in the same class as vacant land, rocks, trees and other natural and immovable objects. Again, if we wish to make a list of those things which are private property, and it is agreed that

vacant land is private property, it is easy to see how men have grouped land with other things with which it has no other likeness save that of being private property. The legal definition of land is founded upon the above two qualities, namely:—

(a) That which is private property.

(b) That which is immovable.

In the legal sense, therefore, the term land includes, besides the surface of the globe and the air surrounding it, such immovable and privately owned objects as buildings, engineering works and artificial structures of every kind. The New South Wales Interpretation Act says that land includes messuages, tenements and hereditaments, corporeal and incorporeal, that is to say, houses, out-buildings and fences, anything fixed to the land that can be inherited and also such intangible rights over land as easements.

In the Colon Peaks Mining Co. v. the Wollondilly Shire Council it was held:—"When land is declared to be ratable, all under the surface and all above it is included." The ownership of land is well described in the following common law maxim that "Whoever owns the land is the owner of everything up to the sky and down to the centre of the earth."

As opposed to this view, the economic definition states that land is the whole material universe outside of man himself, and the supreme test or condition is whether it is a product of man or a gift of nature.

Therefore, whilst it may be said that both the legal and economic definitions of land are logical in that each obeys the law of thought regarding classification, each is the result of entirely different points of view, the viewpoints of the lawyer and of the scientific economist. Here, then, is the first inconsistency between legal and economic doctrine.

(B) Ownership.

Private property is usually subdivided by the lawyers into real and personal estate. This, I think, is clear evidence that, at one time, land was regarded as radically different from personal property, and so it comes about that to-day people can own land in various degrees. It is outside the scope of this paper to dwell upon the historical aspects of private property in land; it is enough to say that it is a fact that at one stage of our history land in the economic sense was regarded as common property. And so it is that no person can have an absolute title to real property. In theory, such absolute ownership vests only in the King, who may take back or resume full control of any item of real estate subject, of course, to proper compensation being paid to the dispossessed owner, both for the land and for the wealth affixed to it. At the present time, I believe that His Majesty may also appropriate for national purposes any item of wealth whatsoever, so that, in practice, the law regards both land and wealth as one. This is one of the anomalies of our present legal system, an anomaly produced by the reduction of land to private property.

(C.) Distinction Between Land and Improvements.

Although, in the legal sense, both the land and wealth components of an item of real estate are regarded as private property, yet the law does recognise that there is a fundamental difference between those components. It is a fact that some real estate is simply land and some is both land and wealth. It is a fact that one man can own the land and another (by means of contract) can own the wealth on the land. Nowhere is this more in evidence than in England, where it is the rule for one man to own the land and another to put the wealth on the land, although, in the absence of contract, such wealth, other than tenants' fixtures, becomes the landowner's property as soon as it is placed on the land. If there is one point I want to stress more than another, it is this: That land and the wealth thereon can usually be easily separated for the purpose of valuation. Whenever government appropriation of land rent is mooted, it is objected that the natural and the artificial elements are hopelessly intermingled and cannot by any means be separated. I think that such an objection can arise only in the minds of those grossly ignorant of the question or of those financially interested in the continuance of the present system.

In Australia, many legal cases have been settled having to do with improvements or wealth affixed to land, the principle being that any labour or capital expended by man so as to increase the value of the land (i.e., land in the legal sense) results in an improvement.

The Victorian Rating on Unimproved Values Act of 1922 defines improvements as follows:—"All work actually done or material used thereon by the expenditure of labour or capital on or for the benefit of the land in so far only as such work done or material used is to increase the value of the land" (i.e., land in the legal sense). Not only do improvements consist of such things as buildings and other permanent structures, they include dams, fences, roads, railways, artificially sown grasses, fertilisers, burning off undergrowth, clearing and the destruction of noxious weeds and animals.

In fact, it includes, as an economist would say, any item of wealth able to satisfy desire.

