THE RATING OF LAND VALUES

NOTES UPON THE PROPOSALS TO LEVY RATES IN RESPECT OF SITE VALUES

BY

ARTHUR WILSON FOX, C.B.

Secretary to the Royal Commission on Local Taxation.

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December 1, 1905.

DEAR LORD BALFOUR,

It has been suggested to me on several occasions that some notes upon the proposal to levy rates in respect of site values, which I made when I was Secretary to the Royal Commission on Local Taxation, would, if published, prove of some use to those who wish to study this subject.

The lamented and untimely death of my friend and colleague, in the Secretaryship of that Commission, Theodore Llewelyn Davies, has prompted me to act on this suggestion, in order that the opportunity may be taken of associating his name with a subject to which he had devoted much time, and on which he was a recognised authority,

Some weeks before his death he stated that in reviewing the work which he had undertaken during his career, none gave him greater satisfaction than his contributions to this question.

By his advice these notes were added to in certain particulars, and he wrote Chapter VIII. himself.

Yours very truly,

ARTHUR WILSON FOX.

To the LORD BALFOUR OF BURLEIGH, K.T.,
Chairman of the Commission.

The proofs of this little volume have been revised for press by MR. E. J. E. CRAVEN, *whose services as Chief of the Staff on the Royal Commission, the Author gratefully acknowledges.*

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THE
RATING OF LAND VALUES.

ENGLAND.

I.—Proposals to Rate Land Values.

Proposals to levy a special rate in respect of land values in urban districts have been before the public in England and Scotland for several years.

As far as England is concerned, the movement appears to have largely originated in London, and latterly to have been especially identified with the London County Council, who have from time to time considered and discussed the subject.

The proposals necessarily involve a separate valuation of sites, apart from the buildings upon them, and, in the form in which they have been presented, they also involve a system of levying a rate upon "owners"[1] in respect of site values. This rate upon owners might be in addition to, or in lieu of part of, the ordinary rates now imposed upon occupiers. It is suggested that the "owners" rate should be deducted by the lessees from the rent they pay to their lessors. There may be a number of "owners" between the owner of the freehold and the occupying tenant.

Costelloe, Vol. II. of Min. of Ev., App. No. XI., par. 25. Fletcher Moulton, Vol. IV. of Min. of Ev., App. No. 10, par. 3. De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par. 7.

The present system is to value, without separation, a building and the land upon which it stands, and then to levy a rate upon the occupier in respect of the annual value of the whole hereditament, leaving the adjustment of the burden to be determined by contract between the parties themselves.

Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 13. Costelloe, Vol. II. of Ev., App. No. XI., par. 3.

The proposals include the levying of a rate upon owners

[1] "Owners," according to the definition of the London County Council, are "persons deriving a revenue, or use equivalent to revenue, from the value of a site."

in respect of unoccupied building land in urban districts, and on land ripe for building on the outskirts, whether unoccupied or used for agricultural purposes.

The suggestion to levy a rate in respect of site values upon all persons in enjoyment of some interest arising out of site value, is of comparatively recent growth. The late Mr. Costelloe, when giving evidence before the Royal Commission on Local Taxation, traced the development of the movement among the members of the London County Council from its first constitution. He said "it was undoubtedly felt at that time as a grievance, that the large ground owners of London were in no way contributing to the very great and growing cost of London administration and improvement, which was being paid out of the pockets of the occupying ratepayers."

The proposal then before the public for dealing with this question was usually referred to as "the taxation of ground rents." Shortly, it was a proposal to put a special tax on the owners of the freehold, with the object of getting some contribution from them in respect of their reversionary interests. It was a tax on a reserved rent which had been agreed to be received free of rates and taxes, which might have no relation to the value of the site at the time it was created, and might, therefore, be no complete indication of the whole bargain between the parties, nor a measure of the value of the reversion. Moreover, this scheme did not deal with persons other than the freeholder, having more immediate and, perhaps, larger interests in site values, and drawing a revenue from them during the continuance of a lease. But, at that time, Mr. Costelloe pointed out, the question "had not been thought out in all its bearings," and the grievance referred to "was a kind of object lesson, which directed attention and stimulated closer inquiry."

Costelloe, Vol. II. of Min. of Ev., App. No. XI., p. 304, par. 3.

Another proposal which had been made for a number of years in England, with the object of obtaining some direct contribution from owners, was the division of rates between owners and occupiers, on the principle existing in Scotland.

But the two proposals—*i.e.*, to rate ground rents, and to divide rates between owners and occupiers—were made with somewhat different objects. The former aimed at securing some present contribution in respect of the increase in the value of sites, due to the expenditure of money derived from rates or from other causes, the latter at throwing upon the lessor some part of the increased burden of rates, which it is suggested could not have been in contemplation at the time of the making of the lease.

II.—Methods of Selling and Leasing Building Land.

Before proceeding to deal with the various arguments which have been put forward in support of and against the proposal to assess site values to local rates, it will be convenient to refer shortly to the system of selling and leasing land for building, and to the method of developing it.

Generally speaking, landowners have neither the capital, nor the special knowledge required, to erect houses on their land, and they, therefore, usually dispose of it to some other person for this purpose—often a speculator who builds to sell again.

Sargant on Urban Rating, pp. 7, 27, 28.

The principal building systems throughout the country are:—

Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 2.

(1.) The freehold purchase system.

(2.) The freehold rentcharge system.

(3.) The 999 years leasehold system, which is very prevalent in Lancashire.

Cross, 21,595, and Vol. IV. of Min. of Ev., App. No. IV., par. 16.

(4.) The London, or 99 years system, which is also a common one in Birmingham and other towns.

Mathews, 22,029, 22,049.

In the case of (1) the owner parts with the whole of his estate for a lump sum, or a sum paid in instalments, and there is consequently no reversion of it, or of any part of it, to him at any future time.

Sargant, Vol. IV. of Min. of Ev., App. No. X., par. 3 (*d*).

In the case of (2) the owner parts with the whole of his estate, in consideration of the payment of a rentcharge of

agreed amount, charged on the land and houses, and in this case there is also no reversion.

In the case of (3) the owner does not part with the whole of his estate, but creates a tenure for a term of years, in consideration of a rent, at the end of which term the land and houses upon it revert to his heirs. This system is a common one in towns in Lancashire and in other northern counties. Often a lump sum is paid down and a small rental, sometimes a peppercorn rent, is charged. In this case the reversion is so remote that its value is merely nominal.

Cross, Vol. IV. of Min. of Ev., App. No. IV., par. 17.

In the case of (4) the prospect to the owner of the acquisition of the reversion is more immediate.[1]

The process of leasing building land may be shortly stated, as follows:—

When land is considered by the owner to be ripe for building, he must either equip it for the builder by making a road frontage suitable to the situation, and also sewers, or he must lease it at a lower rent to a builder or a speculator, who undertakes the development before commencing to build. When the roads and sewers are completed to the satisfaction of the Local Authority (who frequently undertake some of the work themselves, charging the cost to the owners or lessees), they are taken over and maintained by them. In the case also of the freehold purchase system and the freehold rentcharge system, the owner must either lay out money on the necessary development, or take a less price for the land.

De Bock Porter, 22,809-12, and Vol. IV. of Min. of Ev., App. No. IX., par. 4. Cross, Vol. IV. of Min. of Ev., App. No. IV., par. 16. F. W. Hunt, 22,586. Mathews, Vol. IV. of Min. of Ev., App. No. VI., par. 2.

The cost to the site owner of developing the land for building, and the accumulation of the interest on the cost until the whole area is let, are considerable. The interest on this outlay is said to frequently represent from twenty-five to thirty per cent. of the ultimate ground rent.

F. W. Hunt, 22,593-5. De Bock Porter, 22,809-11. Mathews, 22,190-2, and Vol. IV of Min. of Ev., App. No. VI., par. 2.

Mr. Mathews, of Birmingham, the well-known surveyor, and Mr. Harper, the Principal Statistical Officer of the

[1] Evidence was given before the Town Holdings Committee in 1887 that a reversionary value begins to make itself felt within 70 or 80 years from the date at which it will fall in.

London County Council, agree that if site values were assessed to local rates, expenditure in developing the land would have to be taken into consideration; but Mr. Harper has expressed the opinion that after a certain number of years such value "becomes merged in the value of the land."

Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 3 (a). Wainwright, 21,981-4. Mathews, 22,190, and Vol. IV. of Min. of Ev., App. No. VI., par. 12. Harper, 22,263-6, and Vol. IV. of Min. of Ev., App. No, VII., par. 1 (a). Cross, 21,774-83.

"If," says Mr. Harper, "the expenditure in question took place within the present generation, or say not more than thirty years ago, a deduction in the shape of a fair percentage upon such expenditure should be allowed from the present annual value of the site before levying a tax upon it. Where, however, the expenditure took place more than thirty years ago, the difficulty in obtaining accurate particulars of the cost, and the fact that the original outlay will in all probability have been recouped, render a deduction no longer desirable. A longer period might be necessary for work of unusual strength and durability, and the percentage to be deducted should also be elastic within defined limits."

In the case of manufacturers, the system of leasing building land for a long term of about ninety-nine years is said to be an advantage to those who wish to employ their whole capital at a trade profit, as they can build without tying up any part of it at a lower rate of interest in the purchase of freehold sites. This system is a common one in London and Birmingham.

Mathews, Vol. IV. of Min. of Ev., App. No. V., par. 4.

Mathews, 22,029, 22,049.

When the land is equipped, the owner is prepared to lease it for a long term to a building lessee, creating ground rents which are secured upon the land, and also upon the buildings when erected upon it. The amount of the ground rent is fixed, having regard to the undertaking of the building lessee to pay all usual tenant's rates and taxes present and future, during the continuance of the term, and it is contended by many that it is accordingly reduced by the estimated amount of such burdens.

By this arrangement the owner secures for himself a fixed income, incapable of increase during the continuance of the term, and unlikely to be decreased, for the ground rent is usually well secured. During the continuance of

the lease he can of course sell the ground rent for a lump sum. Covenants are often made by the lessee to spend a minimum sum on buildings of a specified class, built to an approved plan in a specified time. At the end of the term the land and the buildings upon it revert to the owner of the site, who can then grant a fresh lease, having regard to the new elements, such as the increase, or possibly the decrease, in the value of the site, the state of the buildings, and the amount of rates payable in respect of the property.

In the meantime, however, the building lessee would have let the premises at a rent calculated to secure him, in addition to the ground rent, a profit on his capital outlay, having due regard to the question of repairs, insurance, interest and sinking fund, the tenant agreeing to pay all the usual rates and taxes. The term of this lease is frequently much shorter than that of the lease of the site. At the end of the term, the building lessee, or immediate landlord, would grant a new lease to the sitting tenant, or to a new one at an increased rental if the neighbourhood has improved, or he might charge a premium. In such a case the building lessee would put in his pocket the profit on the increased value of the site, and, if his tenant again sub-let during the term, and obtained a premium or an increased rental, he would do the same. But the building lessee may create improved ground rents and sell them separately; he may sell the property itself, subject to improved ground rents which he retains for himself; or he may elect to take his profit, not by creating and selling improved ground rents, but by obtaining a larger price when selling the leasehold subject to a comparatively low ground rent.

De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par. 6.

There may, of course, be a series of sub-lessees who have parted with their leasehold interests, except for the reversion of a few days, by obtaining a lump sum down, or who have secured improved ground rents during the continuance of the term, larger in amount than those reserved under their own leases. The last sub-lessee,

namely, the occupying tenant, would have the present benefit of any increase in the value of the site.

Sargant on Urban Rating, p. 16.

Mr. Sargant gives the following illustration of the development of land under the 99 years, or London leasehold system:—

"Let us assume that A., a landowner, agrees to grant 99 years leases to B., an intermediary, of a building estate of 20 acres at a rent of 25*l.* per acre, or 500*l.* in all; and that five houses per acre, or 100 houses in all, are to be built upon the estate. And further, let us assume that B., after making the roads and sewers and developing the estate generally, is enabled to let off the estate to the actual builders C., D., E., F., in small portions and for the residue of the term of 99 years (less one day) at rents which, after allowing for the portions of land occupied by roads, amount to 60*l.* per acre, or 1,200*l.* in all. On the working out of the contracts by the erection of the houses, and assuming that the ground rents are evenly distributed over all the houses, B. will become entitled to take up 100 separate leases, each of one house, for 99 years at a ground rent of 5*l.*, and will be bound to grant to C., D., E., F., 100 separate leases of the same houses for terms of 99 years less one day, and at a rent of 12*l.* for each house. The beneficial interest which B. will therefore acquire in return for his expenditure and risk will consist of 100 separate net annual rents of 12*l.*—5*l.*, or 7*l.*—lasting for a term of 99 years and no longer. These terminable annuities are currently known as 'leasehold ground rents,' or 'improved leasehold ground rents,' the word 'leasehold' denoting that B.'s reversionary interest is of a terminable or leasehold character, and the word 'improved' denoting that the rents are not derived from the original value of the land, but are due to the improvement in the value of the land which has been caused by the expenditure and superintendence of B. The leasehold reversion to which the rent of B. (the intermediary) is incident is, as a rule, only a nominal term or reversion of a day or two."

Ibid, p. 20.

Mr. Sargant then points out that B., in order to recoup himself for his expenditure, may realise the capital value of his improved ground rents in the following ways:—

(1.) He may sell to a purchaser the improved leasehold ground rents—that is, the right to receive out of each house a net rent of 7*l.* for a period of 99 years.

(2.) He may sell to the landowner for a lump sum the right to let a house direct to the builder C., at the rent of 12*l.*, which C. has agreed to pay, instead of letting it to him, B., at a rent of 5*l.*

(3.) While allowing the landowner to let to C. direct at 12*l.*, he may stipulate that this extra rent shall not be paid for in cash, but shall be taken into account against the total rent of 500*l.* which B. has to provide for the landowner; the result being that in case, say, the first 40 houses were so let by the landowner, A., to the builders, C., D., and E., at a total ground rent of 480*l.*, the intermediary would be entitled to leases of the sites of the remaining 60 houses (which he has himself agreed to lease to F., G. at rents of 12*l.* each) at an aggregate rental of 20*l.*; of which, perhaps, 1*l.* would be apportioned on each of the first 20 of these houses, while the others would be taken by B. at a nominal rent of a peppercorn. B. would thus in this, the third case, while making no direct profit on the first 40 houses built, become entitled to improved leasehold ground rents of 11*l.* on each of the next 20 houses and of 12*l.* on each of the last 40 houses, which he may dispose of in any method he pleases.

Mr. Sargant shows that the general practice is to secure the total ground rent payable to the landowner, or the bulk of it, as early as possible on the houses first built; and thus to leave only small or nominal ground rents on the sites of the houses last built, which are called "remainder plots," and to which the intermediary looks to secure his profit.

(4.) Instead of disposing of them to the landowner in augmentation of the rents to which he would otherwise be entitled, he may sell them to the builders C., D., E., F., in reduction of the rents which they would otherwise have to pay, thus entitling them to take up leases from the landowner at the 5*l.* ground rent at which he had agreed to let to B., instead of at the 12*l.* ground rent at which B. had agreed to let to C., D., E., F. And if this process takes place with regard to a "remainder plot" to a lease of which B. has become entitled at a rent of 1*l.* or at a nominal rent, Mr. Sargant points out that B. can sell to the builder the right to take up his lease at this still lower or even nominal rent, instead of at the rent of 5*l.* or 12*l.*

It is further stated by Mr. Sargant, that it frequently happens that the rental value of the houses when built would be sufficient to adequately secure larger ground rents than have been agreed to be reserved on the leases under which they are to be held; and, in such cases, it is not unusual, either under a clause in the building agreement, or under subsequent arrangements, for the builder to "improve" his ground rent, that is, to accept leases from the landowner at higher ground rents than were agreed on, upon payment by the landowner of a certain number of years' purchase of the excess of the ground rents actually reserved over those agreed to be reserved.

Ibid, p. 22.

It will thus be seen that site value and ground rent are not synonymous terms. Owing to the endless variety of circumstance and arrangement, it is not unusual to find a number of houses of similar rack rent held under leases at ground rents varying greatly in amount. The ground rents actually reserved on particular houses may exceed the ground rents really agreed to be accepted by the landowner, or they may fall short of the ground rents agreed to be accepted, and may be merely nominal. Sir A. De Bock Porter, Secretary to the Ecclesiastical Commissioners, has stated that the bulk of the older

De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX. par. 6. Sargant, Vol. IV. of Min. of Ev., App. No. IX. par. 3 (*b*), *also* "Urban Rating," p. 23.

town property in London is held upon long leases at ground rents, which range from a nominal rent to a rent which represents two-thirds, or even three-fourths, of the rack rent of the premises. In many such cases premiums have been paid on the grant of the lease in consideration of a small reserved rent.

The actual methods of leasing building sites are numerous, varying according to the purposes for which they are required, and to the custom of particular localities. The following are, however, those which are the most usual:—

Mathews, 22,050-71, and Vol. IV. of Min. of Ev., App. No. VI., par. 5. Cross, 21,595-8. Wainwright, 21,815-58, 21,978-84, 22,014-23, and Vol. IV. of Min. of Ev., App. No. V., par. 3. Warner, Vol. II. of Min. of Ev., App. No. V., par. 1.

(1.) A lessee takes a site for the erection of a house or trade premises for his own occupation. The lessee is generally allowed sufficient time for the erection and equipment of the building before the ground rent becomes payable.

In this case the ground rent, less the interest on the capital expense incurred by the owner in the development, is the real value of the land.

(2.) A builder, or a land speculator, may take a lease of a block of land as a building speculation, agreeing to cover it within a certain number of years, and ultimately to pay a certain ground rent. For the erection of the buildings he also is allowed a sufficient period before the ground rent becomes payable. In this case also the ground rents, less the annual return on the expenditure on equipment, represent, in the total, the real site value.

(3.) The speculator may agree with the owner to cover the land with buildings in a certain number of years at a certain total ground rent, the owner undertaking to grant separate leases to his nominees. When sufficient land has been built on to secure the total agreed ground rent, the speculator has the remainder as his profit, and takes a lease of it from the owner at a nominal rent.

In this case the ground rents do not necessarily indicate the value of the land; some may do so, but some will be above and some below.

(4.) The builder, having insufficient capital, may be financed by a speculating financier, who advances money during the progress of the building. In such a case the financier would take the original lease, make a sub-lease to the builder, and secure the money he advances by a largely increased ground rent. This ground rent would not, of course, represent the value of the site alone, but would include security and interest for money advanced.

(5.) The financier may acquire the fee of the site, and grant leases direct to small builders at ground rents largely in excess of the site value, as security for money advanced for building purposes, and also for money spent on developing the site.

(6.) An owner may take a capital sum or premium from the original lessee, granting him a lease at a ground rent much below the actual value of the site, sometimes at a peppercorn rent.

In all these transactions the following points are noticeable:—

(1.) The value of the site as laid out is partly due to the capital expenditure of the owner on development and equipment.

Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 3 (*a*).

(2.) The rentcharge, or ground rent reserved, is no indication of the value of the site, either originally or after improvement by laying out. It may vary greatly on two similar houses taken on the same terms as part of a block.

Cross, 21,693. De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par 6.

(3.) Fixed rents are secured as much upon the building as upon the site.

(4.) The lessee contracts to pay all present and future tenants' rates and taxes. The lessor receives nothing out of his property during the term, except his reserved ground rent, and during that period has no share in the improved value of his land. At the end of the term he comes into this improved value, but will then have to relet subject to the burden of any increase in local rates.

Mathews, Vol. IV. of Min. of Ev., App. No. VI., par. 11.

(5.) The only interest of the intermediate lessee is an improved ground rent during the term.

(6.) The last sub-lessee has the entire benefit of any increase in the value of the site during the term of his lease.

III.—Summary of Arguments advanced for and against the Rating of Site Values.

6 & 7 Will. IV. c. 96, s. 1. Cross, 21,676, 21,764, 21,793. F. W. Hunt, 22,607–17. De Bock Porter, 22,783–5. Sargant, 23,220–1.

Under the present system of rating a hereditament upon its net annual value, that is on the net rent at which it might be reasonably expected to let from year to year, every portion of the whole present annual value of the hereditament is, in ordinary circumstances, included in the assessment. The rates are charged upon the occupier, except in the case of "compounded" property, or where special contracts are made.

But a change in the present system of raising funds for Local expenditure has been advocated upon the following grounds:—

(1.) That owing to (*a*) the growth of population and industry, and (*b*) the expenditure of money by Local Public Authorities, the values of sites are being continually increased in the hands of the various parties concerned, and that, on the termination of leases, owners come into property which has increased in value through no effort or expenditure of their own. Shortly, the suggestion is to secure some contribution in respect of "unearned increment," and, to attain this end, it is urged that a rate should be imposed directly on the "owner of site value,"[1] in addition to, or in lieu of part of, the rates now levied on the occupier in respect of the hereditament as a whole.

See Chapter IV.

