TENEMENT BUILDINGS and LAND-VALUE TAXATION

by

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It is sometimes asked how the system of land-value taxation would be applied to the case of what are known as "flatted houses," or "flatted tenements" or "blocks of flats." They have been described in the Scottish case of Scott *v.* Police Commissioners of Dundee, 1841, 4 D. 292, 303 (which turned on the construction of a local Act) as consisting in each case of "a single or individual building, although containing several dwelling-houses, with, it may be, separate means of access, but under the same roof and enclosed by the same gables or walls." The included "houses" are, of course, not always dwelling-houses; in a number of cases they are offices and shops. For convenience of expression, we may refer to the block of building as the building, and the included houses as tenements.

Proportional Contribution

In a land-value tax, the general rule of proportional contribution is that, where there are different interests in a property, the land-value tax on that property should be allocated between them in proportion as they participate in the land value. In ascertaining these proportions, the share of the superior interest should be ascertained first; if that interest does not absorb the whole land-value, the share of the next interest should be ascertained next, and this process should be continued as far as required through the successive interests in descending order until the whole land-value is accounted for. In the great majority of cases it would be found that the whole land-value is absorbed by the highest and next highest interests and that there would be no need to carry the process any further. In practically all cases of tenement houses in England, and in the great majority of those in Scotland, the land-value would be found to be wholly absorbed by the superior landlords or by them and the landlords of the tenements, and the process of ascertaining the shares in the land-value would be completed at that stage. It would generally be found that the possessors of the tenements—who are mostly tenants for comparatively short terms—were not participating in the land-value, but were paying rents sufficient to cover any shares in the land-value that might otherwise be allocable to their respective tenements.

Feued Tenements in Scotland

There are, however, exceptional cases to which these observations might not apply. In some Scottish cities, particularly in the case of some more ancient houses in the more ancient parts of the city, the tenements have been feued, and the feuar is thus not a temporary tenant but a permanent owner, subject of course to the continuous payment of the feu-duty, and, in accordance with the general practice, will here be referred to as the owner of the tenement. In some cases these feus were granted long ago and the value of the land has increased so much that, on working out the process of allocating the land-value, it may be found that the land-value is not wholly absorbed by the superior or superiors in the shape of feu-duties and that part of it is allocable to the owners of the tenements, who would thus become liable to pay the outstanding proportion of the land-value tax.

Allocation of Land-Value Tax

The allocation of this outstanding portion as between the owners of the tenements might, on general principles, be proportioned to the selling values of their respective subjects less the values of the structures. As, however, the subject may be a given space a certain height above the ground, with certain rights and obligations in respect of support and other matters to be presently mentioned, it might be desirable to have a general plan of proportioning the liability of the respective owners to the rateable values of their respective tenements. A somewhat similar suggestion was made to the Select Committee on the Land Values Taxation, &c. (Scotland) Bill in 1906 by Mr. Henry, the Assessor of Glasgow; see "Minutes of Evidence" with the House of Commons Report No. 379, answer 2904; further opinions on the problem will be found in some other answers, *e.g.*, 254-6, 505-12, 516-9, 603-4, 690-8, 967-70, 9059-64.

Australian Precedents

There is a direct precedent for the course here proposed in section 13 (iv.) of the Queensland Valuation and Rating Act, No. 24 of 1900, which provides that:

> Where more persons than one are in separate occupation of a building erected upon any portion of rateable land, each of them shall be deemed to be in occupation of a part of the land, and the value of such part shall be taken to bear the same proportion to the value of the whole of the land as the value of the part of the building occupied by him bears to the value of the whole of the building.

Similar provisions will be found in sections 196 (c) and 197 (b) of the Western Australia Roads Act, No. 29 of 1911, which gives the Road Boards certain powers of rating on the unimproved value of land.

Apportionment by Rateable Value

This plan of apportioning the general liability on the basis of rateable value is not unknown to our legislation. The (English) Tithe Act 1891, which made tithe rentcharge payable by the owner instead of by the occupier, provided (in section 1 (2) that where the occupier was liable for it under any contract made before the passing of the Act he should be liable to pay the amount of it to the owner for the duration of that contract:

> Provided that where the lands, out of which any tithe rentcharge issues, are occupied by several occupiers who have contracted to pay the tithe rentcharge, any of such occupiers shall be liable only to pay such proportion of the sum paid by the owner of the lands on account of that tithe rentcharge as the rateable value of the lands occupied by him bears to the rateable value of the whole of the lands occupied by such occupiers.

The General Plan and Special Cases

This allocation of any outstanding amount of the land-value tax on the property as between the tenements, on the basis of proportional rateability, would suit almost all cases. There may be a few buildings in which this plan would not work out with exactness, as, for instance, if the rateability of the ground floor flat had been enhanced owing to exceptional expenditure incurred to give it additional dignity or attractiveness as a place of business. For these exceptional cases there might be special modifications of the general rule.