The properties of an improvement are, therefore:—

(a) That it be the result of the expenditure of labour and capital.

(b) That it be profitable.

And this definition, you will note, is synonymous with the economic term wealth.

In having fixed this vital difference between the land and the wealth components in real estate, the law has done good service in affirming economic principles.

(D.) Definition of Valuation.

Men cannot engage in production without realising, sooner or later, that all lands are not equally valuable. Even in the rudest stages of society men must have valued land, and right down through our history the payment of rents and the exercise of the powers of resumption must have necessitated the fixing of values.

The process of valuation, according to legal authorities, consists in finding the equivalent in money of a particular item of real estate. The total value arrived at is called the improved value, because it consists of the values of the bare land and of the improvements on it. The value of the bare land is called the unimproved value. These two values are each capital values; that is, they represent the value of exclusive possession for ever. The annual or rental value is called in New South Wales the Assessed Annual Value, and in other States it goes by the name of net annual value, rating value or the like.

For the purposes of this paper, I shall give the definition of these three values as laid down by the New South Wales Valuation of Land Act; those to be found in other Acts are substantially the same.

(i.) Section 5 (Valuation of Land Act): "The improved value is the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require."

(ii.) Section 6: "The unimproved value is the capital sum which the fee simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona fide seller would require, assuming that the improvements, if any, thereon or appertaining thereto and made or acquired by the owner or his predecessor in title had not been made."

(iii.) Section 7: "The Assessed Annual Value of land is nine-tenths of the fair average annual value of the land and the improvements, if any, thereon; provided that such Assessed Annual Value shall not be less than five per centum of the improved value of the land."

All land values are comparative values. It matters little whether the units employed are pounds or dollars, provided that every piece of land is valued consistently with another.

Principles of Valuation.

Although many Acts of Parliament have required that valuations of land shall be made, they do not generally lay down how they are to be made. The methods of valuation are to be found only in text-books on the subject which in turn get their matter largely from decisions given by eminent judges of the New South Wales Supreme Court, the High Court of Australia and of the Privy Council.

These authorities have ruled that the above definitions as to value mean value in the open market. This principle has been well expressed by Sir Samuel Griffith in Spencer v. The Commonwealth, where he said: "The test of the value of land is to be determined, not by enquiring what price a man desiring to sell could actually have obtained for it on a given day, that is, whether there was in fact on that day a willing buyer, but by enquiring, 'What would a man desiring to buy the land have had to pay for it on that day to a vendor willing to sell it for a fair price but not desirous to sell?' It is, no doubt, very difficult to answer such a question," he continues, "and any answer must be to some extent conjectural. The necessary mental process is to put yourself as far as possible in the position of persons conversant with the subject at the relevant time and from that point of view to ascertain what, according to the then current opinion of land values, a person would have had to offer for the land to induce such a willing vendor to sell it, or, in other words, to enquire at what price a desirous purchaser and a not unwilling vendor would come together."

Anyone holding himself out as a valuer of real estate must know all the factors which might influence its value, "either advantageously or prejudicially, including its situation, character, quality, proximity to conveniences or inconveniences, its surrounding features, the then present demand for land and the likelihood, as then appearing to persons best capable of forming an opinion, of a rise or fall for what reason soever in the amount which one would otherwise be willing to fix as the value of the property." "The value of land," said Sir Isaac Isaacs, in the High Court, "is a matter of expert opinion, but it must be an opinion based on evidence, and the best evidence of value, it has been held, are sales of comparable lands."

Offers cannot be admitted as good evidence. The following are the main items which the Courts have directed to be considered in respect of country land:—Area, tenure, any balance due to the Crown if held under the Crown Lands Acts, the date, conditions and terms of any sale, any haystacks, plant, crops or fallowed areas, details of all structural improvements, class and value of any native timber, clearing, partial or complete, distance of the land from towns, railways, roads and other public utilities, the average rainfall of the district, the geological formation of soil and subsoil, water supply and degree of infestation by noxious weeds or animals.