(2.) That, even if lessees when making their contracts take into consideration the amount of existing and, perhaps, to some extent, the amount of future rates, it is impossible for them to calculate, with any

[1] *See* note, page 1.

reasonable certainty, the burden of future rates, due, either to the increase of old charges, or to the imposition of new charges, and consequently, that the owner escapes a share of the burden, which should fall on him during the lease.

See Chapter V.

(3.) That, though it may not be possible to determine accurately the incidence of rates, yet, by levying a rate direct upon the owners of sites, the certainty of their being rated to some extent will be secured.

Costelloe, 20,000.

(4.) That, by the present method of valuing hereditaments on the basis of their letting value in their present state, the whole true value of the site is not always included, because, in some cases, it might be put to a more profitable purpose than it now is. The suggestion is that the value of the site should, subject, perhaps, to certain limitations, be determined without regard to its present use.

Lord Farrer, Parliamentary Paper C. 9528 of 1899, p. 81. *See* Chapter XII.

(5.) That, if a special rate was levied on site values, an additional fund would be secured, partly for expenditure on new purposes, and partly for the relief of occupiers from existing charges, and that the present concentration of the entire burden on the occupiers hampers the carrying out of desirable improvements, and the proper discharge of the duties of Local Authorities.

Costelloe, 20,128.

(6.) That, if part of the burden of local taxation is placed upon site values, the buildings upon them will be to some extent relieved, and that, with the cheapening of buildings, more will be required and more supplied. This would, it is argued, more especially be the case upon the outskirts of towns, for the builder would be enabled to build in places where it would not hitherto have been profitable.[1]

[1] In the first place, there is a strong argument for rating site values on the ground of public policy, regard being had to the effects of taxation on industry and development. Our present rates indisputably hamper building. Buildings are a necessary of life and a necessary of business of every kind. Now, the tendency of our present rates must be generally to discourage building—to make houses fewer, worse and dearer. As Mr. Fletcher Moulton says: "A tax upon

Parliamentary Papers Cd. 638 of 1901, p. 167; Cd. 201 of 1900, p. 118;

See Chapter XII.

(7.) That it would be practicable, and not unreasonably expensive, to make a separate valuation of sites for rating purposes.

Sabin, 21,495, 21,562, and Vol. IV. of Min. of Ev., App. No. III., par. 2.

(8.) It is also urged that a separate valuation of sites would enable a more precise and equitable calculation to be made of the deductions, which should be allowed for repairs and insurance, because such expenses apply, of course, to buildings only, and not to sites. Special attention has been drawn to the case of London, where the relative values of sites and buildings greatly vary, owing to the high value of sites in the City of London and other districts. It has

Cd. 9528 of 1899, p. 118. Also Costelloe, Vol. II. of Min. of Ev., App. No. XI., p. 321; also 20, 273–4.

buildings proportionate to their value necessitates that the rent of buildings should represent a high rate per cent. on their cost. In other words, it drives people to take (and, therefore, drives builders to build) poorer houses. Taxation on the land has no such effect."

Consideration of a concrete case will easily show the truth of this proposition. The effect of substituting a site-value rate for an ordinary rate in a town will be, roughly speaking, to decrease the burden in the outskirts and increase it at the centre. Now, an increased burden will certainly not stop building at the centre of a town—it will merely diminish the peculiar advantages of the central position, in other words, it will prevent the site-owner from obtaining so much rent. But a diminution in the burden in the outskirts may very well tempt builders to build, and occupiers to live, in places where before it was not worth their while to go, and, of course, any increase of building on the outskirts tends to reduce the pressure for accommodation all through the town; while the quality of the accommodation also is likely to be improved by the lightening of the burden on building value.

While the rating of site value thus concerns the public at large as an administrative reform, it is of special importance in connection with the urgent problem of providing house accommodation for the working classes. Anything which aggravates the appalling evils of overcrowding does not need to be condemned, and it seems clear to us that the present heavy rates on buildings do tend to aggravate those evils, and that the rating of site values would help to mitigate them. If more of the burden were thrown on sites, the portion left to be borne by buildings would be diminished, and this would weigh with the builder who is hesitating to embark on the erection of new structures. . . . At the same time, we would not propose, and we find no justification for anything like the spoliation of a particular class. Indeed, while a site-value rate would, in our opinion, be a means of securing a somewhat larger contribution from the owners of the swollen site values of the central districts of our cities, it might prove rather advantageous to owners in the outlying districts; for if the rating of site value gives a stimulus to development, as we believe it will, a secondary effect of the reform will be to increase the demand for building sites. [*See* Separate Report on Urban Rating and Site Values.]

been pointed out that the maximum scale of deductions provided by the Valuation (Metropolis) Act of 1869 is invariably allowed by the Assessment Committees,[1] no matter how large a proportion the value of a site may be, as compared with the total value of the property; and that, in consequence, a certain inequality may be created as between property and property, and also as between districts contributing to a common charge on the basis of rateable value. For instance, if a hereditament consisting of a small house on a valuable site has the same "gross value" as one consisting of a large house on a less valuable site, the same deduction is allowed from the "gross value" of each hereditament, though if the houses are similar in all respects other than size, the average cost of repairs, insurance, &c., in the latter case must be greater than in the former.

Parliamentary Paper C. 9141 of 1899, p. 24, par. 83.

De Bock Porter, 22,681-3.

(9.) The imposition of a rate on unoccupied building land in urban districts, or on land ripe for building on the outskirts (whether unoccupied or used for agricultural purposes), based upon its value for building purposes, would, it is urged, have the effect of forcing it into the market. It is argued that the value of such land is maintained and increased by the expenditure of public money, and that owners should not be permitted to keep it unoccupied, and unproductive, for speculative purposes, to the disadvantage of the other ratepayers, and also of the community, who require more houses, and should be able to obtain them as cheaply as possible.

Moulton, 23,040-2, and Vol. IV. of Min. of Ev., App. No. X., par. 9. Costelloe, Vol. II. of Min. of Ev., App. No. XI., pars. 60-64. Harper, 22,295-8.

On the other hand, in defence of the existing system, it has been urged:—

(1.) That any increase in the income, arising from a site during the term of a lease, is not enjoyed by the

[1] Conferences of certain London Assessment Authorities have resolved that the maximum deductions ought not to be allowed in full where the site value exceeds one-third of the total value.

reversioner until he comes into possession of the reversion. During the lease the only advantage which the lessor can obtain is an improvement in his security (which is practically of little importance to him, as ground rents are usually well secured) and an increase in the selling value of his reversion. Moreover, when the reversion falls in, the property can only be re-let subject to the burden of rates. The occupier gets the advantage of any increase in value during his tenancy, and can convert it into money.

Sargant, Vol. IV. of Min. of Ev., App. No. 11., par. 7.

(2.) The benefit to the reversioner from the expenditure of rates is much exaggerated, and is, as a matter of fact, very small, the greater part not being spent on permanent improvements, but on current services which benefit the occupier rather than the owner.

De Bock Porter, 22,681-3, 22,807, and Vol. IV. of Min. of Ev., App. No. IX., par. 4.
Price, Parliamentary Paper C. 9528 of 1899, p. 185.

(3.) In the case of land, unearned increment arising from the increase of population and other causes, should not be the subject of taxation more than in the case of any other class of property. But, if made the subject of taxation, it has been suggested that it should be nationalised, and not municipalised.

Mathews, 22,080.

(4.) That the annual values of sites are already rated, and that it is not the function of the Local Authority to interfere with contracts between the parties concerned, nor with the question of incidence.

(5.) That a proposal to impose a special rate on site owners would involve their being rated twice over —that a special tax on site values would be in effect a new land tax.[1]

Mathews, 22,193.

(6.) That site values are by no means the same as existing ground rents, but are divided up among freeholders and leaseholders in a very complicated way, and that no system has been, or could be, devised by which a site-value rate would be fairly apportioned among the various interests.

[1] Wainwright, 21,861, 21,986; Cross, 21,680; De Bock Porter, 22,786-90; Sabin, 21,480–94, and Vol. IV. of Min. of Ev., App. No. III., par. 15; Harper, 22,351–62; Mathews, Vol. IV. of Min. of Ev. App. No. VI., par 16.

(7.) That it is not practicable to make a general valuation separating the values of sites from buildings, and, further, that it would be extremely difficult, and perhaps impossible in many cases, to determine what would be the value of a site under hypothetical circumstances and conditions. And, even if it were possible, the system would be intricate and costly, and not worth the trouble and expense, and might involve much litigation.

See Chapter XII.

(8.) That any procedure which would amount to rating on the basis of capital or selling value, instead of annual value, would be a new departure in the system of rating, and, if applied to the case of sites, should be applied to all rateable property.

Cross, Mathews, Lord Farrer, Parliamentary Paper C. 9528 of 1899, p. 81, 82. *See* Chapter XI.

(9.) That lessees, including building lessees, take existing rates, and, as far as possible, future rates, into consideration when making their bargains.

See Chapter XIII.

(10.) That investment in ground rents is very popular among poorer classes of investors, trustees, and others, who are content with a comparatively low rate of interest to secure a certain fixed income, and that it is undesirable to do away with such a class of investment.[1]

Mathews, 22,149.

(11.) That Assessment Committees fairly understand the present system of valuation, and that the levying of rates on capital values would be a subversion of the system which now exists, and would need a completely new process and very different machinery.

Lord Farrer, Parliamentary Paper C. 9528 of 1899, p. 81. Cannan, *ibid*, p. 171.

(12.) That direct rating of owners ought to involve direct representation of owners on the Spending Authorities.[2]

De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par. 17.

(13.) That, in any event, it would be unjust to impose

[1] Mathews, 22,083–5, and Vol. IV. of Min. of Ev., App. No. VI., par. 14 (3); Vigers, 19,631; Cross, Vol. IV. of Min. of Ev., App. No. IV., par. 14; Wainwright, 21,949, 21,955, 21,918, 21,961, and Vol. IV. of Min. of Ev., App. No. V., par. 5; Sargant, 23,230, 23,177-9, 23,344–52; Parliamentary Paper C. 9528 of 1899, p. 216.

[2] Sidgwick, Parliamentary Paper C. 9528 of 1899, p. 107; Sargant, 23,228; F. W. Hunt, 22,585; Moulton, 23,139*a*; Costelloe, 19,932–3.

a rate in respect of ground rents under leases for 999 years, or of perpetual rentcharges.[1]

Cross, Vol. IV. of Min. of Ev., App. No. IV., par. 12. Wainwright, 21,956-60, 22,009-12, and Vol. IV. of Min. of Ev., App. No. V., par. 14. Mathews, Vol. IV. of Min. of Ev., App. No. VI., pars. 24–27. F. W. Hunt, 22,551-5, and Vol. IV. of Min. of Ev., App. No. VIII., par. 25. De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par. 14. H. A. Hunt, 21,102. Rickman, 21,249-53.

(14.) In reply to (8) on p. 14, that it is already possible for Local Authorities to make equitable deductions for the purpose of ascertaining rateable value, the matter being entirely in their hands; that, at all events, where the property is held on a repairing lease, no difficulty whatever should arise; that the separation of the value of the site and structure of a building would not necessarily secure better results if the Local Authorities still continued remiss in their action; and that the great expense entailed by the valuation would not secure adequate results.

With regard to the rating of unoccupied building land in urban districts, and land ripe for building on the outskirts (whether unoccupied or occupied for agricultural purposes) it is urged that—

(1.) It would not be fair to rate a property producing no income, and, if rated on the basis of capital value, it would be contrary to the existing principles of rating.

(2.) Unoccupied building land obtains no immediate benefit from the expenditure of rates.

(3.) Land on the outskirts of urban districts used for agricultural purposes, should be assessed on the basis of its value to the occupier in its existing state, *rebus sic stantibus*.

(4.) It is most difficult, if not impossible in many cases, to distinguish between land "ripe" and "ripening" for building.

(5.) To compel owners to put land on the market, before the neighbourhood was sufficiently developed, might lead to the erection of an inferior class of houses, the ratepayers being ultimately the losers.

[1] De Bock Porter, 22,676–8, and Vol. IV. of Min. of Ev., App. No. IX., par. 3; Wainwright, Vol. IV. of Min. of Ev., App. No. V., par. 4; Sargant, 23,173–4, 23,357–9.

(6.) It would be onerous to owners, and against public policy, to rate, as building land, gardens attached to houses in towns.

(7.) A rate proportioned to site value will not necessarily fall wholly upon the ground owner, and, so far as it may fall on the building owner, it will act as a check upon building, especially at the outskirts of urban areas.[1]

(8.) Building on the outskirts of urban districts might also be retarded because—

 (*a*) Owners would not lay out land for building by making roads, etc., because such a proceeding would place beyond doubt the distinction between land "ripe" and "ripening" for building. They would be reluctant to speculate in this way, rendering themselves liable to pay rates, until they had actually found a builder to take the land.

 (*b*) Builders would hesitate to build houses until they had the definite prospect of tenants, for fear of having to pay rates on empty houses.

IV.—"UNEARNED INCREMENT."

Among the reasons suggested for the imposition of a special rate on site values is, that it would secure a contribution in respect of the increase in the value of sites, due to the presence of the community, and to the increase of population, and also to the expenditure of public money raised by rates.[3]

This view was urged by several witnesses who appeared

[1] Professor Edgeworth, *Economic Journal*, March, 1906 (*see* Appendix III., p. 127).

[2] *See* Sidgwick, Parliamentary Paper C. 9528 of 1899, p. 108; Courtney, *ibid*, p. 89; Marshall, *ibid*, pp. 124–6; Edgeworth, *ibid*, pp. 134–5; Gonner, *ibid*, p. 157; Price, *ibid*, p. 185; Blunden, *ibid*, pp. 194–5; Callie, *ibid*, p. 246.

Costelloe, 20,261-6, and Vol. II. of Min. of Ev., App. No. XI., pars. 44, 50. Fletcher Moulton, 22,987-23,003, 23,050, and Vol. IV. of Min. of Ev., App. No. X., pars. 2, 3, 5, 6.

before the Royal Commission on Local Taxation. The late Mr. Costelloe, who represented the London County Council, stated, "It is argued by us, and I think it is the opinion of the great bulk of the ratepayers of London who give any thought to the question, that the improvements which are paid for by the increments of rate in question, go to produce in the last resort an increase of rent, and an unearned increment of capital value, which pass into the pockets of the owners. The occupiers feel, as I have said, that the moneys so expended do not come out of the pockets of the owners, but do come out of the living of the occupiers themselves, and they consider this a flagrant injustice."

On the subject of unearned increment, Mr. McKenna, M.P., in a memorandum sent to the Royal Commission on Local Taxation, says:—

Vol. IV. of Min. of Ev., App. No. XIX., pp. 233-4.

"The question arises, is 'unearned increment' properly a subject for special taxation? And, if so, should not a landowner who owns two plots of land, one of which has improved in value and the other declined, be entitled to set off the loss against the gain? If the unearned increment were a doubtful factor, occurring here and there, but balanced on the whole by the unearned decrement, there might be difficulty in specially marking down landowners for taxation. A purchaser of land, who had been skilful, or fortunate enough, to make a good investment, could fairly exclaim against a tax in which owners of other kinds of property which had improved in value did not participate. But the 'unearned increment' is a constant and increasing factor, if the value of the land of the country be taken as a whole. There is a large balance of profit to landowners after allowing for all losses; not to the individual, perhaps, but to the class. By definition, the 'unearned increment' is something to which the owner does not himself contribute; it is, in fact, to some extent—perhaps to a large extent—due to public expenditure. The proposed tax would absorb a part of the added value of the land for public purposes. And it must not be overlooked that the

proposed tax would only come into being when land had risen beyond its present value, and that it would not interfere with the owner's present enjoyment, nor disturb his reasonable expectation that the same degree of profitable enjoyment should continue."

In answer to, or in qualification of, the contention that ground values afford a conspicuous illustration of unearned increment, which it is desirable to reach by taxation, Mr. L. L. Price suggests that it may be urged, with no little force, that, apart from any practical difficulties, injustice is involved in selecting for special taxation a particular species of unearned increment, when other less obvious and tangible, but no less real and extensive, varieties are allowed to escape.

Price, Parliamentary Paper, C. 9528 of 1899, p. 185.

It is not denied that the value of sites frequently increases in urban districts, but it is often asserted that this is due more to the presence of the community, and the increase of population, than to the expenditure of money raised by rates. The causes which affect the value of land and houses are, however, so various, and interact in such complex ways from time to time in different places, that it is impossible with any accuracy to analyse the precise elements which give value to a site, or to estimate the relative importance of the circumstances which increase or diminish its value.

Sargant, 23,180-1, 23,199. F. W. Hunt, 22,542. Warner, 13,472-85. De Bock Porter, Vol. IV. of Min. of Ev., App. IX., par. 4.

The person who ultimately benefits by unearned increment is the owner of the site when he comes into possession of it, though it can hardly be doubted that the imposition of additional rates reduces the value of the reversion. In the meanwhile, the lessee is the person who does, or who can, reap the benefit, for he enjoys or receives the value of the site and building, subject to his paying a fixed rent. There may also be intermediate lessees who are in receipt of ground rents, parts of which are due to unearned increment which accrued between the dates at which they acquired and granted leases.

Sabin, 21,449, 21,450-3. F. W. Hunt, 22,542. Warner, 13,472-85.

Further, the real recipients of unearned increment in the past may have sold wholly for cash, or taken a small

Costelloe, 20,159-66. Rickman, 21,227-48. Price, Parliamentary Paper C. 9528 of 1899, p. 185. De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par. 2. Cross, Vol. IV. of Min. of Ev., App. No. IV., par. 9.

rental in consideration of a premium, and put the proceeds beyond the power of the rating Authorities. Sir A. De Bock Porter told the Royal Commission on Local Taxation that it may be safely asserted that not nearly one-half of the ground values of London are in the hands of those who have benefited to any great extent by unearned increment. They have, he said, changed ownership many times, and have doubtless been purchased at a very high figure by the present holders. He added that the fact that several well-known noblemen have owned considerable areas for generations, has led to the erroneous conclusion that they are representatives of a large class. But the high prices which well-secured ground rents have realised in recent years have tempted a very large number of owners to sell, and the competition for the investment of trust and insurance funds, &c., has so raised the price that the return is little more than that derived from an investment in well-secured debentures, or in such securities as India Government Stock.

Sabin, Vol. IV. of Min. of Ev., App. No. III., par. 11. Wainwright, Vol. IV. of Min. of Ev., App. No. IV., par. iv. Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 3 (*d*). Fletcher Moulton, 22,880, 22,888, 22,935.

The extent to which the owner of a reversion profits by expenditure of rates on objects calculated to benefit property depends, of course, upon the proximity of the end of the lease. Improvements benefiting property made shortly before the reversion fell in would be a gain to the owner of the site. On the other hand, if the reversion was remote when the improvements were made, they might be exhausted before the reversioner came into possession. Consequently the position of owners receiving ground rents for sites for long terms, such as 999 years, must be specially considered. Practically their position so far as the value of their reversions is concerned, is no better than that of owners of feu duties, or of perpetual rentcharges, or, indeed, perhaps of mortgagees.

The view which Mr. Fletcher Moulton, M.P., expressed to the Commission was that no portion of the property of a town ought to be walled off by private contract from contributing to local expenditure, though he added that there are cases "in which you must consider what is a fair

adjustment from the peculiarities of their nature." He justified rating the owners of such property on the ground that they obtain a benefit from municipal expenditure by getting increased security, and, further, that the value of town land is only maintained by the annual expenditure of the community. The value of the feu, he asserted, depends on the continuance of municipal expenditure, and it is wrong to allow the owner to feel perfectly careless about it.

On the questions, how far expenditure from rates increases the capital value of the site, and to what extent the owner of the site should be charged, opinions differ considerably. The late Mr. Costelloe expressed the opinion that all expenditure, including that on poor law and education, in the long run, improves the value of property, and consequently of site, not necessarily to the whole extent of the expenditure, but to a material extent. And with reference to the share of taxation to be borne by the owner, he stated to the Commission that "I am quite willing to leave it to the ultimate development of the questions, and to the experimental development of the tax, to settle what is the reasonable adjustment in the end between a direct burden on the owner, and a burden falling upon the occupier."

Costelloe, 20,001-5, 20,115-23, 20,262-6.

Professor Marshall, in a Memorandum prepared for the Royal Commission, says:—"There may be great difficulty in allocating the betterments due to any particular improvement. But, as it is, the expenditure of such private societies as the Metropolitan Public Gardens Association, and much of the rates raised on building values for public improvements, is really a free gift of wealth to owners who are already fortunate." [1]

Marshall, Parliamentary Paper C. 9528 of 1899, p. 125.

[1] Professor Marshall's suggestions for rating land values are as follow:—"I propose that a preliminary rate for the purpose of poor relief be made of the public value of agricultural land, that is, of its value as it stands after deducting for any buildings on it and any distinct improvements made in it at private expense during, say, the preceding 20 years. This rate might be large or small. I should prefer it to be considerable, say a penny in the pound on the capital value of the land, *per se*. I regard this as practically public income reserved to the State rather than as a tax.

