

Supreme Court Sophistry

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THE ELECTION of Dr. Irene Hickman as Assessor of Property Tax in Sacramento, California, caused quite a stir. Dr. Hickman was elected on a pledge to give home owners a fairer deal by ensuring that poorly developed commercial properties would have their sites assessed at the same proportion of full value as home units. The value of vacant land was also promised scrutiny, since it was known that many sites were appraised at a lower value than the market information indicated.

As Mrs. Hickman's policies began to bite, complaints from those who had received notices of increased tax liability came rolling into the Assessor's Office. Holders of vacant sites started to employ mass media advertising techniques in the name of "aggrieved home owners" to oust the lady tax reformer from her post, but she gained many friends when the names of speculators behind the attack were revealed. Most surprising of all, however, was the recent decision of the Supreme Court of California which went against the whirlwind assessor (reported in *California Homeowner*).

To draw attention to the problem of unequal assessments throughout the State, Dr. Hickman sought sanction to value all property, whether vacant or developed, at 100 per cent of its market value, as provided for in a Constitutional Amendment. To the amazement of Dr. Hickman's supporters, the Court was not prepared to uphold her plea. In a written opinion which must stand as the supreme example of judicial sophistry, the Court stated: "We find no fault with the canons of construction invoked by the respondent (referring to the Constitution) but they are inapplicable to the historical facts before us. When for more than sixty years a statute has been construed in a consistent manner by the Administrative Agencies charged with enforcement, and the practice has been consistently acquiesced in by the Legislature and recognised by the courts, its language comes to the Constitution clothed with that special meaning. It is too late to return, as the respondent urges, to the literal sense of the words used; to strip them of their acquired connotation at this late date would be arbitrarily to deny the experience of all the preceding years."

With these words the Court declared that for all practical purposes the words of the Constitution have no validity since they have never been enforced. The practice of fractional assessment, i.e., valuing property at 50 per cent, 20 per cent, or 5 per cent of market value, could continue with impunity in spite of another clause in the Constitution which provides that an assessor who does not assess at full cash value may be liable for civil and criminal prosecution. As the *California Homeowner* comments,

what happened to the scale of justice in the Supreme Court is anybody's guess.

Nevertheless, undaunted by the Court's decision, Dr. Hickman will continue the battle to improve assessment techniques and equalise the discrepancies in present valuations that favour the hold outs and speculators. Opposition to her reforms from the entrenched vested interests can be expected to increase. On the other hand she has on her side the home owners who elected her to protect majority interests. Her opponents are now moving from the cover of dubiously titled organisations, and have even promoted a bomb scare in her home. Things are hotting up in California.

1965 Real Estate and Town Planning Catalogue

AN EXTENSIVE catalogue of literature dealing with town and country planning, real estate, housing, building, etc., together with the legal aspects pertaining thereto, has been compiled by the German Union for Housing, Town and Country Planning Ltd., Cologne.

The newly-completed collection names 3,500 publications of the year 1965 and is fully indexed. Included are references to articles that have appeared in *LAND & LIBERTY*.

Students, architects, engineers, lawyers and economists should find this volume of great interest and value. It is a reference book recommended for use in libraries, scientific institutes and similar bodies interested in the subjects covered. (259 pages, DM 19).

CORRECTION

IN THE August issue of *LAND & LIBERTY*, under the heading "Germany's Land Problem," Gustav Bohnsack commented on certain statements made by Dr. Lauritz Lauritzen, the German Minister for Housing and Town Development, during which he said: "The Federal Housing Minister must have our agreement when he claims that our housing and town development should accord with the dignity of human nature, that the tasks of town development can be fulfilled only if rising real estate prices are effectively opposed, and that a new orientation of our land policy is necessary."

Unfortunately, due to an error, the word "not" appeared before the word "effectively," thus reversing the meaning Mr. Bohnsack intended.