In the case of city lands, such details as nearness to transport, centres of population, water supply, gas, electricity, sewerage, suitability for building, views, surrounding buildings and their age, and the class of home or business are most important.

It is realised that land values fluctuate from time to time, and it has been held that a valuation, to be of any use, must be made as at a specified date. This becomes very important in compensation cases. Bona fide sales, therefore, are regarded as the very best evidence of value. It is not always possible to obtain sales, however, and it has been held that in their absence, rentals paid are good evidence. Mr. Justice Pike, in Griffith Producers Co. v. The Water Conservation and Irrigation Commission, said: "I might say that with regard to town properties, and particularly to shop properties, the invariable rule in these days is to base those on rentals; in fact, so far as the City of London is concerned, where matters are very complicated, nothing but rentals are taken into consideration in fixing values."

The rates of capitalisation may vary from as low as 4 per cent. net in the case of stable city properties to as high as 15 per cent. net for hazardous slum terraces.

In a word, therefore, the Courts have ruled that the value of land is its selling value as fixed by the "higgling" of the market.

(4.) The Fixing of Unimproved Value.

The unimproved value, which is what we are vitally concerned with, is the value of the land, "assuming that the improvements had not been made." It has been the subject of many cases before the Supreme and High Courts, and several have gone as far as the Privy Council. It is well to note that unimproved value can, and should, be found without reference to the improvements on the land. In fact, it has been held that to find the improved value and then deduct therefrom the value of the improvements is a dangerous procedure and should only be resorted to as a check. It is a particularly erroneous method when the improvements are economically unsuitable for the best use of the land. Take, for instance, a large and potentially valuable factory site on which there is a beautiful old mansion, substantial, but long out of date. The whole property, we will assume to be worth £10,000 in the open market. The full value of the home from a "cost less depreciation" point of view might well be £5,000. No sensible person, "seeking to gratify desire with the least exertion," would pay the full intrinsic value for buildings economically unsuited to the best use of the land, and such a building would be worth "demolition value" only, say, £1,000. By following the method of deducting the full value of the improvements from the improved value, an unimproved value of £5,000 would be arrived at, whereas the true value of the site as vacant would probably be at least £9,000.

The classic case concerning the fixing of unimproved value is that of Toohey's Ltd. v. the Valuer-General. This case had to do with the assessment of the unimproved value of a hotel site for taxation purposes, and because it involved the complicating element of an hotel license, I do not think it as good an example as one could wish for. In this case both the Supreme and High Courts held that the value of the license was part of the unimproved value. The case went to the Privy Council, and Lord Dunedin gave their Lordships' celebrated judgment, as follows: "Now, what the valuer has to consider is what the land would fetch at the date of valuation, if the improvements made had not been made. Words could scarcely be clearer to show that the improvements were to be left entirely out of view. They are to be taken, not only as non-existent, but as if they never had existed. Here is a plot of land; assume that there is nothing on it in the way of improvements; what would it fetch in the market?" This, I am certain, is the true conception of unimproved value as far as it goes. The great value of hotels is an artificial value created by giving a monopoly to sell a certain product. Such a monopoly may be a very fit subject for taxation, but I do not consider it an element of land value.

Unimproved value, therefore, is the value of a natural resource or opportunity. Although the Courts have insisted that the improvements on the subject land are to be ignored, they also insist that communal effort is to be reckoned with. Improvements made by Governments are

of vital importance. Thus the unimproved value depends not on the inherent productivity of the soil, but upon the advantages which sole possession of that soil gives. The presence of Government utilities, such as transport, water, gas, electricity and the proximity of a dense population are all important. The value of a particular piece of land is the value of civilised government at that spot. It is the value which the presence of the community gives to the land and which the community in reality unconsciously assesses. It is something which is already in existence and must be discovered, not invented. It is something also which needs must be paid, either to a private person, as is done under present conditions, or to a government, as this conference is advocating. It will be seen, therefore, that unimproved value is in reality the capital value of the economic rent of a piece of vacant land or other natural resources.