"As regards land which has a special site value, of which the test

Mathews, Vol. IV. of Min. of Ev., App. No. VI., par. xv., 22,086-8, 22,129-33.

On the other hand, Mr. Mathews, Land Agent and Surveyor, of Birmingham, contested the view that the expenditure of local rates increases the value of land to any appreciable extent. In support of this he analysed the rates levied in Birmingham as follows:—

	s.	*d.*
Rates which directly benefit property, viz., street improvements, repairs, and drainage	2	6
Rates which directly benefit the local community, such as police (½), poor rate (½), and health ...	1	6
Rates which indirectly benefit the local community, such as baths and parks, free libraries, art gallery, and school of art	0	6
Rates for tbe general benefit, or Imperial rates, police (½), poor rate (½), education, lunatic asylum	2	0
Total	6	6

Cross, 21,668-71. Wainwright, 21,943. 21,971-2, F. W. Hunt, 22,542-4. De Bock Porter, 22,681 and Vol. IV. of Min. of Ev., App. No. IX., par 4. Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 7. Sargant, 23,371-8, and Vol. IV. of Min. of Ev., App. No. XI., par. 11. Warner, 13,527-35.

Commenting upon these figures, Mr. Mathews points out that the benefit to property of the expenditure of the rate of 2*s.* 6*d.* in the £ extends to one year only, and is enjoyed by the building lessee, or owner, who is in direct receipt of the rents and profits, except that part of it, not exceeding 6*d.* in the £, which represents yearly sinking funds on some capital expenditure.

The evidence given to the Royal Commission by the following witnesses was in the same direction:—Mr. Cross, Surveyor and Valuer, of Lancashire and Cheshire; Mr. Wainwright, Architect and Surveyor, of Liverpool; Mr. F. W. Hunt, Architect, Agent, and Surveyor, of London; Sir A. De Bock Porter, Secretary to the Ecclesiastical Commission; and Mr. Sargant. Mr. Cross expressed the opinion that it would be impossible to earmark the value of improvements to the land, and he and Mr. Wainwright stated that it is only the frontage of building land which derives any benefit from local rates.

might generally be that its capital value is more than (say) 300*l.* per acre, my opinions are more decided. I think that its site value should be assessed to a rather heavier preliminary poor rate than I have suggested for rural land; and, in addition, to a 'fresh air rate,' to be spent by Local Authority under full central control for the purposes indicated above. This fresh air rate would not be really a heavy burden on owners; most of it would be returned to them in the form of higher values for those building sites which remained."

Mr. Sargant agreed that, so far as rates have been applied during the term of a lease in discharging the capital cost of permanent improvements, they should, in theory, apart from contract, be borne by the reversioner. But he pointed out that this portion of the rates is very small and difficult to calculate. In the case of London, upon the fullest possible estimate, which, he thinks, includes some improvements not strictly permanent, it would amount to only 1·618*d.* in the £.

Sidgwick, Parliamentary Paper C. 9528 of 1899, p. 107.

The late Professor Sidgwick thought that, when a temporary rise in the rate occurs from outlay, of which the benefit will last beyond the period during which the extra taxation is paid, it is no doubt possible for the occupier to pay for a benefit from which the owner will gain in the form of increased rent, but that it is most likely that this effect will be believed to occur much more widely than it does.

Cannan, Parliamentary Paper C. 9528 of 1899, p. 171.

Mr. Cannan observes that so much of the rates as is raised to pay off capital expenditure ought, strictly speaking, to be paid by the owners, since it is a payment for a remote benefit, that is to say the freedom from the payment of interest on the loan raised for the capital expenditure. In the case of new occupiers, the payment will be allowed for just like any other disadvantage, but some injustice, he says, is done to old occupiers unable to revise their bargains with their landlords if new and unforeseen payments for capital expenditure are saddled upon them. The amount involved, however, is so small that it is, he says, perhaps, scarcely worth while to apply the remedy, which is the creation of redeemable rentcharges for the payment of interest on loans for capital expenditure. He points out that the occupier receives the benefit of the things provided by the capital expenditure till the conclusion of his term of tenancy, and should therefore pay the interest on the capital. It is no advantage to him, however, that the capital should be sunk, or written off; and therefore a charge might be created to be paid during his term, redeemable afterwards by the owner.

V.—How far Lessees and Occupiers take the Rates into consideration when making their Bargains. Incidence of Rates.

It has also been suggested that the rating of owners in respect of site values would secure a contribution from them towards payment of increased rates, old or new which could not have been foreseen at the time of the making of contracts.

The evidence given upon this point before the Royal Commission on Local Taxation was conflicting.

Costelloe, 19,923-5, 20,035-5, 20,252-60, 20,433-8, and Vol. II. of Min. of Ev., App. No. XI., pars. 48, 49.

The late Mr. Costelloe expressed a very strong view that the tenants enter into a "blind bargain," it being impossible for them to take the question of rates into consideration.

Where the "pull of the market" is against the landlord, and where the amount of the rates is practically a settled and well-known charge, he concedes that on the contract for a single tenancy, the amount of the rates must be considered as diminishing the rent which the landlord would be able to get. But the "pull of the market," he said, is, as a rule, against the tenant, and it is impossible to forecast what future rates will be. He expressed the opinion that no ordinary tenant in London when negotiating even for a three years' agreement, can tell, with any approach to correctness, what his aggregate payments in the way of rates are likely to be, owing to the number of Authorities upon whose expenditure the charge depends, the variations in the amounts of their payments from year to year, and their progressive increase, which, he said, not even the expert officials of the Authorities concerned have been able to forecast. In these circumstances Mr. Costelloe's opinion was that the practical effect is that the tenant, so far as he attempts to estimate the rates at all, usually under-estimates even the present charge, and probably fails to allow for the probabilities of increase. He said:—

"The ultimate result of it is, to my mind, that even the

cleverest business man cannot successfully tell to-day what the aggregate burden of his rates on a particular house, or warehouse, or shop, will turn out to be five years hence. I believe that in practice he does not seriously estimate it at all. In any case, I am quite confident that these continual increases of charge, by reason either of increased efficiency and cost of administration, or of specific new services discharged by public Authority, or of great structural improvements, such as streets, embankments, bridges and drains, do, in fact, come out of the pockets of the occupiers, and out of their living, and that they cannot be fairly considered as being borne in any intelligible sense by the receivers of rent."

On the other hand, all the witnesses who had professional knowledge of dealings in property, stated, with some confidence, that all existing rates and, to a considerable extent, future ones, are taken into consideration by lessees, including building lessees, and they argued that to impose a rate on site values, ignoring existing contracts, would be equivalent to rating the owners of them twice over. Where rates increase, or new ones are imposed, which are not taken into account by the lessee, it is admitted that such are borne by the lessee during the term of the contract, though he gets the full benefit of the expenditure during the lease. On its termination, however, the increased burdens fall on the landlord, who also then derives any corresponding advantages.

Mr. F. W. Hunt, Agent to Lord Portman's Marylebone Estate, stated that a reduced rent is accepted by the owner in consideration of the tenant contracting to pay the taxes, and in cases where arrangements have been made for the owner to pay the taxes, the proportionate addition has been made to the rent.

F. W. Hunt, 22,527-41, and Vol. IV. of Min. of Ev., App. No. VIII., pars. 3-8; Wainwright, 21,863. Harper, 22,349-52.

In the case of a tenant bargaining for the lease of a house, Mr. Hunt stated that if he names the amount of the future rent, the reply he invariably receives is, "What are the rates and taxes?" Again, in the case of the lease of a building site to a builder he said that a similar

inquiry is made. He stated that the builder goes through his figures with him to show the various items of expenditure, and what return he may hope to get from the property when built, and what the rates and taxes are, and how they will affect his return. Shortly, he said, the calculations made are as follows:—"What will be my expenditure, what will be my return, what rent can I hope to get, and what are the rates and taxes forming part of my expenditure?"

On being pressed as to whether in the case of a long lease, as between the ground landlord and his immediate lessee, the latter can adequately foresee the burdens that will be put upon his interest during the course of the contract, he replied that "the builder in taking the land, I think, usually allows with me that the rates are an increasing commodity." He added that in giving this answer he had in his mind the possibility of the imposition of new rates.

Warner, 13,470-1, 13,542-72, 13,579-82.

Mr. W. H. Warner, of the firm of Messrs. Lofts and Warner, Estate Agents and Surveyors, London, also stated that occupiers take into consideration the present and prospective burden of rates when agreeing to pay the rent. On being questioned how far they allow for an unforeseen increase of rates, he replied, "That is a risk you cannot help, and you take it. You run the same risk when you go and instruct your broker to buy you railway stock." The same conditions, he stated, apply in the case of the contract between the owner of the site and the building lessee, and to the following question he replied in the affirmative: "I understand you to put to us that in a case like that, the builder takes these things so carefully into calculation that the ground landlord gets less in the place where the rates are at the moment higher, or likely in the builder's opinion to become higher in the near future, than is the case with the ground landlord where the rates are not so high."

Warner, 13,572.

Warner, 13,456.

Vigers, 19,512-5.

Mr. Vigers, Valuer and Surveyor, of London, and Mr. H. A. Hunt, Surveyor and Agent of Estates in London,

also confirmed this view. Mr. Vigers said that those who are undertaking a building lease for a long series of years make the consideration of rates a prominent one in their calculation, and that land in a parish where rates are low will fetch a greater price per foot than where they are high.

H. A. Hunt, 21,020-5, 21,062-8, and Vol. IV. of Min. of Ev., App. No. I., pars. 5, 6.

Mr. H. A. Hunt stated that, in his experience in London, the lessee of a house or site does take present, and also future, rates into consideration, by agreeing to pay a rent which will "hold them nearly harmless."

He also said: "I consider that the man who takes a house is perfectly capable of taking care of himself, and he makes a very good allowance for any increase of the rates." Further, "On large estates the site or building is let at a rent that leaves the tenant a fair allowance for contingencies which may fall upon him, and which he may not have sufficiently considered when he took the lease with the liability to pay all rates and taxes; although I consider that persons entering into contracts fully calculate their liability under the contract, and it is in no sense a 'blind contract.' The tenant gets all the advantages of the improvements in the value of the lease, whilst the owner gets no advantage, and cannot increase his rent."

Mr. Mathews, Land Agent and Surveyor, of Birmingham, dealt with the point in question, as follows:—"Every lessee expressly contracts to pay all rates, taxes, and assessments (except landlord's property tax) whether present or prospective, and the ground rent which the owner could otherwise obtain is reduced by the estimated amount of these burdens. The arrangement between the owner, the lessee or builder, and the occupier, may be thus illustrated:—The occupier can afford to pay rent and rates amounting together to 100*l.* a year for a house or other building. The builder expects, and is content with, a certain net interest on his expenditure. After making due allowance for repairs, insurance, and sinking fund, he estimates that 80*l.* a year will be his fair remuneration. If then there were no rates, the owner could, and would,

Mathews, 22,073-5, 22,149-60, and Vol. IV. of Min. of Ev., App. No VI., pars. viii., ix.; x.

obtain a ground rent of 20*l.*, the sum which makes up the rent of 100*l.* which the tenant can afford to pay. But the tenant finds that he has to pay 10*l.* a year in rates, and so can only afford to give a rent of 90*l.* The builder will not be satisfied with any sum less than 80*l.* for his interest, and the owner must therefore be satisfied with a ground rent of 10*l.* instead of 20*l.* a year. Some future increase of rates is also taken into consideration in determining the ground rent which the owner can obtain. It seems clear, therefore, that all, and more than all, the local rates at the time of the contract are borne by the owner."

"The local rates have increased greatly in recent years, and, it may be admitted, that if this increase had been anticipated by the then contracting parties, the ground rent may have been still further reduced, and that the burden of this excess has now to be borne by the building lessee or the occupier.

"On the other hand, site values have also increased in a still greater proportion, and have given a greater rental value to the buildings thereon. The owner has no share in this increase—the entire profit has gone to the lessee, in accordance with the contract which gave him all the prospective increase of land value, and bound him to pay all the present and prospective assessments thereon.

"The lessees and not the owners have profited most by the bargain, and, if during the continuance of a lease the situation or site value has greatly increased, it is equitable that the lessee, who gets the annual value in the shape of additional rent due to this improvement, should also pay the rates thereon.

"It must, however, be noted that while the situation for commercial purposes, *i.e.*, the site, may have risen greatly in value, the intrinsic value of the building cannot increase, but must deteriorate as time progresses, and, on this account, the lessee may not be able to take full advantage of the rise in site value. For example, land that has been covered with houses may have acquired a value for some commercial purpose for which the houses are not adapted,

or the site may justify a larger business than the old building thereon can accommodate. In such cases it is usual for the lessee to apply for, and the owner to grant, a new 99 years lease.

"The new ground rent is then estimated on the basis of the increased value of the land, proper allowance being made for the lessee's interest in the unexpired term. It is also not unusual for a sub-lessee to buy out the original lessee and negotiate directly with the owner for a new lease. The burden of the increased local rates will then, as before, be imposed upon the owner."

Sir Robert Giffen says that "The class of occupiers count the full cost of the rates before they settle what rent they will pay to the owner."

Giffen, Parliamentary Paper C. 9528 of 1899, p. 97.

Mr. Leonard Courtney thinks that "Existing rates may be, and are, taken into account when tenancies are created, but no one can speculate, with practical effect, on the possibility of a subsequent increase or diminution of them."

Courtney, *ibid*, p. 90.

Mr. Sargant's view is that "A very large amount of rates—at least equal to what anyone would consider the fair proportion, whatever that may be—is *automatically* and by *anticipation* thrown on and deducted from the ground rent, so that existing ground rents have already borne rates to a very large extent."

Sargant, Vol. VI. of Min. of Ev., App. No. XI., par. 4. De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par. 7.

Sir A. De Bock Porter informed the Royal Commission that "It is asserted by the advocates of the tax that the rates fall at present upon the occupier, and in support of their contention they argue that the occupier, before entering on his tenancy, does not know, and does not trouble to inquire, whether the rates are, say, 6*s*. or 6*s*. 6*d*. in the £. But this 6*d*. in the £, about which the occupier is either so ignorant or indifferent, is, in the aggregate, calculated on rateable value, probably equivalent to a tax of 2*s*. in the £ on the whole of the site values of London. And as this is the maximum tax which it is sought to impose on owners, it may well be asked whether the endless friction and heavy expense which would be involved are not out of all proportion to the result to be obtained."

De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., par. 11.

De Bock Porter, 22,684, and Vol. IV. of Min. of Ev., App. No. IX., pars. 7, 8, 9. Warner, 13,486-92. Wainwright, 21,861-3, and Vol. IV. of Min. of Ev., App. No.V., par. 12. Mathews, 22,079, 22,149-65, and Vol. IV. of Min. of Ev., App. No. VI., pars. viii, ix. F. W. Hunt, 22,527 and Vol. IV. of Min. of Ev., App. No. VIII., pars. 5, 6, 7, 8, 10. Giffen, Parliamentary Paper C. 9528 of 1899, page 97, par. 11.

"The real incidence of the rates in the case of an ordinary letting, under the system of short term leases which prevails in London, may be briefly stated as follows:—When the contract is first entered into between the landowner and the builder-lessee, the then existing rates by reducing the rack-rent obtainable, diminish *pro tanto* the amount of the ground rent. During the currency of the lease, any additional rates (other things being equal) reduce the value of the rack-rent receivable by the lessee, and at the same time diminish the value of the landowner's reversion. On the expiration of the lease, the whole of the rates again fall on the landowner, who then comes into possession."

The expert evidence is almost unanimous on the point that tenants take rates into consideration to a great extent. But whether it follows that they are able to shift the entire burden, is a question upon which opinions differ. On this point a number of economists appear to agree that tenants can, and do, shift that part of the rates which they can avoid by going elsewhere, but that the rates which they must pay wherever they go cannot be shifted on to the owner of a particular site.[1]

Sir R. Giffen, however, says: "The idea of the separate rating of ground values arises from a misunderstanding of the real incidence of rates. As that burden falls *ab initio* upon the ground landlord, diminishing the sum of capital or income he is able to obtain for his property, there is really no separate ground value to be assessed."

Cd. 638, p. 156.

[1] The Separate Report on Urban Rating and Site Values, of the Royal Commission on Local Taxation, says: "Now rates being proportioned to the value of the whole property, may be roughly divided into the part proportionate to the value of the site, and the part proportionate to the value of the building. The first part, or what may be called the amount of the rates on site value, varies from place to place, just as site value does, and a tenant can avoid this burden, or most of it, by going to an out-lying district where the value of sites is almost negligible. But he will have to pay some rates on his house wherever he may go; and at least this portion of the burden sticks to him, though he will probably shift on to the owner that part of the rates, even on building value, which is due to the exceptionally high poundage rates of any particular district."

VI.—The London County Council Scheme.

The London County Council Scheme is that a separate valuation of the site of every hereditament should be made; and that, besides the rates imposed as at present upon the occupier in respect of the rateable value of the whole hereditament, a special rate, limited in amount by Parliament, should be levied in respect of site values upon all persons, whether ground landlord, building lessee or occupier deriving a revenue, or use equivalent to revenue, from the value of a site. This rate is to be collected in the first place from the occupier, and he is to be allowed to deduct from his rent as much of the rate as is levied in respect of the payment he makes to his landlord for site value. This process is repeated in the case of other interests up to the freeholder.

Costelloe, 19,935-41; 19,983, 20,138-40, 20,153-7, 20,188, and Vol. II. of Min. of Ev., App. XI., par. 60. Harper, 22,342-52, 22,360-1, 22,452, 22,488.

It does not appear from the late Mr. Costelloe's evidence how, among all the rents actually paid, those paid in respect of site value are to be distinguished from those paid in respect of building value. This deficiency is met by the proposal made by Mr. Harper, the Principal Statistical Officer of the London County Council, but the latter was not put forward officially on behalf of the Council.

Mr. Costelloe stated that the main object of the scheme is to obtain a new source of revenue, in order to relieve the occupier from increased rates, though it may also secure some transference of the present rates.

Costelloe, 20,128, 20,140, 20,351. Harper, 22,342-8, 22,359-61.

He said: "The scheme is intended to create a fund which shall be kept separate from existing rates. It is intended to relieve the local budget in such a way that the pressing demands for great Metropolitan improvements, and other increments of expense, can be duly met without increasing the burden on the occupying ratepayers at all. Such a fund should also have the effect of relieving the existing ratepayers from some part, at all events, of the unfair burdens laid upon them by the growing increments of recent years."

Costelloe, 19,930-1, and Vol. II. of Min. of Ev., App. No. XI., par. 55.

Costelloe, 20,039.

He expressed the opinion that if the constant pressure to increase the burden were taken off the occupying ratepayer, and if it were possible also to relieve him of a reasonable amount of the recent increase from which he has suffered within the last few years, he would be practically content with rating site values for the purpose of contributing towards increase of expenditure on new services.

Costelloe, Vol. II. of Min. of Ev., App. No. XI., par. 25.

The following resolutions of the London County Council, which were supported by Mr. Costelloe, shortly explain the policy advocated by the majority of the Council with regard to the rating of site values:—

(*a.*) That it is advisable that a new source of revenue should be obtained by means of some direct charge upon owners of site values.

(*b.*) That this charge be termed "owners' tax."

(*c.*) That all persons deriving a revenue, or use equivalent to revenue, from the value of a site, be liable to pay such charge.

(*d.*) That the site value of every property be assessed and entered in the valuation list.

(*e.*) That the site value be the annual rent which at the time of valuation might reasonably be obtained for the land as a cleared site if let for building by an owner in fee, subject to equitable reduction in exceptional cases in which the full site value thus defined is not being enjoyed or obtained by any person or persons.

(*f.*) That, in view of the fact that considerable expenditure has been incurred from public funds, which has largely contributed to the increase of site value, the Royal Commission be asked to recommend that such owners' tax commence at the rate of 6*d.* in the £ per annum, and rise gradually to such sum as Parliament may determine, and that any increase of burden or expenditure for new services should be equitably shared between the present rate on occupiers, and the proposed owners' tax.

(*g.*) That any existing or future contract or agreement

by which an owner purports to exempt himself from the owner's tax, or to cause it to be paid by any other person in his stead be invalid.

With reference to these Resolutions, Mr. Costelloe informed the Royal Commission on Local Taxation that: "The Council has reserved itself from making any recommendations, or from instructing me to make any suggestions on its behalf, as to a detailed scheme."

Costelloe, 19,952.

Mr. Costelloe defined site value "as being the annual equivalent of the capital value which the site in question would fetch at Tokenhouse Yard, if for any reason the premises upon it were cleared away, as, for example, if they had been burnt to the ground. . . . It is intended to represent the value of that parcel of ground considered as a site, and without regard to the structures which happen in fact to have been placed upon it. These structures may, or may not, be the ones most suitable to utilise the advantages of the site. But, apart from that consideration, these structures themselves represent the capital which has been expended upon it by some one in the ordinary course of business, and in consideration of a business return."

Costelloe, 20,422, and Vol. II. of Min. of Ev., App. No. XI., par. 56.

