

Thames, in boroughs such as Barnet and Harrow (which, like Bromley, are Conservative run) there were fewer qualms about transport subsidies, no doubt because they were very much to the advantage of their electors.

The issue of subsidies for urban public transport can be summarised in a single question. Should those who use it pay directly or should it be laid on as a service paid for partly, or even wholly, from the public purse? The majority of urban transport authorities around the world receive financial support. In 1979, a survey showed that the proportion of revenue paid by the passengers themselves varied from about 75 per cent in London and Manchester to 52 per cent in Munich down to as little as 28 per cent in Rotterdam.

There are several arguments in favour of transport subsidies. Where volumes of traffic are too large for roads to handle, public transport must be provided in any case, and low fares ensure that the facilities are well used. This, in turn, makes it possible to adopt simple flat rate or zonal fares, and tickets can then be issued and checked automatically, by machine. Without the subsidy, short-distance fares are so high that passengers prefer to walk. Subsidies also influence the proportion of travelling done in private cars; small increases in road traffic have a critical effect on congestion, and the community at large incurs costs in the form of delays, noise, pollution, accidents and general nuisance. A policy of subsidy may be the cheaper solution if it encourages enough people to use public transport; everyone then benefits from the smoother flow of traffic. Unfortunately, this is very difficult to demonstrate, as travel habits develop over many years and short experiments prove very little.

On the other hand there are equally good arguments against transport subsidies. They mean that some people are paying for a service they do not use while others are using a service they do not fully pay for, and it makes matters worse when people in some areas are expected to pay for a service that is not even available to them. In London, transport subsidies act to the advantage of better-off owner-occupiers in the outer suburbs, and it is difficult to see how a council, whatever its political colour, can justify this. Subsidies can also perpetuate inefficiency and artificially low fares make it difficult to relate services to real demand. When passengers do not have to pay the

**T**HE CASE of Earl of Lonsdale v H.M. Attorney General heard before Mr. Justice Slade on the 15 January 1982 in the Chancery Division calls attention to fundamental principles far beyond the facts of the case.

In 1969 the Crown purported to grant an oil company a licence to search and bore for oil and natural gas in the bed of the Irish Sea. But by a conveyance made in 1880 the Crown had granted to the predecessors in title of Lord Lonsdale its interest within certain tracts of land forming the sea bed adjacent to the Cumbrian Coast "All mines and minerals down to the bottom of the coal measures in and under those tracts of land." No doubt the situation was the well recognized arrangement when mines were sunk on dry land but the underground workings followed the seams (probably of coal) out under the sea bed.

The land owner's rights over his own land stopped at the high water mark, and the foreshore and sea bed were vested in the Crown.

The question to be decided was whether the oil and natural gas were within the definition "mines and minerals" and it became a matter of words and definitions. The decision was in favour of the Crown. One of the principles involved in that decision was that, contrary to the ordinary rule applicable to grants by the subject, grants by the Crown fell to be

true cost of travel they tend to make journeys they might otherwise have thought twice about. Cheap travel encourages people to take on long journeys to work, and the end result could be much unnecessary travelling and fuel consumption.

With strong arguments on both sides, the conclusion to be drawn is probably that a measure of subsidy is acceptable. Worldwide, there is a tendency for subsidies to fall in the range of 40 per cent to 50 per cent; this seems to be a prerequisite for well-used public transport facilities of good quality. The alternative seems to be fares set so high that few people use public transport, which then has to be pruned to suit the reduced demand; however, this approach is still loss-making, but with little to show for it in the way of service.

One aspect of the subsidy issue, however, usually escapes notice. High fares depress land values, so they are one of the expenses people allow for when they decide how much they can pay for a house in a particular place. The converse is equally true; low fares tend to enhance land values. With the cheap fares in London, com-

# The Case of the Crown, the Earl and the seabed

construed in a manner most favourable to the Crown.

The decision is interesting especially because on the great landed estates it was and is common to except mines and minerals from the sale of freehold land and the granting of long leases. It will be interesting to see how the case will be applied to them, especially as the Crown would not be involved and the oil and gas and other minerals would belong either to the landed estate or the owner of the surface.

It is also a land mark in industrial history as being an example of the change from one fossil fuel to other fossil fuels as sources of energy. It leads on to the great international issues now and for years past aired in conferences on the Law of the Sea in the United Nations where questions

muters travelling into town from places like Highbury and Earl's Court were saving around £3 a week; four people sharing a flat would have been about £600 a year in pocket. Even after deducting the £40 a year in extra rates which the Greater London Council said that "Fares Fair" would have cost, they would still have been about £500 a year better off. As with all advantages of location, this would soon have been skimmed off by higher rents. Other rents which would have risen as a result of the London Transport fares subsidy would have been those of hotel rooms and shops in Central London, as more visitors came to spend their money.

In effect, subsidising public transport is much like building a road - in improving accessibility it enhances land values. Under our present tax system such increases in value are a windfall for the individual owners. How much fairer it would be if the rental value of land were a major source of public revenue. It would then be possible for the public to recoup the values it created by its investment in services such as transport.