(5.) Application of Principle as Illustrated by Notable Cases.

Every teacher of social science knows that students are always prone to bring up for discussion questions which involve what we might term borderline cases. Time and again, you will be asked, whether such and such an object is land or wealth. This inquiring frame of mind is but a law of human nature, and many of such cases have come up before our Courts. I now wish to discuss briefly several of such cases.

(a) You teachers know full well that the economic term land includes also the ocean, or land covered with water. Some years ago, Morts Dock and Engineering Co. held from the Harbour Trust a lease of part of the harbour bed fronting lands of which the company owned the freehold. The Valuer-General had valued the land in this lease by capitalising at 5 per cent. the actual rental which the Company paid under the lease. On the face of it such a method appears perfectly sound, being quite in line with economic principles. But it would only be right if that rental paid were a true economic ground rent. However, Mr. Justice Pike ruled that in this instance the foregoing method was wrong, because:—

(1) The Harbour Trust were in the position to charge almost any rental.

(2) The owner of the adjoining freehold was the only possible lessee.

Therefore, he said, the higgling of the market being absent, the actual rent was unlikely to be a true ground rent.

He held that the value of such lands should be found from investigating sales to see what added value was paid for freehold lands having waterfront leases appurtenant to them over and above what was paid for comparable freehold lands without such leases. This case, therefore, reaffirms the market value principle and the principle that land covered by water is economically the same as any other land.

(b) The reclamation of land is probably the only instance where men can increase the dry land surface of a country and is trifling from a broad economic viewpoint. Reclaimed land is to be valued in accordance with the decision given in the Australian Gaslight Co. v. the Commissioner of Taxation. In this case it was held that "the unimproved value of reclaimed land is the capital sum for which it would sell under reasonable conditions, assuming that the actual improvements on it other than reclamation had not been made, deducting from such sum the actual cost of reclamation."

(c) **Added Value.**—It is a fact well known to all prudent people that, in order to store up wealth in certain forms, such as large structures or clearing, a large capital must be amassed for which there is no immediate return. If this capital were used in smaller amounts it would soon earn interest, but by storing it up in forms from which there is no immediate return, an allowance must be made for the loss of interest so involved. Such an allowance is known as "added value," and must not be confused with appreciation in value. It is well explained in the case of Kiddle v. the Deputy Federal Commissioner for Land Tax in which Sir Adrian Knox said (among other things): "The question to be solved in ascertaining the value of the improvements for the purpose of arriving at the unimproved value is what part of the improved value is attributable to the improvements to be valued. Presumably, a purchaser of the land would determine that the amount to be attributed to the value of the improvements would be equal to the amount which he gained or saved by reason of the improvements having been made, he thereby being relieved from the necessity of making them. This amount would be found by ascertaining the amount which it would cost to make the improvements in question at the relevant date, including a proper allowance for loss of interest on all the outlay during the period which must elapse before such outlay became fully productive." This decision is again in line with economic principles.

(d) **Capitalisation of Profits.**—In certain resumption cases, advocates have sought to base their clients' claims on what is known as the "Capitalisation of profits" basis. Taking, for