The owners of a site value are described as "all those who derive a rental value out of it," and Mr. Costelloe said that, "It is not merely the owner of the freehold reversion —who has in many cases only a small ground rent, and whose ultimate interest, valuable as it is, may be postponed for many years—who is to be charged under the Council's scheme. He will have to pay his share, which can be handed back to him by appropriate machinery. But, if it should be true that some of the intermediate leaseholders, or even the occupying tenant himself, are in fact receiving a rent, or a use equivalent to rent, which is applicable not to building value, but to the site value, it is these persons who are intended to bear in like manner some equitable share of the owner's rate."

Costelloe, Vol. II. of Min. of Ev., App. No. XI. par. 58.

In reply to the question by the Royal Commission, "Do you propose to rate under this owner's tax a part of

Costelloe, 20,423.

the site value, which, while it is in somebody's hands, is not producing at the moment to that person a revenue?" Mr. Costelloe replied: "Yes, if it is producing what I call a use equivalent to a revenue, if it is producing to him wealth, whether in the form of an annual rent, or in the form of a realisable capital sum, then I think that is an element of the wealth of the community which is a very proper subject for taxation."

Costelloe, 20,048-52.

Mr. Costelloe informed the Commission that he had not made up his mind about rating the mortgagee, though, broadly speaking, he said that he thought that the basis of Schedule A (Income Tax), which includes the mortgagee, "is a very convenient basis to start from, and that, with a few modifications, would lead one a long way."

Harper, 22,342-52

Mr. Harper proposed a detailed scheme to the Commission for carrying out the principles suggested by Mr. Costelloe.

The latter, however, gave evidence at the request of, and on behalf of, the London County Council, whereas Mr. Harper, although an official of that body, gave evidence in his personal capacity.

The following definition of site value, Mr. Harper says, would be in the great bulk of cases a sufficient guide to an expert surveyor:—

"The full amount which would be obtainable by way of rent on a building lease in the usual form for a term of not less than 99 years, if the site of the tenement were let as a cleared site by the owner in fee, without any fine or restriction other than the usual building covenants."

Harper, Vol. IV. of Min. of Ev., App. No. VII., par. 1.
Costelloe, 20,187.
Harper, 22,215.

Mr. Harper maintains that in ordinary cases the difference between an expert estimate of the annual value of the site, and the true rateable value of the whole hereditament, would fairly represent the structural value. But he admits that site value *plus* building value is not necessarily equal to rateable value, and that, in many cases, the addition to the annual site value of a percentage on the cost of building would produce a sum differing from the rateable value of the premises as a whole. This is mainly because

buildings do not always utilise their sites in the best way, or to the full extent, and, therefore, the full capacity of such sites is not developed by the buildings erected upon them.

But Mr. Harper thinks that in 80 per cent. of the cases of the properties for assessment purposes in London, the structural value could, at any rate, be roughly obtained by subtracting its site value from rateable value, leaving 20 per cent. to come under the category of sites which cannot be fully used.

Harper, 22,323-4.

Mr. Harper's plan for providing that the site value rate shall fall exclusively on owners of site value is, shortly, as follows:—A site value demand note is to be sent to the occupier, stating, among other particulars, the value of the site, and the amount of rate in the £ due.

Harper, Vol. IV. of Min. of Ev., App. No. VII., p. 156.

Rules for deduction from rent are thus stated:

Rateable value	A £
Site value	B £
Balance	C £

"1. If the rent you pay is a ground rent, or in respect of land only, deduct *x*d. in the £ upon the amount of such rent.

2. If the rent you pay includes buildings or other property besides land, subtract the balance C from the amount of such rent, and deduct *x*d. in the £ upon the remainder.

3. If the rent you pay is not a ground rent, you are entitled to deduct in any case upon the amount of ground rent paid by any superior landlord.

4. But you are not entitled to deduct a larger sum than you have actually paid or allowed."

Mr. Harper was asked if under such a system the owner would not be rated twice over in respect of site value with the new and old rate combined, and he replied "of course he would bear a charge which now reaches him very

Harper, 22,349-52.

unequally under the rateable value basis, and he would also bear a new charge."

Q. "But which reaches him, at all events, to some extent?—*A.* It does reach him to some extent."

Q. "And to that extent you would tax him twice over?—*A.* To that extent he would be taxed twice over if this system were adopted."

VII.—Mr. Fletcher Moulton's Scheme.
[Now Lord Justice Moulton.]

Moulton, 22,887, 22,917, 22,943-7, 23,060, 23,109, 23,139, 23,140.

Mr. Moulton's proposal to the Commission was that the structural value and the site value of every hereditament should be separated, and that for the present rates there should be substituted a dual system. A rate should be levied on occupiers in respect of the structural value of buildings, and a rate levied on owners in respect of the value of the site. He suggests that a special rate should be levied on owners in respect of site value. The total rate on the site should be larger than the rate on the structural value, and should bear a certain ratio to it. For instance, if the rate in the £ on structural value was 5*s*., the rate in the £ on site value might be 7*s*., but the extent to which the rate on the land could differ from the rate on the buildings should be controlled by Parliament.

22,947. 23,099.

Moulton, 22,949, 23,080.

Mr. Moulton proposed that site values should be valued quinquennially, and he stated: "I think that the property in a town ought to be valued independently of the particular contracts that affect it. I do not mean to say that a lease may not be a guide as to what the value is, but I think you ought to value it just as if there were no contracts on it at all."

Moulton, 22,877, 22,879-80, 22,888-90, 22,935-7.

Mr. Moulton would include in his scheme feu duties, and also leases for 999 years containing covenants that the lessee should pay all existing and future rates.

22,874-5.

But he would not include mortgages on the ground that "it is only by the legal fiction of the form of a mortgage that the question could ever have arisen as to whether mortgages should be treated as a case of ownership . . .

I do not think it would be right for us, in considering ownership from the point of view of liability to taxation, to treat as owner a man who has really no rights of owner, but only a right to look to this property to see that he shall be paid a specific and determined debt . . . My view is that you should not look upon the history of the transactions by which persons have acquired their share of the revenues of this year; that for the purpose of taxation you should simply look at the persons who this year receive and keep the revenue, and that each 1*l.* of revenue should bear its taxation."

Mr. Moulton did not think that if sites and buildings were separately assessed, a large amount of additional rateable property would be created, but, he added, "I should increase the tax on land, because I think it is insufficient."

Moulton, 23,060.

Under this scheme there would be partly a transfer of an existing rate, and partly a new rate.

Moulton, 22,887, 22,938-9.

The rate in respect of site values is to be collected from the occupier, but the occupier is to have the same right and duty of deducting it from the rent paid by him to his superior landlord as exists at present in case of the landlord's property tax.

22,867.

So long as the rent that he pays is greater than the annual site value, the occupier will deduct from his rent the full rate upon the whole annual site value, and his superior landlord will do the same. But when the rent paid—generally by an intermediate landlord—is less than the site value, the person who is paying the rent is, to a certain extent, the ground landlord, and ought to bear the site value rate on so much of the annual site value as remains in his hands. He, therefore, will be entitled only to deduct the site value rate at so much per £ on the rent paid by him. "Each person who pays a rent higher than the site value, deducts the whole of the ground tax from his rent, one who pays a rent less than the ground value deducts from it at the rate of the ground tax in the £." "My principle," Mr. Moulton says, "always is that you look to

Moulton, 22,868, and Vol. IV. of Min. of Ev., App. No. XI., par. 8.

Moulton, 23,022.

Moulton, 22,924, 23,059, 23,078-82.

Moulton, 23,088, 23,156-7.

the income of the present year, see in whose hands it stays, and make that person pay the tax, on so much as stays in his hands." To illustrate the mode of collection :—

22,270-3.

A. let a parcel of land to B. for 10*l.* a year.
B. sublet to C. at 80*l.* a year.
C. sublet to D. at 150*l.* a year.
D. sublet to E., the occupier, at 300*l.* a year.

The annual value of the site is 100*l.*, and the annual value of the buildings is 200*l.*

Assume the site value rate is fixed at 5*s.* in the £.

Thus, 5*s.* upon 100*l.* = 25*l.*, would be collected from E.; E. would deduct the 25*l.* from the 300*l.* he pays to D.; D. would deduct the 25*l.* from the 150*l.* he pays to C. But C., who pays only 80*l.* to B., is in receipt of the annual site value to the extent of 20*l.* and is entitled to deduct 5*s.* on the 80*l.*, and on no more than the 80*l.*, which he pays to B., *i.e.*, he would pay B. 60*l.* and bear 5*s.* on 20*l.* himself = 5*l.* B. is in receipt of 80*l.*, and pays 10*l.* to A. He, therefore, is the owner of the site value to the extent of 70*l.*, and must bear a rate of 17*l.* 10*s.* (5*s.* in the £ on 70*l.*). He is entitled to deduct the site value rate on the 10*l.* he pays to A., *i.e.*, 5*s.* in the £ on 10*l.* = 2*l.* 10*s.*[1]

VIII.—Who is the Owner of Site Value or in Enjoyment of Site Value?

Among the advocates of the rating of site values there seem to be serious differences of opinion on this fundamental point.

Mr. Harper's scheme for levying the site value rate is intricate, but from the illustrations which he gives of its operation, it appears that the definition which he adopts of the "owner of site value" whom it is proposed to tax, is substantially different from that put forward by Mr. Fletcher Moulton.

[1] Mr. Moulton did not state which of the parties referred to expended money on buildings. Neither does the illustration cover the case of a site not fully developed by the buildings upon it.

This difference can be best illustrated in a concrete case.[1]

A., the ground-landlord, lets a site for 10*l.* a year to B., the builder. B. spends 1,000*l.* on building, and lets the house for 70*l.* to C. B. thus receives 60*l.* net, or 6 per cent. on his outlay, which we may assume to be the ordinary rate of builders' profits.

The neighbourhood improves, and after a while C. lets the house for 100*l.* a year to D. C. thus receives 30*l.* net.

The rateable value of the house is now 100*l.*, and the site value is 40*l.*

Who is the owner or recipient of that site value?

A., the ground-landlord, clearly has 10*l.* of it, and no more. But who has the remaining 30*l.*?

Mr. Fletcher Moulton says that B. has it, because B. has the security of the site, and if the house were burnt down his income would be secure to the extent of the site value.

Moulton, 22,894, 23,023-39.

Mr. Harper says that C. has the 30*l.* site value, because that increase of value accrued after he had made his contract with B., and was in fact "unearned increment." Whereas B.'s revenue is merely the reward of his capital and labour.

Sargant, 23,182-4, 23,216, 23,363-4 Harper, 22,216-7. Costelloe, 20,186-9.

Thus, shortly stated, Mr. Moulton, more from the legal point of view, disregarding the particular history of any property, asserts simply that the superior interests represent the site value. Mr. Harper, more from the economic point of view, attempts to eliminate those interests, which as a matter of fact in any particular case represent the return due to the capital and labour of the builder, and calls the residue the site value. There is something to be said for both views, so that whichever were adopted could be criticised with some force as involving anomaly and inequity. Moreover, Mr. Harper's view, which seems the more plausible in theory, is much more difficult to work out.

[1] The differences between the schemes of Mr. Moulton and Mr. Harper are discussed in detail in the Separate Report of the Royal Commission on Local Taxation on Urban Rating and Site Values. The signatories to this report say, on page 165: "We feel bound, for the reasons we have explained, to condemn unhesitatingly all the schemes which have been put before us in connection with the rating of site values. . . . But it does not, however, seem to us that the ideas which underlie the movement are entirely unsound."

Cd. 638 of 1901, pp. 160-1.

A somewhat similar difficulty arises with regard to mortgages.

Is the mortgagee the owner of the site value? Mr. Moulton said, No! Mr. Costelloe hesitated. Either answer is in fact awkward. Suppose a property mortgaged up to its full value: can a landlord who pays away in mortgage interest all the rent he receives be said to enjoy site value? Or, suppose a man who purchases a plot, and borrows the purchase money by a mortgage on the security of the land with the house which he proceeds to build. Suppose he gets a rent which, after payment of mortgage-interest, just yields him a moderate return on his outlay on building—where is the site value? Apparently in the hands of the mortgagee.

Parliamentary Paper, Cd. 638, p. 165.

But the attempt to rate a mortgagee as enjoying site value leads to difficulties both of theory and practice. *E.g.*, if a man who lends on mortgage to an individual is to be rated, how about a man who lends on mortgage debenture to a company? Yet if debentures in companies are to be rated, *à fortiori* preference shares must be.

Sargant, Parliamentary Paper C. 9528 of 1899, p. 216.

On the other hand, Mr. Sargant and others have suggested that the lessee, rather than the lessor, is the true owner of site value during the lease.

Even if this view cannot be asserted to be the whole truth, still the weighty arguments in its favour cannot be ignored in dealing with the question.

Suppose two occupiers A. and B. occupying similar houses. A. has a lease under which he pays the rack-rent. B. has bought the leasehold, paying by instalments. Is there any substantial difference between these two? Hardly; yet, according to all theories hitherto put forward, A. does not, while B. does, own or enjoy site value, and B. would accordingly be taxed, while A. would escape—a result which appears anomalous.

Proceeding from this instance, it might be argued generally that, for rating purposes, a lessee should be regarded simply as a purchaser paying by instalments.

That is, a man who takes a lease ought to be prepared to stand the racket of any changes in rating, just as much as if he had paid a lump sum down on entering into possession.

The particular features which are alleged to make site value a proper subject for taxation—viz., its increase due to general development and to public expenditure—belong to the lessee's interest during the lease rather than to the lessor's—except the increased capital value of the reversion.

It may be noted also that Mr. Fletcher Moulton's scheme has been supposed to involve the view that in every case the present rateable value, less the site value, is equal to the structural value; whereas Mr. Harper expressly states that there are numerous cases where this does not hold good.

IX.—Mr. McKenna's Scheme.

Mr. McKenna, M.P., proposed a scheme for rating in respect of site values in a memorandum he sent to the Royal Commission on Local Taxation. This scheme is part of a larger scheme put forward by him for a revision of the present system of local taxation, including the imposition of a dwelling house rate to be paid by the occupier. This is roughly indicated in the following motion, of which Mr. McKenna gave notice in the House of Commons but which he subsequently withdrew.

Vol. IV. of Min. of Ev., App. No. XIX.

"Local Taxation,—To call attention to the incidence of local taxation, and to move, that it is expedient to make provision for meeting the charge of local expenditure (1) by a land tax on a graduated scale, rising and falling only according to the rise and fall in the value of the land, and not according to expenditure; and (2) by a rate upon every inhabitant occupier of a dwelling in proportion to the annual value of such dwelling, in lieu of the existing rate levied in respect of rateable property; and that it is expedient to provide forthwith for the valuation of all land apart from any buildings thereon."

So far as site values are concerned, Mr. McKenna's

scheme is that all sites should at once be valued separately from buildings upon them for the purpose of levying a special rate upon all future improved land values, and that the valuation should be repeated quinquennially.

He suggests that every increase of value over and above what he calls the standard value, *i.e.*, the value shown on the first valuation, should be the subject of a special rate, graduated so as to absorb a larger proportion of a greater increase, and a less proportion of a less increase of value. The amount of the rate, and the scale of its graduation, should be determined by Parliament. Mr. McKenna specially exempts all land of less annual value than 5*l.* an acre. This would practically cover all agricultural land except fruit gardens.

But in estimating the increase in value over and above the standard value for rating purposes, allowance would have to be made for owner's or tenant's improvements. If the landlord agreed to give the tenant favourable terms, should the latter undertake any expenditure in improving the property, then the Local Authority could approve any expenditure made in raising the value of land, and allow for it in making the next valuation.

With reference to the application of the scheme to existing and future contracts, Mr. McKenna says:—

"The advantage of any improvement in the value of land is, for the time being, enjoyed by the occupier. The landlord only obtains the benefit on his again entering into possession. I should propose that the special land tax, on its coming into being, in respect of any land, should be paid by the occupier. But, on the expiration of the tenancy, the special land tax, at whatever rate it might then stand, should be made a charge upon the land, and, like the standard rate, should be deductible from the rent on a new tenancy. Any subsequent fluctuation of the special land tax should again be a matter of concern only to the tenant, for he alone would be affected for the time being by the rise or fall in the value of the land, and so on in regard to each successive tenancy."

The object of the suggested scheme is to secure a direct contribution to local rates in respect of the improved value of land due to "betterment" and "unearned increment," but particularly the latter, which, it is said, is largely due to public expenditure.

X.—Existing Contracts.

Upon the subject of existing contracts the Royal Commission on Local Taxation was unanimous in the opinion that no interference with such contracts is justifiable. The "Separate Report on Urban Rating and Site Values in England," says, "Legislation enabling occupiers to violate the contracts which they have deliberately made, and to escape the obligations which they have solemnly undertaken, would be, in our opinion, indefensible," and the signatories add that they "could admit no compromise on this matter of principle"; whilst Judge O'Connor contends that "equity requires that all existing contracts should be absolutely respected."

Parliamentary Paper Cd. 638, of 1901, pp. 44, 163, and 183.

Generally speaking, most of the witnesses who gave evidence before the Royal Commission on Local Taxation totally dissented from the suggestion to impose rates upon lessors, irrespective of existing contracts under which lessees have agreed to pay all rates. Some, however, suggested that in certain circumstances such contracts to some extent might be over-ridden.

Those who objected to the proposal did so on the grounds that the amount of rent is fixed with due regard to the liability undertaken by the lessee to pay rates, and that it would be unjust to upset one condition in a bargain without allowing other conditions dependent upon it to be revised by the parties. Those who held the view that all, or the greater part of, the rates really come out of the lessors' rent, argued that they would be rated twice over if existing contracts were ignored, and, further, that they would be rated for expenditure in the benefit of which they would not share.

H. A. Hunt, 21,001-7, 21,077-8, and Vol. IV. of Min. of Ev., App. No. II., par. 10.
Cross, 21,603, 21,608.
De Bock Porter, 22,731.
Mathews, Vol. IV. of Min. of Ev., App. No. VI., par. xi.
Sargant, 23,176, 23,177-9, 23,186-7, 23,190, 23,202-5, 23,223-7, 23,237.

It was also pointed out that if existing contracts were

Mathews, 22,186-90. Costelloe, 20,085-7.

interfered with, much greater injustice would be done to the lessor who had recently entered into a contract, than to the lessor whose contract had been running for some time, as he would not have the opportunity of revising the terms of his contract so soon. But, in the case of those who had fixed permanent interests with no opportunity of revising their bargains at any period, as in the case of the freehold rentcharge system, or leases for 999 years, or feu duties, it was pointed out that the hardship would be still greater. And this point applies not only to perpetual rents, but also to many terminable leasehold rents. For such rents may be, and often are, created with only a nominal reversion, and in such a case they are no less "unimprovable" than a feu duty or chief rent. Indeed, as such rents often represent return on builders' outlay, they might even be held to have a special claim to exemption.

Cross, 21,608.

It was further urged that a lessor should not be prevented from making a contract to secure a fixed income from his property, and that the imposition of rates, without regard to existing contracts, would be especially hard on people with small incomes from land. Mr. Sargant expressed the opinion that the class of persons who invest in ground rents are the last people who should have their contracts broken against them. "They are the most prudent class of investors, such as insurance companies and trustees, who invest largely in them. They are persons who have sacrificed getting a large income in order to get an absolutely secure income, and a perfectly fixed income; they are the same class of persons who invest in the debentures of railways."

Sargant, 23,230.

Costelloe, 20,084.

Those who thought that existing contracts should be wholly or partially set aside, justified such a course on the ground that the imposition of rates upon lessors, irrespective of existing contracts, would not involve greater injustice than the present system, by which the increase of existing rates, or the addition of new rates, are, during the continuance of a lease, thrown upon the tenant, who

could not have foreseen them. It is argued that the State frequently imposes a new tax regardless of existing contracts, for instance, in the case of the Income Tax (Schedule A.) where the occupier is enabled to make a deduction from his rent.

Costelloe, 19,926-31, 20,167,76, 20,391, 20,300-2, and Vol. II. of Min. of Ev., App. No. XI., par. 53.

Among the resolutions passed by the London County Council on the Report of the Local Government and Taxation Committee, dated November 16, 1897, was the following:—"That any existing or future contract or agreement by which an owner purports to exempt himself from the owner's tax, or to cause it to be paid by any other person in his stead, be invalid." But Mr. Costelloe, who represented that Body before the Commission, admitted that there was a difference between interfering with freedom to make future contracts, and interfering with existing ones. He said:—

Moulton, 23,118, 23,125, and Vol. IV. of Min. of Ev., App. No. X., par. 4.

Costelloe, 19,943.

"I think that Parliament may say, and ought to say, in the most absolute way, that when it has determined that a charge shall fall, say, on the owner of site values, any future contract which professes to alter that incidence shall be absolutely void." . . . . "But, as regards the bearing of such a charge upon running contracts, and whether any exemption or compensation was to be given to persons who might be supposed to be damnified under running contracts, that is another matter, and is a mere question of practical expediency. I think it is not a matter for a clause in the Bill so much as for adjustment in the burden. As regards that, all I say is that I do not think this scheme gives cause for any such adjustment of the burden in the practical equities of the system."