## BY EDGAR BUCK

of fundamental importance are always present where individuals or bodies seek to monopolize natural resources. The advance in technology is making natural resources under the sea bed available for use, but the sea bed is land and land – and the sea itself if it comes to that – is a natural resource which should be applied for the benefit of all.

**T**HE CASE in the Chancery Division had the Crown as an owner of the sea bed. If it had been dry land the plaintiff would have owned the minerals as his own, because he owned the surface.

It was right that the owner of the land forming the sea bed should be the Crown which, in this context, would represent and take the benefit for the people of Great Britain.

But our history is that not only the off shore sea bed but also all the land of Britain at one time was publicly owned via the King and from the income of which he paid the expenses of Government.

English feudalism held that all freemen were bound by the Salisbury Oath of 1086 "to give allegiance directly to the King." Consequently, every acre of land in the country was held of the King. As Pollock and Maitland have said: "The person whom we might be inclined to call the owner the person who has the right to

use and abuse the land to cultivate or leave it uncultivated, to keep others off it, holds the land of the King either immediately or mediately."

Ultimately the people represented by their King (the Crown) were deprived of the benefit of the land of their country as it became gradually reduced by various means to private ownership. Although the feudalistic words "in fee simple" were retained they came to indicate an estate of freehold and ownership and that includes everything attached to or lying below the surface of the land and also all above it.

This is the land tenure system in our country now and from it stems a poverty for some, for the owner can deny to others access to natural resources completely or except on terms of payment.

The system of private land ownership is so tight – the whole of the land is owned by so few – that the proportion of earnings so taken is high. Not only that but the work and industry of those who are permitted to work enhances by the division of their labour and their presence the value of the land to such an extent that where they are concentrated in large cities land values can be reckoned in millions of pounds an acre.

A recent example of this is the site of St George's Hospital at Hyde Park Corner, London. Under a contract made in 1767 the site was sold for £23,700 on the basis that it would be sold back at the price if the building were to be no longer used as a hospital. It is no longer so used but the site is now worth about £20m. That value is attributable not to oil or gas underneath, but to the presence and industry of the people. The site now reverts to the Grosvenor Estate, which is headed by the Duke of Westminster.

It is this value as well as the value of other natural resources which should be taken by way of taxation – in the process abolishing existing

taxation which is levied on industry and labour.

**T**URNING again to what history will see as important, namely the exploitation of the sea bed, we are becoming familiar with drilling into the sea bed for oil and natural gas but there are other natural resources at stake in the form of "manganese nodules" containing nickel, cobalt, copper and manganese as well as other metals.

These nodules are found on the floor of the oceans beyond the usual limits of natural sovereignty. By means of modern marine technology they can be sucked up to the surface and refined. In December 1970 the United Nations General Assembly adopted Resolution 2749 (XXV), designating the area of the deep sea bed as "The Common heritage of mankind" and recommending that an international regime be established to enable the exploration of the sea bed to be carried out for the benefit of mankind, taking particular account of the needs of developing countries.

From this has followed procedural arguments, questions of production limitation, in our own country the Deep Sea Mining (Temporary Provisions) Act 1981 and in other countries similar legislation. Countries have sought to extend their territorial sea limits to 12 miles and some to 200 miles. Problems relating to narrow straits between countries, investment protection and rights over fisheries have been discussed and representations by land locked countries to share in the bounties have been made. Progress has been slow and although it was expected that December 1981 would see negotiations concluded and a final Act signed, that did not happen.

As one looks out upon the world and upon the obligation to ensure that the newly discovered natural resources on and under the sea bed are used for the benefit of humanity generally, the remedy of the taxation of land values (or in the language of the economist, the collection of the economic rent of land for public purposes) to achieve economic justice seems comparatively simple. Nevertheless that simplicity provides the fundamental guide that what God provides is for all his children and on the other hand that a man is entitled to all he earns. Perhaps the fundamental truths to be faced in the presence of the new discoveries exemplified by Resolution 2749 may lead to the recognition of the need to take land values everywhere for public purposes – bringing the economic justice and harmony which has been the lifelong goal of fine thinkers for over a century.

### Hilton loops the Loop

A MASSIVE \$250m Hilton Hotel project will not now be built in Chicago's North Loop.

The development was cancelled when Cook County assessor Tom Hynes refused to endorse an application to reduce the property tax liability.

Chicago is famous for the tax concessions that it has granted to landowners.<sup>1</sup> Mayor Jane Byrne favoured the "tax break" for Hilton, which would have produced an assessed valuation of 16 per cent of fair market value for 13 years, rather than the standard commercial rate of 40 per cent.

Hilton would have saved \$70m, a burden that would have been placed on other taxpayers.

Arthur Murphy, a senior official in the assessor's office, said in a letter in answer to one of the earlier applications for the tax break that the city authorities had failed to identify the owners of all parcels of land in the six-block, 26.7-acre development area, as well as persons with beneficial interests in trusts holding the land.<sup>2</sup>

1. Henry Tideman, 'The Great Chicago Rip-off', *Land & Liberty*, July-Aug. 1979.
2. William Juneau, 'Hilton tax break is rejected again', *Chicago Tribune*, 28.10.80.