the sake of example, a farming property, the method of working was as follows: The net profits made over a period of years were examined and a reliable figure taken as the average income which could readily be made from such a farm. This income was then capitalised at a "fair rate of interest," such capital value being adopted as the fair capital value of the farm. From this capital value the estimated value of the improvements was deducted, the balance being, it was claimed, the unimproved capital value. This method of arriving at the unimproved value is patently wrong, in as much as the farmer's labour is unaccounted for, this item being confused with economic rent. The fallacy in this method has, happily, been perceived by the Courts in several judgments, a notable one being that of Mr. Justice Rich in the High Court case of Jowett v. the Federal Commissioner of Taxation. "If one capitalises the profits of operations carried on upon the land," he said, "and then makes certain deductions (for improvements), the residual value is the capital value of the operations and not the unimproved value of the land. In the operations are involved personal exertion, experience and skill, and no allowance is made for these matters. If these were separated out, the capitalisation process might more nearly approximate to the unimproved value. In setting to work to capitalise what can be made out of the land, you overlook the fact that the problem set is to ascertain the realisation value or how much capital is locked up in the land." But for that unhappy confusion of capital with land in the last phrase, we can agree with His Honour that land value is separate from and arises quite apart from individual labour. Mr. Justice Pike has also demonstrated this principle by saying that "the only true principle is to find, as nearly as possible, the productivity of the farm in question and, having come to a conclusion on that point, the next step is, not to capitalise that productivity, but to ascertain what, in the current opinion of those conversant with the subject, a farm of such productivity would realise in the market."

(6.) Compensation.

One of the main factors leading to the establishment of a sound valuation practice has been the demand, from an enlightened section of public opinion, that the public moneys shall not be recklessly squandered away in compensation for lands resumed by the Crown. The subject of compensation is one which would need an entire paper to itself, and I can only hope to touch its fringes in this paper. Whilst I fully agree that compensation for the taking of economic rent is unsound and cannot be justified in economics or ethics, yet I feel (so deep-rooted is the idea of compensation in the British mind) that it cannot be dismissed in a few facile premises, however logical. The general principles of compensation are older than the institution of private property in land itself, and the right to compensation for land resumed is now integral with the English Common Law. However, the thin end of the wedge of economic truth has already been inserted as I will now show.

All the Dominion Governments have legislative enactments on their statute books giving them wide powers of resumption. These Acts lay down that compensation shall be paid for land taken, the term land including, of course, both the improvements and the bare land supporting them. The money value to be paid is laid down as the value of the parcel as at the date of resumption or at some date prior to resumption. Compensation for improvements is, of course, logical and just; they are the tangible fruits of capital and labour. Land being reduced to private property, compensation for the economic rent is also justified, according to the lawyers. Moreover, in the eyes of the common law the owner is also entitled to the enhancement in value of surrounding lands which almost always follows a resumption. This enhancement in value is called betterment, and is defined as an additional value accruing on account of the benefits conferred by the establishment of the public work for which the land was resumed. The laying down of a railway line provides a convenient example. The common law says that betterment is the private property of the landowner, but modern statute law has overridden this doctrine and lays down that betterment is to be deducted from the compensation payable. This is the thin edge of the wedge. The betterment principle is clearly set out in the New South Wales Public Works Act, Section 124, of which lays down that in assessing compensation, a valuer may have regard to:—

(a) The value of the land and improvements.
(b) The damage by severance or other injury.
(c) The enhancement in value of the land due to the establishment of the public work for which the land is resumed.
(d) Any enhancement in value of other land of the same owner adjoining.

The Public Works and Resumption Acts of the other States each have provisions substantially the same, though differing in detail.

In addition to bare market value, it is usual for the Government to pay for business dis-

turbance, for the compulsory ejectment of a man from his home, for the advertising of new business premises, and for the peculiar value attaching to unusual types of occupation. No allowance is made, however, by reason of the taking being compulsory. That notorious 10 per cent. extra is a mere figment of the imagination, but it often happens that special circumstances warrant the award of more than bare market value.

(7.) The Economic Fallacy of the Selling Value Principle.

I have stated before that in the legal doctrine, unimproved value, or, as the economist would say, capitalised economic rent, is the value of the bare land in the open market. Now capital value means (by definition) the value of freehold or unlimited ownership. If a person's interest in a piece of land is less than a freehold interest, then the value of the land to him is less than the full freehold value. Where the ownership of a vacant block of land is divided between a freeholder and a lessee, the income from the land has to be divided between those two parties in the manner laid down in the memorandum of lease; in other words, the economic rent of the land is divided up between two persons, the sum of whose interests, when capitalised, should approximate to the full unimproved value. Hence it is that freehold title is generally more desirable than leasehold.