Moulton, Vol. IV. of Min. of Ev., App. No. X., par. 4.

Mr. Fletcher Moulton thinks that: "Existing contracts may turn a fairly apportioned tax into an unfair one, and the force of existing social customs, combined with our laws of property, make it impossible to prevent this injustice being continued by future contracts." But he considers that existing contracts should be respected to a certain extent, so far as there is a transference of existing

Moulton, 22,877-87, 22,890-8, 22,935-42, 23,006, 23,113, 23,126, and Vol. IV. of Min. of Ev., App. No. X., par. 10.

burdens, but no allowance should be made for a new rate. He said:—

"So far as the tax would constitute an increase of taxation, it would be proper, in my opinion, for Parliament to authorise it to be imposed on all land in towns, whatever be the condition of its present holding. But so far as it is covered by existing rates, which are the subject of contracts which are at present permitted, it would be just to take these into consideration before carrying out in its entirety the division of taxation to which these considerations relate." . . . "I have always conceded that, so far as it is a transfer, you are bound to consider that people were allowed to contract for the payment of taxes on their property by other people, and you have no right to say, therefore, that these contracts shall be set aside as though they were invalid at the time."

Moulton, 22,903.

Also:—"So far as it is an old tax, I do not think you ought to put it upon those who unquestionably were permitted to stipulate that this old tax should be paid by their lessees, without adjusting between them and those who undertook to pay it.

Moulton, 22,898.

"The reason why I allow for existing contracts is that the owner took a smaller rent because of the obligation to pay rates which was put upon the tenant. To that extent the owner is therefore bearing those rates. The principle of transfer would be to respect the owner to the extent to which he is in this way *de facto* bearing the rates.

Moulton, 22,906-7.

"If I had to set about it, I should probably take what I consider to be a fair allowance for the rates that were stipulated for, and either add that to the rent, or allow that still to be paid by the occupier as a payment under his contract."

Moulton, 22,911.

Mr. Moulton did not suggest any solution of the difficulty of dealing with existing contracts. He presumed that a Bill having reference to site values would deal with it. On being asked if he was prepared to lay down any general principles, he replied, "I should like

Moulton, 22,900-8.

to think over it a little more before I enunciate principles of that kind." . . . "The actual machinery I should not like to pronounce upon without further thought."

Mr. Sargant thought that it would be impossible to make equitable allowances in the case of existing contracts, and that Mr. Moulton's suggestions seemed too vague for practical application.

Sargant, 23,368-70.

He says generally of schemes like Mr. Moulton's that "they would rate owners of fixed rents in respect of an expenditure, the benefit of which accrues primarily to the owners of marginal rents, or, in other words, to the persons having the right to the actual beneficial occupation and enjoyment of the property rated. They would, in fact, *rate the wrong man.*"

Sargant, Parliamentary Paper C. 9528 of 1899, p. 216.

Sir Robert Giffen says that "an occupier could not be empowered to deduct the whole or portion of a rate he has hitherto paid under agreement or custom from the owner without injustice. Contracts must in all cases be kept. If it is thought desirable for any reason to make such an arrangement regarding rates, the only equitable method of carrying it out as regards existing rates would be to add the amount of the deduction in the first instance to the rent."

Giffen, Parliamentary Paper C. 9528 of 1899, p. 98. Sidgwick, *ibid*, p. 108.

XI.—Rating on Capital Value. Municipal Death Duty.

The question has frequently been raised how far "capital value" or "selling value" as opposed to "annual value" or "rental value" should be made the basis of valuation.

Costelloe, 20,422.

"Site value," as explained to the Royal Commission on Local Taxation by Mr. Costelloe and Mr. Harper, is a new conception which certainly differs from "annual value" as defined by the Courts, because it is proposed that sites should be valued independently of the actual uses to which they are put at the time of the valuation, instead of according to existing circumstances and conditions, that is, according to the legal maxim, *rebus sic*

Costelloe, 20,422, and Vol. II. of Min. of Ev., App. No. XI., par. 56. Harper, 12,578-9, and Vol. IV. of Min. of Ev., App. No. VII., par. 1. C. (ii.),

Moulton, 22,949, 23,080. Poland, 2193, 2475.

stantibus. On the other hand, it is not clear that site value can be said to be quite the same as capital value, because it seems that the annual ground rents, which could be obtained for different sites, would not always represent exactly the same percentage on the selling value of those sites on account of the difference in security.

Site value is defined in the Resolutions of the London County Council as "the annual rent which at the time of valuation might reasonably be obtained for the land as a cleared site if let for building by an owner in fee, subject to equitable reduction in exceptional cases in which the full site value thus defined is not being enjoyed or obtained by any person or persons."

Vol. II. of Min. of Ev., App. No. XI.

By way of further explanation, Mr. Costelloe, on behalf of the London County Council, in the memorandum prepared by him for the Commission, said:—"What I call, for the sake of clearness, the site value, is defined in the Council's resolution as being the annual equivalent of the capital value which the site in question would fetch at Tokenhouse Yard, if for any reason the premises upon it were cleared away, as, for example, if they had been burnt to the ground. This is my own definition, and after most exhaustive discussions in the committee and the Council, I am convinced that it is a reasonable and correct statement in a practical form of the value which ought to be taxed. It is intended to represent the value of that parcel of ground considered as a site, and without regard to the structures which happen, in fact, to have been placed upon it. These structures may, or may not, be the ones most suitable to utilise the advantages of the site."

It is obvious that in ordinary cases the annual value of any property tends to represent the market rate of interest upon the capital value (though that market rate of interest differs in different cases). That this is the case is shown by the fact that the Courts have repeatedly authorised the application of the principle of "contractor's rent" (*i.e.*, the sum of percentages on the capital values of land and structure) for determining the annual value of the class of

Poland, 2108.

property which is not usually let. The cases in which annual value cannot be described as a percentage on capital value, are chiefly those comparatively exceptional cases in which the condition of the property is likely soon to undergo change. In these cases, the test of annual value, interpreted in the light of the legal maxim, *rebus sic stantibus*, gives a result which stands in no definite relation to the selling value, *i.e.*, in the case of land ripening for building, or of a valuable site occupied by old or unsuitable buildings.

Harper, 22,301, 22,315-9, 12,578-80, and Vol. IV. of Min. of Ev., App. No. VII., par. 1 *(b)*.

Rating on capital value may, however, mean two different things :—

(1.) Looking at a property as a whole without regard to the several interests in it, it is possible to ask either what the property would sell for, or what it would, or does, let for, and it is possible to arrange taxation with reference to either basis, whether the tax be charged upon the occupier, or upon the owner or owners, or partly on one, or partly on the other.

(2.) Looking at the property as split up into several interests, it is possible to ask either what is the income, or use equivalent to income, enjoyed in any year by each of the parties interested, or it is possible to ask what is the capital or selling value of each of these interests.

The schemes put before the Commission by Mr. Harper and Mr. Moulton clearly contemplate making a valuation of the site on a basis somewhat akin to "capital value." The subsequent distribution of the burden among the various interests would not, however, be in proportion to the capital value of each of those interests,[1] since no person having an interest in the site is to be rated upon a

Harper, Vol. IV. of Min. of Ev., App. No. VII., par. 4. Moulton, 22,868, 22,924, 23,022, 23,059, 23,078-82, 23,088, 23,156-7, and Vol. IV. of Min. of Ev., App. No. X., par. 8.

[1] Mr. Costelloe's answers on this point are not sufficiently clear to enable a definite statement to be made of his precise meaning. [Costelloe, 20,155-66, 20,188-9.] Mr. Moulton says: "The taxation is calculated according to annual return, but I do not say that the rate at which it is calculated is the same for all kinds of property" (23,067). "I do not neglect capital value in classifying properties in order to determine the rate *per cent.* of taxation" (23,071).

higher sum than he actually receives, the tax being levied upon a method adapted from that of Income Tax (Schedule A.).

Costelloe, 20,381-20,394. Rickman, 21,197.

But the idea of splitting up the interests of the various parties concerned, and making a separate valuation of each upon the basis of "capital value" or "selling value," appears to have been present to the mind of several witnesses. In certain cases it is not easy to discover which application of the principle the witnesses had in view. No practical proposal was, however, put forward for annual rating in respect of the capital value of the several interests in a property, and it may be pointed out that it would involve—

(1.) The ascertainment by the Valuation Authority of the different interests in every property;

(2.) A separate valuation of each interest which would need annual revision;

(3.) The direct collection of the rate from the owner of each interest, instead of adopting the schemes of Mr. Harper, and Mr. Moulton, which follow the lines of the Income Tax Acts (Schedule A.).

Rickman, 21,198.

The separate taxation of every person interested in a property upon the capital value of his interest, might, however, it has been suggested, be carried out by means of a Municipal Death Duty, which is discussed presently.

Cross, 21,594, 21,608, 21,732-6, and Vol. IV. of Min. of Ev., App. No. IV., par. 19. F. W. Hunt, 22,571, and Vol. IV. of Min. of Ev., App. No. VIII., par. 1. Mathews, 22,096, and Vol. IV. of Min, of Ev., App. No. VI. pars. xiii., xvi. (3).

Valuers expressed opinions in favour of valuing upon the basis of rental, and not of capital or selling value. Mr. Cross of Manchester stated, that "to assess land from which very little or no annual rent is derived, upon its dormant or undeveloped value, would be the introduction of a new principle in rating, viz., the assessment of unproductive capital."

It has already been shown that one of the reasons urged for the special assessment of site values to local rates is the desire to obtain from the freeholder some contribution in respect of any increase in the value of his reversion.

Mr. Costelloe said, "I should put the burden upon him

(the reversioner) before it falls in possession, because I would insist, if I may, upon taking account of his values which are capital values, as well as of his income values."

Rickman, 21,161-87, 21,197-205, 21,224-6, and Vol. IV. of Min. of Ev., App. No. II., par. 30.

But Mr. Costelloe did not think that this would be sufficient to secure from the owner a proper contribution in respect of the increase in the value or the reversion when it falls in, and he suggested, in addition, the imposition of a Municipal death duty on immovable property to secure this.

Costelloe, 20,347-63.

Costelloe, 19,988, 20,044-5.

Mr. Costelloe said : "But it seems to me, if I may say so, that the drift of these questions is to suggest exactly what I suggested myself, namely, that no system by assessing a site value's contribution exclusively upon annual value will exhaust the subject. I myself quite agree that in order to exhaust the subject, and do something like economic justice, you want something in the nature of a Municipal death duty as well. I do not press that expressly at the present moment, partly because the Council has not resolved upon it, partly because I see myself perfectly well that we are not likely to have a new Death Duties Bill within the next few sessions of Parliament. But, upon the theoretic question, I quite agree, that, in order to complete the contribution of site value, you want a capital charge as well as an annual value."

Costelloe, 20,098-9. *See also* Lord Farrer, Parliamentary Paper C. 9528 of 1899, p. 78.

And again he said :—"At the time of this discussion in November, 1892, and throughout the whole of these proceedings I, and I think most members of the Council who are thinking about this matter, have been of opinion that ultimately it is necessary to bear in mind taxation upon capital values, as well as taxation upon revenue, if you are really going to make a full and fair share of the public burden fall upon the owners of site values. Without desiring at the present moment—because, of course, I have no explicit mandate from the Council on the subject at this moment—to propose anything expressly, I should wish to say that the possibility of a Municipal death duty cannot, in my opinion, be left out of the account as an element in

Costelloe, 19,993-7, 20,045, 20,163, 20,177, and Vol. IV. of Min. of Ev., App. No. XI. pars. 44, 57.

an ultimate scheme; that is to say, I do not believe that you will be able to get, or even that it will be expedient, to press for so full a contribution in the way of a tax on revenue from owners of site values, as would really do justice between them and the occupiers. I put it to myself in this way—that the total building estate called London rises in value, practically, with every year, and that when successions fall in, say once in every 20 years, it is demonstrable that that building estate has very largely increased in pure site value in the interval."

De Bock Porter, 22,803-6.

On the other hand, Sir A. De Bock Porter strongly dissented from the suggestion of the imposition of a Municipal death duty. It would, he said, result in the land being taxed twice over, and he observes that, "A Municipal death duty in respect of the 'unearned increment', appears to be wrong in principle. The same objection applies as to the Municipalisation instead of the Nationalisation of site values. But, apart from this, the payment of Government death duties involves a subtraction from the capital of the parties concerned, the income on which thereafter ceases to pay income tax. But there would be no such subtraction from capital value in the case of a Municipal death duty, for it is not proposed (even if it were practicable) to tax the property on a lower value after the duty is paid. A further consideration is, that the loss would fall for the most part on the owners at the time the tax was imposed, for rateable property would be at once depreciated relatively to other property."

De Bock Porter, Vol. IV. of Min, of Ev., App. No. IX., par. 18.

Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 22.

Mr. Sargant also pointed out the difficulties of such a proposal. He said:—"Municipal death duties have been suggested or hinted at, particularly as a means of taxing reversions. In the absence of a definite scheme it is impossible to deal effectively with the subject. But I see very great difficulties in the way. The whole present value of every house is rated as it is. You cannot impose an extra or special tax on reversions without putting extra taxation on house A., which is let on a ground lease, shortly about to expire, as compared with house B., which is owned

by a fee simple owner subject to no ground lease. This, of course, would be inadmissible. Two houses of equal value must contribute equally, though the interests in them are divided differently. But then Municipal death duties would merely seem to me occasional rating in large amounts at comparatively long periods determined by death, in addition to, or in lieu of, part of the present annual rating."

Several witnesses who were opposed to direct rating of site values, thought that possibly some system might be devised of obtaining some contribution to local rates in respect of the increased value of a reversion when it fell in.

Rickman, 21,206-16, 21,216-23. Sabin, 21,440. Cross, 21,672.

Sir A. De Bock Porter, however, considered that a special tax imposed at the expiration of a lease, regardless of the circumstances, would be most inequitable.

De Bock Porter, 22,803-4.

Mr. Rickman said :—" It has been generally understood that rates are levied on income, or use equivalent to income, derived from premises, but, if the capital value is to be assessed, it would seem reasonable only to charge it on such occasions, as, in the natural course of events, increase in value, in the form of an actual money receipt, is brought about. Such sums are received from time to time in the form of premium as changes in the terms of tenancy occur, or the sale of the reversion is made, sometimes voluntarily, sometimes under special powers. Such occurrences mostly take place, irrespective of the death of the owner, consequently a 'death duty' as commonly understood, would not meet the case."

Rickman, Vol. IV. of Min. of Ev., App. No. II., par. 30.

Mr. Sabin, of the firm of Smith, Gore & Co., said :— "I cannot bring myself to see any method of rating a reversion." . . . "I do not see how you are to rate the unearned increment except when the unearned increment is in hand to be rated."

Sabin, 21,429-40, and Vol. IV. of Min. of Ev, App. No. III., pars. 10, 11.

XII.—Possibility and Cost of making a separate Valuation of Sites.

Upon the question as to how far it is possible to satisfactorily make a separate valuation of a site, apart from the building standing upon it, a good many contradictory opinions were expressed to the Royal Commission on Local Taxation.

The proposal involves a departure from the existing system of making a valuation of the property upon the basis of its annual value under existing conditions. The suggestion is that the site should be valued according to what, in the opinion of a valuer, it would be worth to anyone in the position to utilise it in the best possible way. That is to say, the value is to be based on possibilities, and not so closely on actual results.

Moulton, 23,103.

Costelloe, 20,057-62, 20,068, 20,205. Poland, 2,108, 2,113. Cross, 21,798.

Now, it is not denied, and indeed it is obvious, that a valuer can put a value upon a site under the conditions referred to. In most cases in which neither the hereditament in question, nor any other closely resembling it, is in fact let at a rack-rent, the authorised procedure is to ascertain, as well as may be, first the value of the site, and then that of the structure, and to add the two together. This class of property includes many institutions of a public or semi-public kind, such as Board Schools, Clubs, Hospitals, Halls, Railway Stations, also Banks and Factories, etc., etc. But the main questions raised are, whether such valuations are really satisfactory, and whether they would be so if generally adopted; whether the valuations, which would involve separate estimates of each site, and also considerations of covenants and easements, etc., would not take too long and be too costly: and whether the system would lead to friction and litigation.

Lord Farrer Parliamentary Paper, C. 9528 of 1899, p. 82.

The late Lord Farrer, who questioned the accuracy of the results, said: "Valuers will, no doubt, put a valuation on anything, whether they know anything about it or not; but the question is what real basis have they for

their valuation. The only ultimate basis of a valuer's knowledge is his experience of actual market values; and as the land and the houses upon it are sold and let together, no such basis can exist for a separate value of the two things."

The opinions expressed by valuers of standing were very contradictory on the question as to whether a satisfactory valuation could be made of sites apart from the buildings erected on them. Mr. Harper, the Principal Statistical Officer to the London County Council, expressed a very decided opinion that it was a matter of simplicity involving but little expense. The evidence of Sir John Barton, Commissioner of Valuation for Ireland, generally supports this view. On the other hand, valuers of repute thought that the difficulties of departing from the principle of rating on annual value, and substituting a valuation on a basis more akin to an estimate of capital or selling value, were very great, and would lead to a great divergence of opinion.

For instance, suppose a valuer was valuing a house in a street where the sites had gone up in value, and where the buildings were not suitable to the improved neighbourhood, that particular site would not be worth nearly so much to build upon if the other houses remained standing. He must assume that the other buildings either will, or will not, be shortly demolished; and the value which he puts upon any particular site will be very different according as he makes one assumption or the other. He will be bound to make enquiry, but, should no definite information be obtained, the opinions of different valuers might greatly vary, and the result be a matter of speculation. For instance, one valuer might consider that a particular site, if cleared, would be valuable for the purpose of residential flats, another for shops, another for a theatre, considerations which do not arise under the present system of rating on the annual value of hereditaments as at present used. It is, moreover, to be observed that it would always be to the interest of the valuers representing the Local Authority to make the valuations

as high as possible. It has also been pointed out that in placing a value on sites on the basis of a hypothetical rather than an actual use, valuers might over estimate the demand for particular kinds of buildings. In these circumstances Mr. Sargant suggests that there might be a glut in the market which would prevent the same rent being realised.

Sargant, 23,366, and Vol. IV. of Min. of Ev., App. No. XI., par. 20. De Bock Porter, Vol. IV. of Min. of Ev., App. No. IX., pars. 3, 11; Mathews, 22,116-27; Costelloe, 20,227-8, 20,232.

This point was put to Mr. Costelloe, but he thought the matter was one which could be fairly dealt with by the valuer. He thought that a valuer would put a higher value on a single site in Bond Street than he would if valuing the whole street.

Harper, 12,280-303, 12,306-12,312, 12,367-88, 12,561-77, 22,475, 22,483-6.

The evidence of Mr. Harper was to the effect that a separate valuation of sites in the Metropolis was practicable, and that, though it would naturally involve some trouble and expense on the first occasion, neither would be excessive, and that subsequently the valuation could be conducted comparatively easily and cheaply. He said: "For myself, if I had to value London, I would much prefer to value it in sites than in hereditaments; I could do it more quickly, more cheaply, and, I believe, more accurately—that is to say, I could obtain greater uniformity." . . . "I know of no district in the County of London where I could not put my finger on evidence that would enable me to form a very reliable opinion as to the value of any particular site, cleared or uncleared." . . . "I could value a site worth 5,000*l.* very possibly in less than five minutes, and when I am covering a district, and taking site after site after having got my mind well saturated with the trend of values in the district, I can value a number of sites in a very short time." . . . "On the line of the proposed new street from the Strand to Holborn, the first time I went over that property for the purpose of making an estimate of the cost of acquiring the property required for the street, it took me between four and five days; but the last time I revised my figures, I was able to do it almost within a day—I only had to go on the second morning for a couple of hours."

Mr. Harper thought that in certain cases a detailed examination of each hereditament would not be necessary, though every street would have to be gone into, but that in others, in such a place, for instance, as the Strand, every property would have to be inspected, the superficial area measured up, and a note taken of dominating easements.

Mr. Harper's view that in ordinary cases, the difference between an expert estimate of the annual value of the site, and the true rateable value of the whole hereditament, would fairly represent the structural value, has been mentioned in Chapter VI.

Harper, 22,476-9, 22,486, 22,755-62.

Harper, Vol. IV. of Min. of Ev., App. No. VII., par. 1 (b).

The exceptional cases of sites, which cannot be fully used owing to the unsuitability of existing structures, Mr. Harper divides into two classes:—

Harper, Vol. IV. of Min. of Ev., App. No. VII., par 1 (b).

(1.) Where the value of the site alone, if cleared, would exceed the present rateable value.

(2.) Where the value of the site alone, if cleared, would not exceed the present rateable value.

