IMPROVEMENTS THAT MERGE IN THE LAND

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One of the practical problems in the taxation of land-values is the treatment of those improvements which, instead of being different in kind from the land, like houses and fences, become indistinguishable from it, like the results of clearing stones from a piece of land or levelling its surface. They become part and parcel of the land as much as if they had been the outcome of weathering or erosion or the accumulation of silt. These natural processes are turned to account in some cases, as where groynes are constructed along a shore to intercept sand or shingle that would otherwise be carried past, or where a natural waterway is utilised to drain a marsh by cutting or clearing a channel through the intervening ground; and in such cases the improvements now under consideration are not so much the channel or the groynes—which in some instances are different in kind from the land, and would be treated accordingly in the valuations—but the effects of the accretion or drainage. In like manner, if an embankment is built to prevent low-lying lands being flooded, the improvement now under consideration is not so much the embankment—which also may be different in kind from the land—but the improved condition of the protected lands, some of which may be on different properties, or may have passed into other hands since the embankment was made.

The Practical Problem

These improvements which merge in the land present more difficulty than those which differ from it in kind, because, while in the latter cases there is no need to go beyond present values, in most of the former it would be necessary to compare the existing condition of the land with its condition before the improvement was made. And as, in a long-settled country like ours, where many of these improvements are the result of what has been done in past centuries, the valuations would be smothered by historical and antiquarian research which would be of no practical use. There is nothing to be gained by attemping to disentangle from the land those improvements which merged in it long ago, and the exemption of improvements from taxation would have no effect on improvements already made. There would therefore be no economic advantage in attempting to make allowance for improvements of this kind which are of old standing; though the exemption of those which may be made in future, and of those which are now being made, might well be extended to those which have been made recently and have not yet had reasonable time to pay for their cost.

The Time-limit Solution

In order to keep the range of inquiry within reasonable limits both now and afterwards, the best plan would be to limit the exemption of these merging-improvements to what is attributable to work or expenditure of a capital character made or incurred within a certain number of years before the date of valuation. What would be the best time-limit is another question. For the answer, there is a satisfactory precedent in the Improvement of Land Act, 1864 and 1899, which, on the assumption that expenditure of this kind, judiciously applied, should pay for itself in forty years, made forty years the extreme period over which the repayment of loans for the improvement of land under these Acts might be spread. The same period might well be adopted for the purpose here considered, and even a shorter period of exemption would be much better than the present system which, save in a few exceptional cases, does not exempt these improvements at all.

Classes of Improvements

These are the general reasons for adopting the time-limit system in order to make allowance for these improvements which merge in the land and would otherwise be included in the valuations as land. They are obviously inapplicable to improvements which are different in kind from the land, like trees and houses, which should be omitted from the valuations altogether; it is, indeed, much easier to treat these things as separate subjects than to attempt to distinguish, for instance, how much of a house or of growing timber is attributable to construction or growth before a given date, and how much to construction or growth afterwards. In any event, all those improvements which are exhausted within the time-limit would be absolutely exempt, which settles some questions that might otherwise arise as to improvements on the boundary-line between the two classes, such as the laying of unjointed drain-pipes. It may also be added that each property would be valued on the assumption that the surrounding properties are in their existing condition; thus, if a newly-made embankment on one property incidentally protected land belonging to another property, the latter would be valued without deduction in respect of the embankment, except in so far as the owner could show that he had contributed to its cost.

What Henry George wrote

In considering the case of improvements that merge in the land, we would do well to bear in mind what Henry George wrote on the subject in "Progress and Poverty." In Book vii, Chapter I, he says:—

> "If I clear a forest, drain a swamp, or fill a morass, all I can justly claim is the value given by these exertions. They give me no right to the land itself, no claim other than to my equal share with every other member of the community in the value which is added to it by the growth of the community. But it will be said: There are improvemts which in time become indistinguishable from the land itself! Very well; then the title to the improvements becomes blended with the title to the land; the individual right is lost in the common right."

In Book viii. Chapter 4, there is this suggestive passage:—

> "In the oldest country in the world no difficulty whatever can attend the separation, if all that be attempted is to separate the value of the clearly distinguishable improvements, made within a moderate period, from the value of the land, should they be destroyed. This, manifestly, is all that justice or policy requires. Absolute accuracy is impossible in any system, and to attempt to separate all that the human race has done from what Nature originally provided would be as absurd as impracticable. A swamp drained or a hill terraced by the Romans constitutes now as much a part of the natural advantages of the British Isles as though the work had been done by earthquake or glacier. The fact that after a certain lapse of time the value of such permanent improvements, would be considered as having lapsed into that of the land, and would be taxed accordingly, could have no deterrent effect on such improve-

ments, for such works are frequently undertaken upon leases for years. The fact is, that each generation builds and improves for itself, and not for the remote future. And the further fact is, that each generation is heir, not only to the natural powers of the earth, but to all that remains of the work of past generations."

