

The Constitution and the Single Tax

NEW Presidents of the USA always receive letters urging them to consider land value taxation - whether as a single tax, a surtax or an excise tax. Eventually replies are received from a secretary at the White House saying that the proposal is a matter for the Treasury Department and has been forwarded to them. An assistant at Treasury will respond, having evidently checked the files and trotted out a standard reply (i.e., off-putting objections). These usually include:

1. The property tax is a matter for local governments. The federal government should not upset this pattern.

2. A land value tax would require a constitutional amendment. Article I, Section 9, clause 4 of the Constitution states: "No Capitation, or other direct, Tax shall be laid unless in Proportion to the Census or Enumeration herein before directed to be taken."

3. A land value tax would violate the principle of ability to pay which underlies the income tax.

4. The revenue from a land value tax could not approach that derived from the income tax, and it would have to be levied at such a high rate as to be prohibitive.

OTHER arguments may be given but the above are fairly representative. Here are some rebuttals:

◆ The US government does derive revenue from land - the public lands that are leased out for mining, forestry, grazing and oil extraction, including underwater resources in coastal areas. Something like \$25 bn. is thus received as public revenue. It is generally conceded that the government collects far less from public lands than their value calls for. People lease these lands and immediately make profits sub-leasing. Prob-

ably ten times the current revenue could be obtained, or \$250 bn. This from lands already in the public domain.

◆ To cite the restriction in Article I of the Constitution is a sanctimonious absurdity. The income tax amendment knocked *that* into a cocked hat. As a matter of fact, the federal government in the early days of the Republic did levy property taxes in the states in proportion to population. These taxes were on houses as well as land. They could just as well be on land alone. The measure of population is not a bad way to approach the value of land. In fact, there were federal assessors who determined valuations and taxes due.

◆ A land value tax would indeed violate the "principle" of ability to pay. It is based more on benefits received from society (including the government). Certainly in every other facet of life you pay for what you get.

◆ The amount of revenue that could be derived from land values has never been fully calculated. Estimates indicate that land values are higher than commonly thought. And why not use revenues therefrom for as far as they will go? The income tax is one of the many taxes that discourage productivity and encourage evasion. The land value tax encourages production and discourages evasion.

PRIOR TO the adoption of the Constitution, the US was governed by Articles of Confederation (1777-89). Article VIII states:

"All charges of war, and all other expense that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land

within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint."

Charges of war were emphasized as the US was in the midst of its Revolution, but peace time application was anticipated in the "general welfare" clause.

The land value tax provision disappeared from the new Constitution (adopted 1787, ratified 1788). High minded as most of its framers were, most of them were landowners and that could very well have been an influence. We know that the Constitution had to accommodate slave owners. Nevertheless, the provision of a tax according to population did enable a property tax to be levied by the federal government several times during the early Republic.

Amendment XVI, adopted in 1913, is one of the briefest with one of the most far-reaching consequences. It states: "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

Since then, the income tax has grown fearsomely and become entrenched as the main source of revenue as though it were around forever. There is little public discussion about any alternative, simply about what rates on what amounts of income shall be levied. Many states and even cities have followed suit and imposed income taxes. The federal income tax keeps tending to grow into such a monstrosity with such a cascade of regulations verging on

incomprehensibility that "reforms" are undertaken from time to time. The most recent one was in 1986 when we were promised "fundamental reform." This turned out to be another case of moving the pieces around, and the "simplification" resulted in a code the size of a large city telephone directory.

Another effect of the income tax has been to weaken the federal principle (an association of states), as the national government can ignore the states and reach directly into people's pockets.

THE 16th amendment does not specify what incomes are to be taxed and at what rate. It simply says "from whatever source derived." There is a great selectivity as to what incomes are to be taxed, from what sources and at what rates, along with exemptions and exceptions - and all this changes from time to time. Thus there is no implied prohibition against taxing incomes from land values. The Congress could, theoretically, levy a tax only on incomes derived from land.

A former President of the International Union for Land Value Taxation and Free Trade, the late J. Rupert Mason, referred to Amendment XIV, which says that neither the US nor any State shall "deny to any person within its jurisdiction the equal protection of the laws." He cited a case whereby a Negro family was denied the purchase of land in a certain community. Suite was brought and the case was heard by the US Supreme Court. They decided that "equal protection" meant that every person should be able to acquire land under equal conditions. Mr. Mason insisted that the only way this could be implemented was through a tax on land values. He himself brought lawsuits to this effect, to no avail. There did not seem to be any inclination to interpret the decision beyond the buying of land irrespective of ethnic identity.

We thus come to the core issue. The key to the question is the state of mind of the people as a whole at a given time, as well as of their officials, representatives and judges. Society has developed to the point where there is general acceptance of civil rights for all persons, women as well as men, blacks as well as whites. We have not developed to the point where the rights of all to equitable access to land is

accepted. It is more a matter of public opinion than of written documents.

An example is seen in the 1894 decision of the Supreme Court that "separate but equal" facilities for blacks and whites were constitutional; whereas in 1954 the Court decided that they are not constitutional. The same Court, the same Constitution, but a change of opinion.

Thus the surest way to the taxation of land values - eventually as a

Single Tax - is to influence public opinion. Once its principles are sufficiently accepted, it can be aggressively promoted, whether in a judicial case or the halls of legislature. It could well be decided that no constitutional amendment is needed; or if such an amendment were deemed advisable, it could be set in motion.

BOB CLANCY

BOOK REVIEWS

THE PRIMARY PRIVILEGE

Rights vs Privileges,
Robert de Fremery,
Provocative Press, San Anselmo, CA.

Robert de Fremery is known in the USA as a successful Californian industrialist and a writer on aspects of economics. In the former capacity he has retired, but he has certainly not hung up his pen.

In this book he voices, with strength and conviction, his deep repugnance of the brazen injustice that, in his eyes, has long contorted the social face of America.

The fundamental flaw in our system, he says, is that the United States has never been true to the Jefferson principle of "Equal rights for all, special privileges to none", a sentiment to which he adds his own corollary: "For every man granted a privilege, another is deprived of his rights".

Ever since the USA became a sovereign state, he argues, two of the country's most influential interests - landowners and bankers - have built their power on foundations of unbridled privilege.

Taking the landholders first, land, he claims, is our common heritage, a natural resource that existed long before man first walked on the planet. For any human being to claim "ownership" of any area of land, and to have the power to force others to pay him for the use of such land for living or working, is clearly the operation of a Government-protected privilege; a blatant violation of the Jefferson principle.

Moreover, the amount of money that the non-privileged are forced to pay to landowners is continually on the increase as communities expand, as towns grow into cities and as land values consequently rise. "Thus a man who contributes nothing to the community in which he lives - a man who produces nothing and performs no useful service to society - may, nevertheless, have a steadily increasing income because he holds title to a piece of land in the centre of a growing city".

So land value is seen as a publicly created value, a value generated and sustained solely by the presence and activity of the people.

De Fremery devotes most of his first two chapters to this theme, accusing US federal governments of annually taxing away a huge slice of the American people's privately created values - the wages and salaries of workers and their income from savings - while the enormous publicly created value of land is allowed to flow, virtually intact, into the pockets of privileged, non-productive