He instances Holland House and Park as a good example of the first case, and a row of houses in part of Shaftesbury Avenue, before it was widened, as typical of the second. Before the improvement was effected, the houses were rented at 45*l.* each. At the present time the site of each, if cleared, would be worth 40*l.* a year. But the rateable value of the existing premises should now be about 60*l.* Deducting from this 60*l.* the annual equivalent of structural value, namely 35*l.*, would leave 25*l.*, instead of 40*l.*, as the fair assessment of the value of the site under existing conditions. In the first case, Mr. Harper considers that no hardship would be inflicted upon the owner by assessing him upon the full annual value, because it would pay him to destroy the structure which now hinders his receiving the largest possible return from his land.

Harper, 22,312.

In the case, however, of a lease, Mr. Harper admitted that it would be necessary for the freeholder and lessee "to pool their interests" to do this, but, in the event of

Harper, 22,313-9.

their not coming to terms, he thought that the site value rate should still be imposed, as he saw "no reason why the community should suffer in taxation," and that "it appeals to me from the wider point of view of justice, as the placing of a tax upon a class of owners who, from their peculiar circumstances, do not bear their fair share of taxation."

Harper, 22,320.

In the second case, he states, that it would be a hardship to compel payment upon the full value of the site, when only part of that value can be enjoyed under existing conditions.

Harper, Vol. IV. of Min. of Ev., App. No. VII., par. 1 (*b*).

"It is true that the whole value could be obtained if freeholder and lessee agreed to combine in order to demolish the building; but in that event they would jointly incur a loss of structural value, *ex hypothesi* greater than their gain in site value. In such cases, therefore, it is suggested that only that part of the value of the site which is actually enjoyed or yields revenue should be included in the assessment. The proper proportion might be arrived at by deducting the annual equivalent of the structural value from the rateable value."

Harper, 22,372-87.

It would, he thought, be impossible to take account of restrictive covenants in valuing a site, but he added: "I should only ignore them in the first instance, because there would be no means of getting them disclosed regularly until the time arrived when somebody's shoe pinched, then that somebody would cry out, and the matter being disclosed, attention could be given to it."

Barton, 27,349-58.

Sir John Barton, Commissioner of Valuation, Ireland, told the Royal Commission that, if he had to make a re-valuation in Ireland, there would be no difficulty in valuing land apart from the buildings upon it, provided that he could get an equitable staff thoroughly conversant with the conditions of land tenure and site values.

Barton, 27,380-6.

When making re-valuations in towns, Sir John Barton stated that generally speaking he values the site and the structure upon it separately. He obtains these particulars as a check on the rental of the premises. They are not

published, but are used by him when defending cases which are appealed against.

Sir John Barton has since informed the author that, when making his recent re-valuation of Belfast, the valuation of the site in nearly every case represented the value to the owner in its existing circumstances (*rebus sic stantibus*) the element of the possible value under different conditions not being considered.

Mr. Fletcher Moulton also thinks that a separate valuation of sites is possible. He says:—"It is often stated in answer to the contention that land should be separately taxed that it is impossible to separate the value of the land from that of the buildings upon it. In my opinion there is no substance in this. In my experience I have always found surveyors able and ready to value land in towns by itself, and in many cases they prefer to value it in this way. I am certain that no difficulty would be found in carrying out this method of apportioning taxation if it were adopted." He is further of opinion that the cost has been exaggerated.

Moulton, 23,018-21, and Vol. IV. of Min. of Ev., App. No. X., par. 7.

Mr. Costelloe also generally supported Mr. Moulton's views.

Costelloe, 20,057-62, 20,068, 20,205, 20,221-32, 20,292-9.

On the other hand, a number of surveyors pointed out to the Local Taxation Commission, practical difficulties, such as the time and expense involved in making a separate valuation of sites; the number of appeals which would ensue; the difficulty of taking into consideration restrictive covenants and easements, and of estimating the value of a site if put to a different use than the existing one.

Rickman, 21,161-87, 21,197-200, and Vol. IV. of Min. of Ev., App. No. II., par. 28. Harper, 22,300-3, and Vol. IV. of Min. of Ev., App. No. VII., par. 1, C. (ii.).

Mr. R. Vigers, late President of the Surveyors' Institute, stated that sites and structures can be valued separately, if the building is suitably situated, but he pointed out the difficulty where this is not the case. He thought, however, that such a system is not advisable, as it would involve a double valuation, and lead to expense and friction.

Vigers, 19,500-4, 19,532-8, 19,609-10, 19,620-5.

Mr. H. A. Hunt thought that it would be very difficult to value sites separately, and very expensive. He stated that in making valuations he never divides site from structure.

H. A. Hunt, 20,991.

H. A. Hunt, 21,010, 21,014-9, 21,031, 21,088-91, and Vol. IV. of Min. of Ev., App. No. I., pars. 3, 4, 13.

Mr. Rickman pointed out that each site would have to be valued separately, and that it would be very difficult to deal with the case of restrictive covenants and varying rights of adjoining owners.

Rickman, 21,188-92, 21,195-6, 21,262, 21,334,43, and Vol. IV. of Min. of Ev., App. No. II., par. 28.

Mr. Sabin, who expressed no opinion as to policy, thought that it is possible to make such a valuation, and worth while for the purpose of correctly ascertaining the proper amount of deductions to allow. The question of valuation, he said, was only a matter of skill.

Sabin, 21,358, 21,367, 21,384, 21,481, 21,495, 21,547-8, 21,562, 21,573.

Sabin, Vol. IV. of Min. of Ev., App. No. III., par. 4.

But Mr. Sabin pointed out that "difficulties would arise where the ground rent of a leasehold was relatively large, and represented a first charge on the building, and not merely the value of the bare land. In such a case, the freeholder—if he were the party in receipt of the full ground rent—would desire not to be assessed on the whole annual sum reserved under the lease, while the lessee would hold that the whole was site value. Such disputes would be reduced in proportion to the closeness of the definition adopted. Other difficulties would arise which definition would not so readily avoid; as, where the capabilities of the site were not easily determinable; where the concurrence of two or more freeholders might be necessary to secure the best use; and where rights of adjoining properties to light and air might be undeterminable quantities."

Sabin, Vol. IV. of Min. of Ev., App. No III., par. 1B.

Sabin, 21,423-6.

Sabin, 21,426.

Mr. Sabin would disregard all restrictive covenants. Site value, according to his definition, should be the bare value of the land, independent of either restrictions or conditions as to expenditure of money. The value "is one which a speculative lessee might give with the intention of getting a profit by the creation of an improved rent, or, in other words, the value which a purchaser or a lessee would consider it worth, with a free hand as to the buildings to be erected. The usual course is to require a lessee to expend a certain sum of money, and then to secure a ground rent on the land, *plus* an interest in the building which is erected, which building gives a security for the ground rent. I suggest instead that, if you take the bare value, you may treat it as worth

so much capital money, and taking the ordinary rate of interest, 3 or 3½ per cent., upon that, you get a site value for rating purposes, which is less than the ground rent which could be screwed out of a lessee who is required to spend money."

Mr. Cross, Surveyor and Valuer, of Manchester, thought that, though it would not be actually impossible to put a separate figure upon the value of a site, it would be extremely difficult; that it was not really a proposal which could be put into actual practice, and in any event that it would not be worth while owing to the cost. He drew attention to the difficulties of dealing with restrictive covenants and questions of rights of light, etc., and also to the expense involved in employing valuers, instead of simply taking the rent as the basis for valuation. He also pointed out that the valuer would have to take into account, not only the actual use to which the land is now put, but the use to which it might be put.

Cross, 21,586, 21,651-64, 21,665-7, 21,693-705, 21,757, 21,794, 21,801.

Cross, 21,662.

Mr. Wainwright, Architect and Surveyor, of Liverpool, expressed the opinion that, though it was not impossible to value site and structure separately, it would be a very difficult matter.

Wainwright, 21,877-83, and Vol. IV. of Min. of Ev., App. No. V., par. 10.

Mr. Mathews, Land Agent and Surveyor, of Birmingham, thought that though it was possible to put a separate value on site, it was not practicable, as it would involve an enquiry into the most productive use the land could be put to. He also thought that the proposed system would give rise to endless litigation. Mr. Mathews says:—

Mathews, 22,094-101, 22,116-18, 22,122, and Vol. IV. of Min. of Ev., App. No. VI., par. 17.

"All rates are levied on the occupier, and assessed on the rateable value of the hereditament, *i.e.*, on the gross value, the rent which the occupier pays (or would pay, assuming the rates to be paid by him, and the cost of repairs by the landlord), less the average annual amount of such repairs, and the gross value is determined by the site value and the builder's interest on his expenditure.

Mathews, Vol. IV. of Min. of Ev., App. No. VI., par. 17.

"The assessment is simplified when an actual rent is

paid, for then there is no necessity for a separate valuation of the site and building. If such a separation in the rate book is to be made essential, the trouble and expense of the general assessment would be very greatly increased, for every site must be measured and valued, every building must be measured and valued, and the actual rent then apportioned between the site and the building.

"When no actual rent is paid, as when the builder is himself the occupier, then, unless the rent can be readily determined by comparison with adjacent rented buildings of the same kind, the valuer necessarily estimates it by a separate valuation of the site and building.

"Rent actually paid is a matter of fact, rent estimated or apportioned is a matter of opinion which is always disputable, and opinions will differ most widely on the value of the most valuable lands in and near the centre of large cities entirely covered with buildings. It is here that the site value is in itself most difficult to estimate, apart from the building, and is often complicated by claims of light or other easements made by adjoining and opposite owners.

"If, therefore, the site and building values are to be stated separately in the rate book with the object of assessing some person other than the occupier, then, even if the occupier agrees to the rate as a whole, both portions of it would be open to dispute by the person to be assessed on the site, and an increase in the number of objections and appeals would necessarily result."

F. W. Hunt, 22,546, 22,549, 22,571, and Vol. IV. of Min. of Ev., App. No. VIII., pars. 11, 12, 13, 17, 24.

Mr. F. W. Hunt, Architect, Agent, and Surveyor, of London, also stated that, though a separate valuation of site is possible, the proposal is not a practical one. To arrive at the value of a site, he says, "is a matter upon which we should differ very much indeed." "The friction and the annoyance in settling it would cause more difficulty than benefit" . . . "I think that the only rateable value of land is the beneficial occupation —what is its use, and what is its value, having regard to its present use."

Sir A. De Bock Porter, Secretary to the Ecclesiastical Commissioners, stated that it would be possible to make a separate valuation of sites, but pointed out the difficulty of dealing with restrictive covenants and easements, the expense and friction involved, which, he thought, would be out of proportion to the advantage gained. It would, however, he said, be impossible to estimate the possibilities of the site; only the existing value in relation to the existing tenement as a whole could be properly valued. "When the site is put to its best possible use, then the Local Authority would get its share of the value which would accrue from the letting on the improved method."

De Bock Porter, 22,722, 22,755-68, and Vol. IV. of Min. of Ev., App. No. IX., par. 11.

Sir A. De Bock Porter proceeded to say:—

"When the building is first erected, six per cent. on its selling value added to the value of the site would approximately equal the value of the premises as a whole, but when, from the house becoming unsuitable, or other causes, the value of the premises become greatly reduced, how is it possible to determine the relative depreciations in the building and site? Moreover, where the value of property has greatly depreciated, the argument of the 'unearned increment,' by which it is sought to justify the tax, can have no possible application, for, if the tax should ever be established, it would be impossible to discriminate between improving districts and others. It has been urged, where such decrements have occurred, the site value should be considered to be the rent which the land would produce if the buildings were removed, and the land were used to the best advantage; and, in support of this view, it has been alleged that the landowner would find it advantageous to buy up the lessee's interest with this object. But it is only in extreme cases that the landowner would gain by adopting this course. Generally, there would be a sufficient profit rental remaining to preclude purchase with advantage. In all such cases the annual value of the site could only be determined with reference to existing uses. It has been suggested that in such circumstances the tax would

have reference to capital value, instead of annual value, but the former would be no more realisable than the latter."

Sargant, 23,365, and Vol. IV. of Min. of Ev., App. No. XI., par. 23 (4). Parliamentary Paper C. 9528 of 1899, p. 216. Bastable, *ibid.*, p. 143. Price, *ibid.*, p. 185. Blunden, *ibid.*, p. 194. Lord Farrer, *ibid.*, p. 82.

Mr. Sargant generally supports Sir A. De Bock Porter's views, and considers that the building and the site are inseparably united and form one whole. He says:—"I think there is always the difficulty of finding what the site value is, and I think that would be particularly the case if you are to estimate the site value, not in relation to its value as occupied by the building now standing on it, but in relation to the rent that might be obtained for it, if it were cleared and applied to some hypothetical purpose."

Opinions differ considerably on the question of what it would cost to make a separate valuation of sites.

Harper, 12,594-6.

Mr. Harper, Principal Statistical Officer of the London County Council, when he was examined on the first occasion by the Commission, stated, on an estimate made on the spur of the moment, that he expected that the ascertainment of the site value of London in any given quinquennial epoch once begun and started would cost less than 25,000*l.* Mr. Harper subsequently wrote to the Commission as follows: "I think an assessment of each separate site in the County of London, if carried out by expert surveyors—not necessarily of the most eminent rank—would probably cost 40,000*l.*, if it had to be done under conditions similar to those governing the present quinquennial assessment. This is exclusive of any cost of litigation which might arise out of the valuation."

Harper, 12,595-6, 12,601, 22,249-52, 22,253-60, 22,466, and Vol. IV. of Min. of Ev., App. No. VII., pars. 2-7.

Subsequently Mr. Harper reviewed this estimate in the light of the first Report of the Commission which had since been published, and concluded that professional surveyors appointed as permanent salaried officials could prepare a site valuation for London at a cost not exceeding 25,000*l.*, or rather less than 1*s.* apiece, beyond the ordinary expenditure upon valuation. This figure would not include the cost of appeals, but he thought that these would only amount to about five per cent. of the total.

Barton, 27,381.

Sir John Barton, Commissioner of Valuation in Ireland,

stated that, in his experience, the cost of making a separate valuation of sites is not great.

Mr. Sabin put the cost of valuation, apart from the cost of litigation, at considerably higher than 40,000*l*. if the work was done by experts. The initial cost, he said, would be large, but the subsequent valuations would be moderate. The cost might be, he thought, 3*d*. in the £ on the site value of London.

Sabin, 21,392-401, and Vol. IV. of Min. of Ev., App. No. III., par. 3.

Mr. Sabin added that the disputes would cause an increase in the total number of objections and appeals.

Sabin, Vol. IV. of Min. of Ev. App. No. III., par. 5.

Mr. Cross pointed out that an independent survey and valuation of every separate property would have to be made and that the expense would be "very enormous" and that it would not be worth while to do it.

Cross, 21,757-63.

Mr. H. A. Hunt said it would probably cost several millions to value the sites in London if experts were employed. He also expressed the opinion that the cost of the litigation might come to as much as the primary valuation if it were indifferently done.

H. A. Hunt, 21,045-54.

Mr. Wainwright asserted that it would be impossible to value sites at 1*s*. apiece, and that the valuation of half a million houses would cost over two millions.

Wainwright, 21,916-7.

XIII.—Rating of Building Land.

It is necessary to draw several distinctions on this complicated point.

Land which is *not occupied* is not rated or rateable at all, under the Act of Elizabeth. The extent of such land is probably not very great, and it is generally confined to a few sites in the centres of towns.

The land which is more vaguely described as "building land" on the outskirts of urban and suburban districts is almost always occupied, usually for agricultural purposes, gardens, recreation grounds or the like. It is, therefore, rateable, and is in fact rated. But there are two points to be noted about it—

(1.) The valuation upon which it is rated is, of course, the rent which a tenant might reasonably

be expected to give; but this has been interpreted to mean the value to an occupier in its existing state, *rebus sic stantibus*. Thus, if land is used for agricultural purposes, it must be valued at the rent which an occupier using it for agricultural purposes would give.

(2.) Further, agricultural land is rated at ¼ for the General District Rate under the Public Health Act, and at ½ for all other rates under the Agricultural Rates Act.[1]

With regard to *unoccupied land*, two reasons have been given for assessing it to local rates—

Moulton, 23,040-2, and Vol. IV. of Min. of Ev., App. No. X., par. 9.

(1.) That its value is being maintained and increased by the expenditure of the ratepayers' money.

(2.) That it is against public policy to permit or encourage owners to keep spaces vacant which could be built upon, and that the imposition of a rate would have the effect of forcing them into the market.

Similar arguments are also applied to occupied land, which, while it has a prospective (or perhaps a small present) value for building purposes, is let for agricultural or like purposes at a comparatively low rent.

Costelloe, Vol. II. of Min. of Ev., App. No. XI., pars. 60–64.

On these points Mr. Costelloe observed:—"The Council has always been of opinion that the existing system of assessment in London does not take adequate account of the actual value of spaces of ground which are not covered with buildings, or used for purposes of real economic utility. The question originally arose in the first Council over what was called the Holland Park case. It was contended by Mr. Saunders, and by a great number of the County Committee, that the assessment, according to the then existing practice, of large pleasure grounds like Holland Park was ridiculously low, considering the fact that, whatever rental might be obtainable for Holland House and the park for use in its present state as a

[1] The definitions in the two Acts are not quite the same.

dwelling, the actual value of the land in question was enormous, and a corresponding annual value might be obtained for it if the owner chose to sell it. It was answered, apart from technical arguments, that it was undesirable to drive open spaces of this kind into building. It has always seemed to me that the reply was irresistible —that open spaces held for private use and pleasure are not in the same category as public open spaces at all, and that in so far as it is desirable (as it clearly is) that spaces should be kept free from building for the public advantage, it is the obvious course, and in the end much the cheaper one, that these spaces should be acquired by the public and managed for the public utility.

"The majority of the Council have always said that they were perfectly willing to assent to the treatment of open spaces in private hands, such as, for instance, the open spaces of the Temple, as proper to be regarded for assessment purposes as *quasi* public, wherever the legal owners were willing to allow reasonable public access. The whole question, however, is only indirectly connected with the present inquiry.

"The Commission will also observe that the present exemption from local charge of empty houses is dealt with in the resolutions of the Council and in the Report of the Committee by which they are prefaced. I do not think it is necessary at this stage to enter further into this branch of the subject, as to which, in my opinion, the Council is practically unanimous. I have never myself heard any serious reason for continuing the present exemption of empty houses from local charge.

"As regards the vacant land upon the borders of the building area, including building estates ripening for building value, a further series of considerations arise. It has undoubtedly been the general opinion of the Council for a long time that it is undesirable to allow speculators to hold land of this kind for indefinite periods, in order that they may obtain higher prices for it when the land is, under the present system of assessment,

practically unburdened with any contribution to the municipal expenses. This is obviously a strong case in which the municipal expenditure actually goes to create site values in the hands of a man who proposes to pocket the unearned increment, and does not bear his share of the burden.

"The considerations in question do not, in my view, in any way negative the argument that, while the present system of assessments according to rateable value is maintained, it is an injustice that speculators should be allowed to hold land which is more or less available for building within the metropolitan area, free of any reasonable contribution to metropolitan charges, not only because that arrangement appears to me to be financially unjust, but also because they are by that means induced or enabled to keep land out of the market for long periods of time, which would, if it were brought into building, tend by its competition to reduce the general level of rent in London —a circumstance most urgently to be desired, inasmuch as the housing problem is, in my opinion, the most grave of all those with which the Council has to deal."

Moulton, Vol. IV. of Min. of Ev., App. No. X., par. 9.

Mr. Fletcher Moulton thus expressed his views upon this question:—"In the case of unoccupied land in towns, I am of opinion that this taxation would be both just and beneficial. On examination, it will be found that the land is held in that state because a higher price is sought than can be obtained at the time. But for that it would be sold. This price is sure to be a town-site price, and the owner is being assisted to obtain it by the communal expenditure, and ought to contribute to it in proportion to the value of the property. This supposes the case to be one in which the land is not deliberately kept vacant, or only put to small and temporary use, because the owner wishes ultimately to dispose of it at an enhanced price due to the growth of the town during the intervening period. But the latter is a common case, and it is important to put a check upon it, as it is very injurious to the public welfare."

Also Mr. Harper says that if lands are ripe for building, they ought to be rated as such, having regard to the necessary fairness to other owners. . . . "The growth of the community and the public expenditure have produced a certain value; he (the owner) does not wish to use that value, but he has no more right to stand between the community, which has produced that value, and the governing body which requires a portion of that value for its expenditure, than any other owner has."

Harper, 22,295–8.

It was then suggested to Mr. Harper that "although you will not compel him to do it, you will put such a tremendous fine upon him that no income can stand it." He replied, "I would put a fine upon him such as would be moderate in comparison with the income that he might realise if he chose."

As regards valuation, apart from any question of policy or expediency of taxation, unoccupied land which is situated within towns and surrounded by buildings, and which could, without controversy, be described as "land ripe for building," would not appear to present serious difficulty. But in the case of land on the outskirts of towns, which is described as "ripening for building," but which has no greater present annual value than that of the adjacent agricultural land, difficulties of valuation would occur. Such land may have a very small present building value, that is to say, its capital value to the speculator would be little more than the capital value of the agricultural rent, or it may have only a prospective value of a speculative character, perhaps dependent on the drift of fashion towards one side or another of a town, or on the enlargement of an urban district, or the building of manufactories, or the making of a railway or a tramway line. Such land is often bought by speculators who are content for some years with a small annual return on the capital expenditure, in the anticipation of being able to make a larger profit, should the land become more valuable for building purposes.