These two facts have an important bearing on the time-limit. As regards the suggested cases, it is interesting to observe that the question whether an embankment on the coast of the Wash, which dated from the time of the Romans, should be allowed for in valuations under the Finance (1910) Act, 1910, was the subject of a judicial decision in Waite's Executors *v.* Inland Revenue Commissioners, 1914, 3 K.B. 196.

Land Values &c. Taxation (Scotland) Bill, 1906

The treatment of improvements that merge in the land has received increasing attention since the taxation of land-values entered the sphere of practical politics. The Land Values Taxation, &c. (Scotland) Bill, 1906, like earlier land-value Bills introduced by private members, proposed that the land-value of a piece of ground should be based on its price as between a willing seller and a willing buyer:—

> "such land value being taken apart from the value of any buildings, erections, fixed machinery, or other heritable subjects, on or connected with such piece of ground."

After second reading the Bill was committed to a Select Committee of which Mr. Alexander Ure (now Lord Strathclyde) was Chairman and the present writer was a member. In view of the evidence given, as to the reclamation of land from the sea and the preparation of sites for building, this Committee recommended that where the amount of expenditure on such work is proved satisfactorily,

> "allowance ought to be made for it, at all events, if it has been incurred within, say, twenty years of the date of valuation."

Land Values (Scotland) Bill, 1907

In accordance with the general recommendation of this Committee that a measure should be introduced for the valuation of land on a land-value basis in the burghs and counties of Scotland, the Government introduced in the following year the Land Values (Scotland) Bill, 1907. As introduced it provided that the land should be valued as if it were "divested of buildings, erections or structural improvements, and fixed or attached machinery," and the Standing Committee on Scottish Bills, following the suggestion of the Select Committee, extended these exemptions so that the Bill as amended in Committee provided for the land being valued as if it were

> "divested of buildings, erections or structural improvements, of whatever nature, on, in, or under the soil, woods, fixed or attached machinery, and work of reclamation, making up, levelling, and the like, where such work has been executed not more than twenty years preceding."

On Report Stage, the second part of this was extended by inserting after "work of" the words "drainage and of." Following this, Mr. (now Sir George) Younger proposed, and the Lord Advocate (now Lord Shaw of Dunfermline) accepted on behalf of the Government a proposal to leave out the twenty years' limit and to put in its place "where the benefit thereof is unexhausted at the time of valuation."

These new words would have been meaningless, because in no case was any exhausted value to have been taken into account, while the deletion of the time-limit would have choked the valuations by antiquarian research. How the Government came to accept this wrecking amendment is a mystery; it was not in the notice-paper (*see* "Supplement to the Votes," 20 Aug., 1907, pp. 2959-2962) so that private members had no warning of it, and the whole thing was slipped through so quietly in the "small hours" of a late sitting that even the Hansard Report, which alone appears to notice it, gives nothing more than a bare statement of what was done, and does not even mention the names (181 H.D. 619). The idea of having to disentangle from the land all the improvements that had been wrought in it since improvements were first made, gave the opponents of the Bill an opportunity for ridicule. "Why!" exclaimed the Earl of Camperdown in the House of Lords, "you get back to the days of the Picts and Scots" (182 H.D. 56). The Lords, who disliked the character and purpose of the Bill, refused it a second reading by a majority of 87 on 26th August. Two days later the Session was brought to an end.

Land Values (Scotland) Bill, 1908

In the following year the Bill, unchanged except in date from the form in which it had been sent to the Lords, was introduced again in the House of Commons, passed without amendment under an allocation-of-time resolution, and again sent to the House of Lords, where it was allowed a second reading but was afterwards smothered by amendments which, in Lord Halsbury's expressive phrase, negatived its purpose (188 H.D. 1267) so that it was wrecked a second time.

Finance (1909-10) Act, 1910

The next year, 1909, was marked by the passing through the House of Commons of the Finance Bill of that year, with its "Land-Value Duties" and land valuations. The rejection of it by the Lords precipitated a general election, after which it was passed into law as the Finance (1909-10) Act, 1910. In it also the improvements which were excluded from full site values were those distinguishable in kind from the land, but in the case of assessable site value there was a provision in section 24 (4) excluding from that value:

> (*b*) "any part of the total value which is proved to the Commissioners to be directly attributable to works executed, or expenditure of a capital nature (including any expenses of advertisement) incurred bona fide by or on behalf of or solely in the interests of any person interested in the land for the purpose of improving the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture";

with a proviso that:

> "Where any works executed or expenditure incurred for the purpose of improving the value of the land for agriculture have actually improved the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture, the works or expenditure shall, for the purpose of this provision, be treated as having been executed or incurred also for the latter purposes."

But most of such work and expenditure for agricultural improvement does not come within the proviso, and is not deducted from this valuation.