Now consider the economic effect of a rate or tax levied by a government authority on the unimproved value. The impost must be paid by the owner of the land every year just as if he, the owner, were the lessee of the authority collecting it; that is to say, a part of the economic rent is handed over to the government as revenue. The residue in the owner's hands is only a part of the economic rent, and, when capitalised, is less in amount than the true unimproved value. And as no man can sell a larger interest in land than he himself owns, it follows that the selling price of that land is less than the full unimproved value.

When a rate or tax of, say, 1d. in the pound is levied over a whole area, the effect is that the rating authority becomes a part owner of the land to the extent of that penny, capitalised. It will, therefore, be seen that the selling value of all land subject to a flat rate of tax is less than the true unimproved value by an amount equal to the annual amount of tax capitalised at, say, 5 per cent. We conclude, therefore, that the true unimproved value of land is its market value plus the capitalised amount of all rates levied on it. A graduated tax, such as the Federal Land Tax, because it only falls on some land, does not have quite the same economic effect and can be left out of view in this argument.

The conclusion thus reached is an important one, and you may be inclined to ask why it is that acts of parliament and the law courts have not yet taken notice of the principle indicated. I will suggest two reasons.

Firstly, when the section defining unimproved value was first framed, land value taxation had not been fully tried out; and the legislators did not forsee its economic effects.

Secondly, land value taxation has, to date, confiscated so little of the economic rent available that its effect on selling value have not been of sufficient importance to draw attention to the fact.

I understand that Mr. Hodgkiss, of Melbourne, has also explained the fallacy in the selling value being used as a basis for land value rating, and the fact that others have also perceived it independently lends support to the argument. I think, however, that the fallacy can be shown more easily as above than by the masses of figures with which he has supported his conclusion.

In order that land value rating may be brought into strict alignment with economic principles it is suggested that a definition of unimproved value be adopted as follows:—"The unimproved value of land is the capitalised equivalent of its economic ground rent. It consists of the capital sum which the interest of the owner might be expected to realise if offered for sale on such reasonable terms and conditions as a 'bona fide' seller would require, assuming that the improvements thereon or appertaining thereto, and made or acquired by the owner or his predecessor in title had not been made, together with the capitalised equivalent of any ground rent and of all rates and taxes levied on such unimproved value."

Such an amendment would be an important step in our policy for the confiscation of the entire economic ground rent for revenue.

(8.) Legal and Economic Aspects Contrasted.

Let us now sum up the points of agreement and difference between the legal and the economic aspects of land and land valuation.

(a) The first point of difference is in the respective definitions of land, the legal definition being based on the qualities of private property and immovability and consequently including certain elements of labour and capital. Land, according to the lawyers, is synonymous with real

estate, which in turn is made up of land proper and wealth in the shape of fixed improvements. The economic definition of land is: All natural resources, exclusive of man and capable of modification by labour and capital.

(b) Secondly, the law generally recognises the owner's right to compensation amounting to the value of the land before resumption, but excludes betterment. The betterment principle is a clear recognition of economic doctrine as far as it goes.

(c) Thirdly, the law realises the vital destinction between nature's gifts and the products of labour and capital, or, in the valuer's parlance, between unimproved and improved land, but it insists that both are equally private property.

(d) Fourthly, the legal definition of capitalised economic rent is value in the open market, whereas the economic law states that economic rent is the excess product over that which the same application can secure at the margin of production. I have already shown that where a rate is levied on the unimproved value, the selling value is less than the full economic value.

Here, then, is the conclusion of the matter. The legal doctrines relating to land and land values have been slowly developed through the centuries. The discovery and correlation of economic laws is like the doctrines of many other sciences, but the work of the last century. It is our earnest desire that these economic truths may one day so permeate our legal system that "injustice within the law" may be forever uprooted.

The foregoing Paper was read at the Third Annual Conference of the N.S.W. School of Social Science on 14th February, 1942.