Allocation of Feu-duty between Tenements

The allocation of a burden on site and building as between the flats is by no means unfamiliar. Where land is feued by the superior as a site for a tenement building to be built by the feuar, who may afterwards dispose of the tenements, it is not unusual to insert a clause in the original feu-charter making provision for the allocation by the superior of the feu-duty payable to him for the whole property as between the owners of the different tenements. A precedent for such a clause, under the title "Provision for Allocation by Superior of Feu Duty for a Tenement," is set out in Juridical Styles, 6th ed. Edinburgh, 1907, Vol. I., p 21

Characteristic Features

Professor Rankine, in his Law of Land-Ownership in Scotland (4th ed. 1909, pp. 659-680) shows how the law with regard to tenement buildings of this kind has been elaborated. The cases here considered are distinguished from the ordinary cases of leased tenements by the fact that in the latter case the possessor of the tenement holds it under lease from his landlord, so that the case is one of landlord and tenant, and speaking generally, the rights and obligations of the tenant are in relation to the landlord. But in the cases considered here the possessors of the tenements are feuars, and are therefore in the position of freeholders or owners of the tenement and of the space that it occupies, and their relations—apart from the payment of the feu-duty—are primarily with one another. As an illustration of their mutual obligations, to quote the words of Lord Stair, "the owner of the lower tenement must uphold his tenement as a foundation to the upper, and the owner of the upper tenement must uphold his tenement as a roof and cover to the lower." The mutual obligations, of course, go far beyond this point, and there are a number of judicial decisions with regard to them in relation to the land, the common walls, the common gables, the floors and ceilings, the common passages and stairs, the roof, and various other subjects in respect of which questions have arisen. The Courts have, for instance, been called on to decide whether the owner of the upper tenement is entitled to perform the operations required for converting a garret into an attic, what are the mutual rights of the owners of the different tenements if the building becomes so ruinous that it requires to be demolished and rebuilt, and whether in that case the owner of the lowest tenement is entitled to "interject" a new sunk storey between what corresponds to his previous tenement and the ground. In a system so fraught with problems that border on the metaphysical, the question of how any outstanding land-value tax on the property as a whole should be apportioned as between the different tenements may well be regarded as a comparatively simple affair.

CORN PRODUCTION BILL
Clause 1 as amended in Committee

During the Committee Stage of the Bill, the Government changed the basis of the proposed guarantees from production to acreage, and Clause 1 so amended now stands thus:

(Payments to growers where average price of wheat or oats is less than minimum.)

1. If the average price for the wheat or oats of any year for which a minimum price is fixed under this Act as ascertained for the purpose of this Part of this Act is less than the minimum price as fixed by this Act, the occupier of any land on which wheat or oats have been produced in that year shall be entitled to be paid by the Board of Agriculture and Fisheries in respect of each acre on which he proves to the satisfaction of the Board that wheat or oats have been so produced a sum equal in the case of wheat, or four times, and in the case of oats to five times, the difference between the average price and the minimum price per quarter:

Provided that—

(A) If it appears to the Board in respect of any land on which wheat or oats have been produced that the wheat or oats were intermixed with any other crop, the amount payable in respect of that land shall be adjusted accordingly in such manner as the Board think proper; or

(B) If it appears to the Board that any such land has been negligently cultivated, the Board may either withhold altogether the payments to which the occupier would otherwise have been entitled or may diminish the amount of those payments to such extent as the Board think proper to meet the circumstances of the case.

AGRICULTURAL LABOURERS:
What they Produce and how they are Paid

The Corn Production Bill proposes 25s. as the minimum weekly wage for the agricultural labourer. It is interesting to remember what the Duke of Marlborough said in the House of Lords on 24th November, 1916, when calling attention to the dangers that would arise from calling up too many agricultural labourers for military service. Reference was made to it in Land Values of January, 1916, at p. 236. We may here quote the passage as it appears in the official Parliamentary Debates, House of Lords, 5th Series, Vol. XX, p. 448:

> What I want to ask this evening is this, What will be the effect upon our food if this slender labour force is removed from the soil of England? As I understand, it is the intention of His Majesty's Government to take labourers from the soil between the ages of 19 and 40, except those who are in the exempted classes. That supposes that some 60,000 agricultural labourers will be removed, and the effect will be that the total of the food supplies of this country, expressed in terms of money, will be reduced by at least one-tenth. As I reminded your Lordships, the aggregate amount in terms of money of food produced here is £150,000,000. A tenth of that is £15,000,000, and if you divide 60,000 into 15,000,000 you find the answer is, on an average, £250 a labourer; that is to say, the capacity of each labourer for contributing to our food supply amounts to £250."

£250 a year is, of course, rather more than £5 a week: but how little of it goes to the agricultural labourer! Even if only half of the £250 were attributable directly to his personal efforts, the figure would stand at £2 10s. a week—a wage which is not reached, even if all allowances are included, even in those places where his wages are highest. But, in the Debate on clause 5 of the Corn Production Bill, the Government brought up all their forces to resist an amendment proposing to raise the statutory minimum wage for the able-bodied agricultural labourer to 30s. a week, instead of the 25s. that they proposed; and attention may be called to the following passage in the speech of Mr. Prothero, the President of the Board of Agriculture, in the House of Commons Debate on 23rd July:

> What does the minimum rate of 25s. a week mean to the farmer? It means an increase upon pre-war wages, taking 17s. 10d. the average for the years 1909-1913—an increase of £59,455,000.
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> Mr. D. Mason: Nominal.
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> Mr. Prothero: No, actual. It means that the farmer will be paying 7s. 2d. more per week—that is the meaning of a rise to 25s.—to the able-bodied labourer, and he will also be paying a certain reduced rise to casual labourers as well as to labourers under twenty and over sixty-five.
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> Mr. Dundas White: Is the right hon. Gentleman taking all farm labourers into consideration or only those already receiving less than the minimum wage?
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> Mr. Prothero: I am taking the average of 17s. 10d. as the wage paid in the years 1909-1913.

What a contrast between the amount that the labourer produces and the wages that he gets! The labourers are paid so low that Mr. Prothero tells us that to secure a minimum wage of 25s. a week will mean an additional wage bill of more than £59,000,000 a year, and that a minimum wage of 30s. a week would break agriculture, cause land to be changed from arable to grass, and "turn this Bill into a Grass Production Bill instead of a Corn Production Bill." Could there be a stronger case for a thorough revision of the whole land system?

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