The difficulties of ascertaining how far land is actually

ripe or merely ripening for building, are discussed hereafter.

Apart from questions of valuation, two other practical points must be considered :—

(1.) In what areas land, ripe or ripening for building, should be rated, if at all.

(2.) To what extent such land should be rated.

On the first point, the evidence before the Royal Commission on Local Taxation was mainly directed to land "ripe or ripening for building" within or adjacent to large towns, though it may, of course, be the case that in most agricultural districts, however remote, the land immediately adjacent to a village or a railway station has some prospective building value or accommodation value, however small.

On the second question, namely, the extent to which such land should be rated, the answer would seem to depend upon the reasons put forward for rating it.

One object would be to secure a more equitable distribution of local burdens, having special regard to benefit conferred by the expenditure out of the rates, whilst another object might be to compel owners to place their land upon the market sooner than they otherwise intended. But witnesses in England who gave evidence before the Royal Commission, did not propose to levy any higher rate on land ripe for building than on sites which were covered by buildings and occupied.

The proposal of the London County Council was that the same site value rate should be imposed as in the case of sites which are built over, and they also suggested that sites of empty houses should be treated in the same way. The resolution passed by that Body was, "That vacant land and empty property shall be liable to pay the owner's tax upon the site value as appearing in the valuation list." The Council also added that it was desirable to bring before the Commissioners the question of requiring owners of empty tenements to pay (as is done in the City of London with regard to the Sewers Rate) the whole or part of the ordinary rates.

Costelloe, Vol. II. of Min. of Ev., App. No. XI., par. 61.

Mr. Harper, on being asked his opinion upon the expediency of rating land ripe for building in a town, said: "Speaking for myself, and not for the County Council, I think these sites ought to be included; whether they should be charged with the full rate, or only a proportion, is another question; but I think they ought to be charged with something, because they undoubtedly benefit by local expenditure."

Harper, 12,483.

On the question of forcing land into the market, it was confidently stated by several well-known valuers and agents, that land ripe for building was seldom, if ever, withheld from the market for the purpose of securing a larger future price, but, on the contrary, the tendency is to put it upon the market before it is ripe for building. Mr. Wainwright argued that to put building land on the market before it could command the best price, was not only bad for the owner, but bad for the Local Authority, and also for the public, as inferior houses would be built producing a low rateable value.

Wainwright, 21,864–76, and Vol. IV. of Min. of Ev., App. No. V., par. 7.
Cross, 21,590, 21,683, 21,691, and Vol. IV. of Min. of Ev., App. No. IV., par. 18.

Upon this point, Mr. Mathews of Birmingham said:— "It has been stated that landlords intentionally withhold their land from the market when it is ripe for building. This may sometimes be done in a locality which is rapidly rising in value, with the object of securing a higher ultimate ground rent, and in this case it is probably for the ultimate benefit of the public, for the higher the ground rent the greater will be the value of the buildings erected, and, therefore, the greater will be the rateable value and the rate thereon. Speaking generally, however, the tendency is in the opposite direction. Landowners are only too anxious to increase their income by the creation of ground rents, and sometimes compete with one another with that object. Thus land is often put upon the market before it is really ripe for building. A building or buildings may be then erected not generally suited to the situation, and the value of the remaining land thereby depreciated." . . . . "I am inclined to think that that is worse for the landlord and

Mathews, Vol. IV. of Min. of Ev., App. No. VI., pars. iii., xvi. 22,040–2, 22,102–5.
F. W. Hunt, 22,556–8.

worse for the public; but still there is a tendency of the landlords to rush their land rather than to keep it back. That is my experience."

abin, Vol. IV. of Min. of Ev., App. 2, No. III., par. 18.

Also Mr. Sabin says:—"The difficulty of recent years, as regards London, has been, not to bring such land into the market, but to keep it out. The most unfortunate results have sometimes followed the presumption that mere vacant space get-at-able in some fashion could be treated as building land ripe for development. It is to this forcing of the market that may be attributed the production of such shoddy ground rents as I have referred to. A speculative land-jobber, a penniless builder, with a timber merchant and brickmaker ready to give credit until houses are sold, can create some sort of building estate anywhere near a town. Such properties might have been seen in the districts I have named, and, no doubt, elsewhere. A new neighbourhood may, of course, be opened up, but a *reasonable demand* and a *reasonable supply* must go together. If land in the centre of overcrowded districts could be increased, rents would, no doubt, decrease, but land on the outskirts is usually opened up for building as soon as the demand arises from persons able and willing to live on such outskirts. That more rooms are wanted, the present condition of London affords melancholy evidence, but the taxation of vacant land would not remedy the evil. I cannot see any reason for such a tax, that could not be equally urged in favour of fining every owner who did not cover his land with Queen Anne's Mansions, or build a seven-storied tenement dwelling where he has built two-storied houses. Near London it must not be overlooked that areas that will become building land are frequently let for football, cricket, tennis, and other purposes, and are, I apprehend, rated accordingly. Such user is to the advantage of the public, and often leads to a demand for their perpetual dedication to the purpose."

Cross, 21,675.

Again Sir A. De Bock Porter said:—

"The taxation of vacant land would hardly tend to the

advantage of the Taxing Authority. It would have the effect of forcing it into use, perhaps, but not to the best advantage. By waiting, the owner presumably obtains the best possible price, if put to the best possible use, and the Taxing Authority gets its share of the increased annual value. Where building land is forced into the market before it is fully ripe, it is found most prejudicial to the permanent interests of the landowner, and of the neighbourhood in which it is situate.

De Bock Porter, 22,827, 22,846, 22,855, and Vol. IV. of Min. of Ev., App. No. IX., par. 15.

"An attempt was made some 40 years ago to force into the market some building land on the fringe of London in the neighbourhood of Willesden. An attempt was made to build there, and one or two lessees took land and failed. The fact of its being forced into the market beforehand really has prejudiced it for some 20 years; it was 20 years before the property really came into general demand for building purposes. The fact of a portion of it having been forced into the market and built upon, really prejudiced the area for a considerable distance in its immediate neighbourhood.

"You may be quite sure that the Ecclesiastical Commissioners never retain land which they think can be used to the best possible advantage, and the Local Authority participates with the Commissioners when it is so appropriated. If you force land into the market and take a smaller sum, the Local Authority gets a smaller share for the currency of the lease that may be created; whereas, if you wait and bring it into use when the best possible value may be got out of it, you give the best possible contribution to the Taxing Authority. The interests are identical."

Sir A. De Bock Porter further expressed the opinion that the building of the smaller properties yields the largest result to the landowner, and that it is to his interest to put small houses upon property.

De Bock Porter, 23,852.

The main objections to rating building land were thus summed up by Mr. Sargant:—

"(1.) Such rating would not have the effect of increasing

Sargant, Vol. IV. of Min. of Ev., App. No. XI., par. 23. F. W. Hunt, 22,556–8, 12,561–69. De Bock Porter, 23,379. Sabin, 21,427–37, 21,454–6, 21,458–69, 21,502–5.

the supply of well built houses; nor, if it had, would this be an admissible motive for imposing.

"(2.) Vacant building land is not in fact benefited by the expenditure of the rates.

"(3.) There would be the greatest difficulties in defining what is vacant building land.

"(4.) To rate vacant building land on its capital value would be contrary to the principles of taxation accepted in this country. It is better to leave owners to develop it, and turn it into income-producing property, and then rate that property."

Harper, 22,325–36, and Vol. IV. of Min. of Ev., App. No. VII., sect. 1 C. (iii.).

Dealing with the two last points, Mr. Harper admits as regards No. 3 "it is, no doubt, difficult to distinguish exactly between land which is actually ripe for building, and land which is only ripening." Such a distinction, he says, can only be fairly made by an expert, "but no expert engaged in the preparation of a valuation list would be likely to include as building land any site as to which reasonable doubt existed."

Harper, 22,301, 22,325–34, and Vol. IV. of Min. of Ev., App. No. VII. sect. 1 C. (ii.).

But he altogether disclaims any intention of rating land only ripening for building. He says: "Until land becomes ripe for building, it would inflict hardship to assess it upon any greater value than the annual revenue which, at the time of valuation, it is capable of yielding. Such land is often called accommodation land, and is used as pleasure grounds, cricket fields, and tennis lawns, or sometimes as market gardens, and for agricultural purposes. The reasonable rent for such land, taking one year with another, less a fair percentage on the capital outlay for such temporary improvements as cricket pavilions, would be a fair basis for assessment. It is true that such land possesses a capital value greater in proportion than the annual revenue derived from it. This proportion is greater or less according to the length of time likely to elapse before the land becomes absolutely ripe for building; and the extra capital value represents the equivalent in present money of a future annual value, not now realisable. It does not seem practicable to use

both annual value and capital value as bases of assessment for the same tax; and, unless the former is to be wholly dropped, there would be grave danger in adopting the latter in any special case.

"Assume, for the sake of the argument, that an acre of land is expected to yield, 20 years hence, a ground rent of 100*l.* per annum. Its present capital value would be about 800*l.*, though it might not be yielding a higher rent than 5*l.* per annum. Taking 4 per cent. on capital value would give an assessment of 32*l.*, or 27*l.* per annum more than the land could yield under existing conditions. And as the 100*l.* per annum, when it arose, would, *ex hypothesi*, also be liable to the tax, any charge upon the 32*l.* assessment could only fall, by anticipation, upon the same revenue, which would thus be taxed twice over."

Harper, 22,290–6.

Mr. Harper, however, did suggest that the frontage near well-known residences or large estates should be assessed at their building value; though it may perhaps be suggested if such residences were pulled down, the parks in which they were situated ploughed up, and the trees cut down, the value of the frontage would probably not be worth more than the adjacent agricultural land.

Moulton, 23,041.

Mr. Fletcher Moulton, on being asked if he had any definition of unoccupied land in towns which could be built over, said: "I think that any land that could be built upon within what you might call a fair margin of the town should be considered as unoccupied land. There may be certain difficulties arising in cases of towns which have a large area belonging to the urban district which includes the land round about the town; but, wherever there is a substantial addition to the annual value of land by reason of the presence of the town, I think the principle ought to apply."

Poland, 2193, 2322, 2474.

Sir H. Poland said: "There is no definition of what building land is, and no satisfactory definition can be given."

Several well-known expert valuers expressed the opinion

Cross, Vol. IV. of Min. of Ev., App. No. IV. par. 19.
F. W. Hunt, 22,559.
Wainwright, 21,898–902.
Mathews, 22,166–71, and Vol. IV. of Min. of Ev., App. No VI., par. xvi. (2), Sabin, Vol. IV. of Min. of Ev., App. No. VI., pars. 17–21.
Mathews, Vol. IV. of Min. of Ev., App. No. VI., par. 16.
See also Wainwright, Vol. IV. of Min. of Ev., App. No. V., pars. 7, 8, 9.
Cross, 21,591, 21,608.

to the Royal Commission that the difficulties of distinguishing land ripe and land ripening for building would be very great.

For instance, Mr. Mathews, of Birmingham, said :—

"There would be great difficulty in defining what lands should be subject to it. Building value is of very gradual growth, and land at the urban limit may have a prospective building value, *i.e.*, a purchase value much greater than its agricultural value, many years before it is ripe for building, and has an actual building value. No efforts of the owner would induce a builder to spend his capital upon it before this time, and the accumulation of a tax thereon might consume all the profit the owner may subsequently make. It might do more and force him to sell at a great disadvantage in a period of depression, when the expansion of a town may be long or permanently retarded.

"The mere imposition of such a tax would tend to induce small owners to sell without delay, and land would then be thrown into the hands of a few large capitalists, who could afford to hold and wait, and who would naturally endeavour to recoup themselves by raising the price of it when ripe for building.

"The tax would fall with equal hardship upon land ripe for building, and equipped for that purpose by the owner at a great expenditure in roads, &c., an expenditure which is not entirely productive until the whole is taken up.

"This often takes many years, as the land can only be disposed of gradually as new buildings are required.

"In this case it would be difficult to differentiate the land or site value from the owners' expenditure upon it.

"If unoccupied land is to be taxed, it must naturally follow that all unoccupied buildings which are at present exempt from taxation must be similarly charged."

Sabin, Vol. IV. of Min. of Ev., App. No. III., pars. 17–21.

Again, Mr. Sabin said: "But, further, nearly every large city tells its own tale. On its outskirts will be found tracts of land not built upon, while just beyond houses may be found. The intervening space is a source of trouble and annoyance. The owner would let or sell if he

could, but the higher urban, as compared with the lower rural, rates, deter lessees and purchasers. It is not that the difference merely reduces the value, but for all practical purposes it destroys the value to lease or sell for immediate building. Or in truer and common phrase, the value is dormant until there shall be found persons who are willing to bear, not the extra rate on the ground (that will still fall on the site owner), but the extra burden on the capital invested in the houses, in exchange for the advantage of living within a municipal area. Of course, where there are valuable services rendered in respect of the difference in the rates, the illustration does not apply.

"It will be seen that the last paragraphs vitally affect the question as to the rating of 'building land,' although here, again, a strict definition would be necessary if uniform results are to follow. It must be assumed to be land within an urban area, capable of being opened up into adequate roads, and of being drained into public sewers, and in a situation where it would attract occupiers.

"Land is not available for building until sewers and roads are formed. Such works are difficult to estimate, and are scarcely ever executed within the amount proposed. While I admit that to make an owner contribute by rate *immediately he takes advantage of existing benefits*, would not be unjust, I cannot admit that a rate should be laid for no benefit, in the expectation that in self-defence the owner would embark on a doubtful speculation, with a possibility of having erected houses that no one wanted, but in respect of which it is suggested by some that he should also pay rates. The enormous clearances for huge railway goods stations have done much more to produce overcrowding, than the keeping back of land from the market by obstinate owners.

"Moreover, the opening up of a building property may depend upon arrangements with other owners and other interests, to an extent that would be much more open to dispute than the estimate of the value of a completed building or a covered site.

"Nor do I think it would be to the public interest to lay it down that all land within any prescribed area was building land, and then rate it with the overt intention of forcing it into the market. Such a rate could not be confined to the Metropolis or the large towns. It must be applicable anywhere, and the power to levy it might easily result in new neighbourhoods being shut out from affording relief to congested districts, because immediately an owner set about any development for building purposes, he would be liable to be rated. Rate such an owner, immediately he, by receipt of money, takes advantage of existing benefits—and in respect of those benefits—and make the rate direct on the owner, but the raw material of unremunerative land should not be rated. However much I may desire to have my rates reduced, I should consider it a public disaster if the grounds of Holly Lodge, or Mr. Burdett Coutts' stud paddocks were forced prematurely into the market. They will be built over quite soon enough."

The other main point urged by valuers to the Royal Commission on Local Taxation was that it would be contrary to accepted principles to rate upon capital value property not producing any income. This view was supported by Mr. Sargant. The question of rating on capital value is discussed in Chapter XI.

SCOTLAND.

XIV.—Rating of Land Values and Feu Duties.

In Scotland, the witnesses who proposed to the Royal Commission on Local Taxation that owners of land values and feu duties should be specially rated, did so mainly on the ground that such owners secure an increase in the value of their property, owing to expenditure of local rates, the enterprise of the community, and the growth of population.

An important distinction between the systems of levying rates in Scotland and England is that in Scotland nearly all rates are divided between owners and occupiers,[1] whereas in England they are levied upon the occupiers (except in the case of "compounded" property, or where special contracts are made). Consequently, owners in Scotland do not escape, during the existence of leases, some share of new or increased rates, unforeseen at the time of making their bargains.

[1] Burghal rates fall chiefly on occupiers; the greater portion of the Land ward rates, levied by County Councils and District Fishery Boards, falls on owners; and, with the exception of the Heritor's assessments, which are entirely borne by owners, the Parochial rates are imposed one-half on owners, and one-half—under deductions of the Agricultural Rates Grant—on occupiers (*see* Local Taxation Returns, 1902-3, H. C. 341 of 1904, p. x.).

To rates leviable upon "owners" or "proprietors" all persons are liable who are in the actual receipt of the rents and profits of lands and heritages. Tenants holding upon leases of more than 21 years' duration, or, if the property be minerals, of more than 31 years, are deemed to be the proprietors, but have a right of relief against the actual proprietor to the extent of that proportion of the owner's rates as corresponds to the proportion borne by the rent to the valuation. Tenants holding under leases of shorter duration are taken to be the proprietors of any erections or structural improvements made by them, except in the case of certain agricultural and mineral properties. Superiors are not liable in respect of their feus.

Although it was not generally suggested that all rates should be levied on site values only, and none on the buildings upon them, certain witnesses expressed the opinion to the Royal Commission that this course should be adopted, either at once or by degrees. Some regarded the adoption of the system of rating site values as a means of ultimately transferring the ownership to the Local Authorities.[1]

The Separate Report on Urban Rating and Site Values suggested that "in the case of *future contracts*, the owner should be entitled to deduct from any rent, feu duty, or ground annual, payable to a superior, the amount of the rate in the pound upon the value which attaches to the site at the date when the contract is made, a like right of deduction being given to any intermediate parties against their superior."

A great deal of land in towns in Scotland is subject to feu duty, or a perpetual rentcharge, reserved by the grantor on parting with his land, and practically represents the purchase money agreed to be paid for the property by the feuar, who undertakes the present and future liability attaching to him to pay rates and other burdens in respect of the property. In a large number of cases the grantor sells his interest in the feu duty to a third party.

The grantor is generally known as the *superior*, the grantee as the "feuar" or "vassal." The rent reserved is called a "feu duty."

Lord Balfour of Burleigh has sent the author the following note upon the subject of feuing:—

"The Scottish system of land tenure is feudal, and the theory of it is shortly as follows:—

"The land is considered as originally all belonging to

[1] Cochran, 15,920-6, and Vol. III. of Min. of Ev., App. No. XII., par. 13; Burt, 16,188-209, 16,308-28, and Vol. III. of Min. of Ev., App. No. XIV., pars. 7, 8; Chisholm, 17,110-24, and Vol. III. of Min. of Ev., App. No. XXIV., pars. 8, 21; Gray, Vol. III. of Min. of Ev., App. No. XXV., par. 22; Waddell, 15,762-812. *Also see* Report of Committee of Lanarkshire County Council, Vol. III. of Min. of Ev., App. No. IV., p. 173.

the Crown. The Crown made grants of it—as feus—to leading men who were bound to afford proportionate services, originally military. They in their turn feued their pieces of land in smaller portions to lesser men, who were bound to render to them services in turn. The grantor in each case was the 'Superior' of the grantee, who was the 'Vassal.' Thus an intermediate holder of land was, and is, the vassal of the person from whom he holds his land—his 'superior'—and the 'superior' of the person who holds from him—his 'vassal.' In due time money payments were substituted for services, and these money payments, where annual, are known as feu duties. In the old theory, the land, *i.e.*, the 'feu,' was held to fall back into the hands of the 'superior' in certain circumstances, *e.g.*, on the death of the vassal, or if the vassal wished to transfer his piece of land. The superior then, for a certain payment, granted the feu anew to the heir or transferee, the payment being, unless there was a special stipulation, a year's rent or a year's feu duty of the piece of land, and being known as a 'casualty.' In feus granted since 1874 no such casualties are exigible, unless specially stipulated for and of fixed amount and payable at fixed periods.

"Though theoretically a feu may be of a piece of land of any size, it is, in modern practice, usually of a site for building purposes. The superior grants a feu to a vassal, *i.e.*, the feuar, who may be bound to pay either (1) a capital sum down, *i.e.*, a 'grassum,' with an illusory feu duty; or (2) a grassum with a real feu duty; or (3)—the usual case—no grassum, but a real feu duty. In addition, the vassal is commonly bound to pay every nineteenth year a double—known as a duplicand—of his feu duty, this payment coming in place of the casualties exigible in feu rights granted prior to 1874. Thus, taking the example of a piece of ground worth 1,000*l.*, feued on a 5 per cent. basis, the 'superior' may either take (1) a grassum of 1,000*l.* with a feu duty of one penny Scots; or (2) a grassum of 500*l.*, with a feu duty of 25*l.*, with or without

a duplicand each nineteenth year; or (3) only a feu duty of 50*l.*, with or without a duplicand each nineteenth year.

"In the Feu charter there are usually special conditions that the vassal shall erect buildings of a certain value, say of an annual value equal to six times the feu duty, and also that the buildings shall conform to the general plan for the laying out of the estate as an urban district, and also providing for roads, drains, etc."

Urban Rating by Sargant, pp. 9, 10.

Mr. Sargant points out the legal differences in the case of the English freehold rentcharge system and the Scottish system of feu duties:—

"According to the law of England, a landowner who disposes of his land for the *whole* duration of his estate is unable to create any *tenure* between himself and the person who deals with him, and is unable, therefore, to reserve any *rent* strictly so called, since rent is only one of the incidents of tenure. Rent can only be reserved if the landowner parts with something less in point of duration than his whole estate in the land, so that he has left what is called a *reversion*—that is, some period of time of whatever length at the commencement of which the land will *revert* or come back to him on the expiration of the lesser estate which he has granted away.

"Whenever then an English landowner is minded in accordance with a custom in the locality, or for any other reason, to grant land for ever for building purposes in consideration of a periodical payment, he does not attempt to reserve a *rent*, but limits to himself a rentcharge of the agreed amount, with special provisions (now given by Statute) for securing its payment. And from this time forth he is considered in law not as having any *estate* whatever in the *land* (which would be the case if he had granted a lease for however long a period, short of the duration of his own estate), but as merely entitled to a rentcharge issuing out of the land. And this system of payment, or development for building purposes, is conveniently known as the 'freehold rentcharge system,' while the rentcharges created under it are often (though inaccurately) known

in Manchester and other places where the system is prevalent as 'chief rents.' In Scotland a difference of law allows landowners, while granting away their land for ever, to create a tenure between themselves and the grantees, and to reserve a perpetual periodical payment of the nature of rent. These payments are generally known as 'feu duties' and the system as that of 'feuing.'"

The following observations from the Report of the Committee on "Town Holdings" may perhaps be quoted with advantage:—

House of Commons Paper, No. 214 of 1892, p. xxvii.

"It is frequently the case that the original feuar (usually the builder) realises his profit by granting subordinate feus, reserving increased or improved feu duties of a larger amount than he himself pays. In such cases he fills a double relation, viz., that of feuar to the original superior, and of superior to his subordinate feuars. In former times it was often a condition in the original charter that the vassal should not thus sub-feu, and in order to evade this restriction, the practice arose of creating what are called 'ground annuals' instead of subordinate feu duties. In the case of these ground annuals, the feudal relation of superior and vassal does not exist but they are purely 'conventional,' or, in other words, are dependent entirely upon the contract of the parties. Like the feu duties, they consist of a perpetual yearly charge of a fixed amount, and, except that they do not carry with them the incident of casualties, they are, for the purpose of our inquiry, practically in the same position as feu duties. When we do not specially mention them, it is to be understood that our observations referring to feu duties are to be taken as applying to ground annuals also.

"In the case of both English fee-farm grants and of Scotch feus, the rights of the parties appear to us (with one exception, hereafter mentioned) to be substantially the same. There are technical differences between the two cases, but the interest of the ground landlord in England, and the superior in Scotland is (subject to the exception referred to) practically limited to the fixed annual sum

agreed to be paid to him in perpetuity and to the remedies he possesses for its recovery, which may be described as the right to sue for the rent as a debt, to seize and sell the movable property on the premises, or, in certain cases, to resume or recover possession of both land and building.

" There is one important point in which the two systems differ. In Scotland, in consequence of the continued existence of the feudal tenure, it is usual to contract for certain payments to become due from the feuar or vassal to the superior, known as *casualties*. Formerly these payments accrued upon a change in the ownership of the vassal's interest by death, alienation, or otherwise, and were frequently indefinite in time and amount. By a statute passed in 1874 it was made illegal to contract for indefinite casualties in feu charters thereafter granted, and as regards casualties under charters of earlier date, powers were given by which the casualties could either be redeemed or restricted in amount and time. The casualty now most prevalent is a payment of one or two extra years' feu duty, made at fixed periods, such as every 19th or 25th year, although in a more limited number of cases the payment consists of a year's rent or value of the subjects as they stand."

Chisholm, 17,130–3. Brand, 16,053–60. M'Bain, 16,448. *See also* Report of Committee of Lanarkshire County Council, Vol. III. of Min. of Ev., App. No. IV., p. 173.

The amount of the feu duty annually paid cannot be increased by any expenditure of local rates, by the aggregation of population, or any other cause, but its selling value may possibly be increased by the improvement of the security, but this is not important, because a feu duty is usually secured by about five or six times its value. The increase of selling value, due to improvement of the security, should be distinguished from that due merely to the fall in the rate of interest, which has affected all investments of a somewhat similar character.

Murison, 14,469–70. Burt, Vol. III. of Min. of Ev., App. No. XIV., par. 2.

A broad distinction must, therefore, be drawn between owners of site values who have reversionary interests capable of increasing in value, and the owners of feu duties who have no reversions, and no opportunities of revising their bargains.

Professor Smart, Professor of Political Economy in the University of Glasgow, has pointed out in his book on the "Taxation of Land Values and the Single Tax," that in Scotland the "superior" is not the analogue of the London ground-owner, as the former has no reversionary interest, while the latter at the end of a lease enters into full possession of his ground with the buildings on it, with all its increased value.

He adds that to tax the owner of a feu duty is not to tax on account of benefit received or of growing ability to pay, for he never enters into any increased value; it is simply to penalise a person who cannot escape.

Those who supported the special rating of site values naturally come mainly from urban districts, and the witnesses who appeared before the Royal Commission on Local Taxation were chiefly from Glasgow, the Corporation of that city having taken a considerable interest in the question for some years.

In 1890 a special Committee of the Corporation was appointed to draw up a report on the subject of land values. A report was agreed to and presented to the Council in 1891, but it was rejected by the casting vote of the chairman.

Burt, Vol. III. of Min. of Ev., App. No. XIV., pars. 3, 6.

After subsequent discussions and proceedings, a resolution was carried in June, 1895, by a majority of one, that the Police Commissioners should accept the report, and that the clerk should be instructed to communicate with the various Assessing Authorities in Scotland, requesting their co-operation to petition Parliament in favour of amending the law in accordance with a report which had been drawn up. In response to requests from the various Authorities for further information on the subject, a copy of the recommendation of the Royal Commission of the Housing of the Working Classes (1885) was sent to them, together with an explanatory schedule,[1] and in 1896 the Committee reported "that 62 Scottish Assessing Authorities, consisting of 7 Town Councils, 8 Police Burghs,

Parliamentary Paper C. 4402 of 1889.

[1] Chisholm, Vol. III. of Min. of Ev., App. No. XXIV.

1 County Council, and 46 Parish Councils, had intimated their approval of the principle of making land values the basis of local taxation, and their willingness to join with Glasgow in seeking the necessary powers from Parliament to give effect to it."[1] It was carried by a majority of nine that the report should be adopted, and that the Council should present a petition to Parliament in favour of making land values the basis of the taxation of the city.

Burt, 16,177-83.

No definite scheme was placed before the Royal Commission on Local Taxation by Scottish witnesses for rating site values and feu duties. Mr. James Gray, who represented the City of Glasgow, said: "We do not consider it our business to submit a scheme, as we had neither sufficient experience nor the material to aid us in doing so."

Gray, Vol. III. of Min. of Ev., App. No. XXV., par. 11.

In 1896, when the Corporation learned of the appointment of the Local Taxation Commission, a Committee was appointed to consider and report on questions within the scope of the inquiry, and a report was submitted to the Corporation when certain resolutions were passed by a majority, those referring to rating of site values and feu duties being as follows:—

Chisholm, Vol. III. of Min. of Ev., App. No. XXIV., Gray, Vol. III. of Min. of Ev., App. No. XXV.

"The taxation of land seems to the Corporation a just proposal, and they recommend that the taxation of land values is the most equitable method of removing the present inequalities of local taxation.

"It is the earnest desire of the Corporation that the Royal Commission on Local Taxation should impress upon the Government the necessity of this question being not further delayed, whereby we may have at no distant date a scheme placed before the country that shall be fair and equitable, instead of the present unjust methods."

The report of the Committee of the Glasgow Corporation, already alluded to, about which there was considerable difference of opinion among the members of the Corpora-

[1] *See also* Report of Committee of the Lanarkshire County Council to the Statutory General Meeting of the Council on 21st December, 1897 (Vol. III. of Min. of Ev., App. No. IV., pp. 172-4).

tion, but which was subsequently approved of in June, 1895, by a majority of one, was as follows :—

"The Committee, having considered the remit to them, expressed their approval of the principle of making land values a basis of taxation, and indicate the following as a method by which this principle might be carried out, viz.:—

"That each proprietor, when making a statutory return to the assessor under the Lands Valuation Acts, should, in addition to the details at present required, also furnish, in two separate columns, the following additional information—

See *contra*, County Councils Association, Scotland. Renshaw, Vol. III. of Min. of Ev., App. No. I., pars. 41–2; 162–3.

"(1) The number of square yards of ground of which he is the proprietor; and

"(2) The annual value of such ground, calculated at the rate of 5 per cent. per annum upon what he may fix as the price thereof, as between a willing seller and a willing buyer. In the event of the assessor being dissatisfied with the value as so stated, he shall have power to increase the same having regard to the nature and situation of the particular subject—the proprietor to have a right of appeal against the assessor's valuation.

"After the valuation roll is made up, the proprietors shall then be assessed *pro rata* for all local rates and taxes payable by them upon the said annual value, as ascertained and entered in the valuation roll in manner before indicated, instead of upon the annual rental of the property as at present.

"Thereafter, when the proprietor comes to pay the feu duty or ground annual (if any) applicable to the ground, he shall be entitled to deduct therefrom the same proportion of the local rates and taxes paid by him as the said feu duty or ground annual bears to the total assessable annual value as entered in the valuation roll."

(Signed) PETER BURT.
SAMUEL CHISHOLM.
J. P. M'PHUN.

The Separate Report on Urban Rating and Site Values referring to Scotland says: "All existing contracts should be absolutely respected."

Cochran, 15,853–8, 15,872–905, 15,916–9, 15,980–96, 15,997-16,009, and Vol. III. of Min. of Ev., App. No. XII., par. 13. Burt, 16,193, 16,253, 16,308–28. Gray, 17,244–51. Waddell, 15,784.

But the witnesses who proposed to the Local Taxation Commission that feu duties and site values should be rated, frequently suggested that this should be done irrespective of existing contracts, though one or two thought that some provision might be made, or that the system might be introduced gradually.

Gray, 17,242–52. Cochran, 15,872–905. Gray, 17,248–51. Brand, 16,053–60.

Mr. James Gray, Honorary Treasurer of the Glasgow Town Council, stated that the effect of rating feu duties would be to relieve the owner of the land, who has taken it subject to feu duties, and subject to the payment of rates.

The following questions were put to, and answers given by, Mr. Gray :—

Q. The man who owns the feu duty, or the man who has taken the land subject to the feu duty; which has gained the most by the additional value of the land?—*A*. It is to be supposed that the present owner has gained the most.

Q. He has gained the most?—*A*. Yes.

Q. He has entered into the contract that he would pay the rates on the feu duty, has he not?—*A*. Yes.

Q. Yet you are going to break his contract, and you are going to give him something more, although he has gained more than the man who owns the land (feu duty)?—*A*. Yes, but look at the new conditions of society altogether when the new taxation is placed on everybody; people must accustom themselves a little to the present wants of the community—to present needs.

Cochran, 15,873–8. See *contra*, Brand, 16,048.

Mr. Cochran, member of the Barony Parish Council of Glasgow, did not propose that the feu duty as such should be taxed, but the value of the land, "which may be more or less than the feu duty as circumstances may arise." He stated that by this proposal the feu owner who at present pays no rates, would be rated "whether he has stipulated to be relieved of all taxes or not," though he

admitted that the suggestion would involve the relief of one owner at the expense of another. He proposed that the land values in Glasgow (2,000,000*l.*) should bear the owner's rates amounting to about 300,000*l.*, but that this should be brought about gradually. He also stated that feu duties are a popular investment in Glasgow, though he did not see that that was a reason why they should not be assessed to local rates.

Cochran, 15,949-66, 15,967-75.

Mr. Ferguson [representing the Worker's Municipal Election Committee of Glasgow], who thought that unearned increment in land should be the property of the community, said: "What I suggest is to put on a tax—say 2*s.* or something else—upon the present land value, and make whatever arrangements of title, life interest, or some kind of title by which the harshness of the measure will be mitigated; but as for speculation in the natural opportunity of the future, that I repudiate, and any person who does it would have to take the consequences." His view is that owners of site values should ultimately bear the whole burden of local taxation, and that the occupier should be entirely relieved of the whole of the rating.

Ferguson, 16,828-40, 16,840, 16,849, 16,857-8, 16,891, 16,906, 16,927.

Ferguson, 16,837-48.

Mr. Peter Burt, President of the Scottish Land Restoration Union, put forward the view that land values should be taken from the present owners altogether, by imposing a rate which should be increased until it amounted to 20*s.* in the pound.

Burt, 16,169-76, 16,329-33.

Mr. Chisholm, a member of the Corporation of the City of Glasgow, stated that his final object was that the land in every town should belong to the public Authority of the town.

Chisholm, 17,084.

Q. You have said more than once that you consider that land values belong to the community. If so, why do you not have the courage of your convictions, and propose that the community should take those land values straight away, if it is the fact that they do belong to the community?—*A.* Because I recognise that the system under which we live to-day, is the result of a long history, in which a certain system has taken deep root, and that it

17,089.

would be unwise, I might almost say unfair, to take at one fell swoop those land values. In view of the hardship which immediate appropriation of land values would produce, my own suggestion, not included in the Corporation Committee's Memorandum, is that at a pace, no matter how slow, say at an augmenting rate of one per cent. per annum you travel in that direction.

Generally speaking, the arguments advanced by witnesses in Scotland before the Royal Commission on Local Taxation in support of, and in opposition to, the proposals to rate land values were practically the same as those urged by the English witnesses already referred to. The following additional arguments against the proposals made by the Glasgow Corporation may be noted :

As regards "feu duties":—

(1) That the system of feuing should not be discouraged, as it enables those who desire to build to acquire land without having to find the purchase-money in a lump sum.

(2) That landowners who have granted feus practically obtain no benefit from Municipal expenditure, and have no reversionary interest in the land. Accordingly no question arises of their obtaining "unearned increment."

As regards site values:—

(3) That as proprietors in Scotland pay half of most of the rates during the currency of leases, the argument put forward in England (where the occupiers pay the rates) that tenants enter into a "blind bargain," in respect to the payment of new rates and the increase of old ones, does not apply to Scotland.

XV.—Rating of Building Land.

The witnesses who supported the rating of feu duties and site values were generally in favour of rating unoccupied building land, and also land on the outskirts of urban districts ripe for building (whether unoccupied or used for agricultural purposes), for similar reasons to those

urged in England.[1] Most of these witnesses came from Glasgow, and it was stated that there was a good deal of land there which was held unoccupied for the purpose of obtaining a larger price hereafter.[2]

But like the English witnesses, they admitted the difficulty of defining building land on the outskirts of urban districts. Mr. Henry, the Assessor of the City of Glasgow, defined it as "land ready for feuing purposes." Until agricultural land came within that category, he would rate it on its agricultural value. Mr. Henry further pointed out the difficulty of putting a value upon it.

Gray, 17,168–77. Chisholm, 17,053–63. Henry, 15,511–23.

Mr. Burt, President of the Land Restoration League, thought that the effect of rating unoccupied land would be "to open up land for use that at the present moment is held out of use." . . . "It would open up land for use that is in a sense partly built upon; that is to say, in centres such as Glasgow we have valuable sites occupied for temporary purposes." . . . "It is quite a common thing for speculators to feu a large area of ground, and, perhaps, cover a small portion of it sufficient to secure the superior, and hold the rest for the speculative rise."

Burt, 16,163–6, and Vol. III. of Min. of Ev., App. No. XIV., p. 212.

Mr. Ferguson, representing the Workers' Municipal Election Committee of Glasgow, thought that the proposal would have the effect of throwing into the market considerable quantities of land held unoccupied until the price rises. The effect of this be thought would be to improve the housing of the working classes. Mr. Chisholm also thought that more land would thereby be thrown into the market, and that, consequently, rents would be reduced.

Ferguson, 16,850–5, 16,859, 16,872–84, Chisholm, 17,146–7; and Vol. III. of Min. of Ev., App. No. XXIV., par. 7. Cochran, 15,978, and Vol. III. of Min. of Ev., App. No. XII., pp. 208, 209.

The view of Mr. M'Bain, Vice-President of the Glasgow

[1] Stewart, 14,745 and Vol. III. of Min. of Ev., App. No. IV., par. 17; Henry, 15,511-23; Cochran, 15,839-46, 15,860-2, 15,867–71, 15,908-15, and Vol. III. of Min. of Ev., App. No. XII., pp. 208, 209. Burt, 16,161-8, 16,259-68; Alison, 17,017-9; Gray, 17,168-77, 17,276-86, and Vol. III. of Min. of Ev., App. No. XXV., par. 24; Waddell, 15,813-7. But *see contra* Brand, 16,049-52, 16,061-6, 16,128-38, and Vol. III. of Min. of Ev. App. No. XII., par. 7.

[2] In a Table put in by Mr. Henry, the Assessor of the City of Glasgow (Vol. III. of Min. of Ev., App. No. VII.), it is shown that there were 340 vacant spaces estimated at a total rental value of 8,136*l.* 15*s.* (*see* as to method of arriving at this value, 15,522-3).

M'Bain, 16,450, and Vol. III. of Min. of Ev., App. No. XVI., par. 7.

Landlords' Association, was that it would make the land dearer to feu. He says: "As you are aware, in the fringe of all large cities there is always an area of unoccupied land that cannot be used for agricultural purposes, which stands unoccupied for years, and, when it comes to be feued, the want of return for all those years requires to be added to the price the owner gets; if he has been losing all those years and has been paying taxes besides, it will make land still dearer to feu."

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APPENDIX I.

Extracts from Reports of Royal Commission on Local Taxation.

(Agreed to by Nine out of the Fifteen Commissioners.)

ENGLAND.

A separate valuation of sites would not be impossible, but would be complicated, expensive, and uncertain. Difficulties as to sites not fully utilised by buildings, and as to leases approaching their termination.

Reviewing the evidence we have taken on this subject, we think that although it cannot be said that it would be impossible to assign separate values to site and structure, especially where a comparison could be made with neighbouring property of a similar character which had been recently let, such a system would certainly be attended with considerable uncertainty, complication, and expense, and in this respect our conclusions are identical with those of the Select Committee on Town Holdings, who reported "that the scheme is open to very great objection on the ground of the difficulty and uncertainty of the proposed system of valuation." The valuation of every site, upon the basis of the rent which might be obtained for it, if it were cleared, would be highly speculative where no means of comparison was ready at hand, and even where such means existed, many varying factors, such as rights of light, and the existence of easements, and other restrictive covenants, would have to be allowed for, and the circumstances of the surrounding property closely investigated. As the term for which a lease was granted approached its termination, further difficulties would arise, especially

where the capacity of the site might not be fully utilised by the buildings then standing. And when all these questions had been considered, the results would be so hypothetical in character that a large number of appeals and attendant expense would be inevitable.

The abandonment of the present system of assessing the annual value of the whole hereditament as it stands is most undesirable, unless important objects are to be secured thereby.

The proposal really involves a fundamental alteration in the present system of arriving at the net annual value of property, a system which is based upon the rent which a tenant from year to year might be expected to pay for the whole rateable hereditament as it stands. The system is not unattended with considerable difficulty in its practical application, but it has stood the test of experience, it is well understood, and, in our opinion, there would be an immense increase of cost and considerable litigation if the ascertainment of values for rating purposes were to be made dependent on the hypothetical considerations to which we have referred. As the late Lord Farrer said, "Valuers will, no doubt, put a valuation on anything, whether they know anything about it or not; but the question is what real basis they have for their valuation. The only ultimate basis of a valuer's knowledge is his experience of actual market values; and as the land and the houses upon it are sold and let together, no such basis can exist for a separate value of the two things."

Unless, therefore, some important object is to be gained, which cannot possibly be carried into effect except by recourse to the dual system of valuation proposed, we feel that its introduction would be indefensible. Any further departure from the basis of fact, and the consequent extension of the element of hypothesis in the valuation of property is obviously to be avoided if practicable, and we are unable to concur in the view expressed by the various

supporters of the scheme, that the ends which they respectively have in view would justify the introduction of an admittedly difficult and intricate system which would certainly result in further inequalities of valuation as between one ratepayer and another.

The practice as to deductions can be rectified by other means.

We have elsewhere referred to the present practice which exists in the ascertainment of the net annual value of property, and expressed the opinion that the scale of deduction prescribed either by law or practice might with advantage be applied with more elasticity by Assessing Authorities.

The separate valuation of site and structure would not assist in the division of rates between owner and occupier—even if such a division were desirable.

With regard to the suggestion that the separate valuation of site and structure would assist the division of rates between owner and occupier—a proposal which we cannot endorse—we would point out that the result of such valuation would not be of any assistance in the determination of the real value of the various interests in the property, since those interests are charged on the hereditament as a whole, and include in their security both site and structure. Apart from the immense difficulties which arise in the varying conditions of the contractual obligations, no sound apportionment could be made on site value only, and the ascertainment of the land value does not seem to us to be of any utility, even if it were decided to introduce a system of dividing rates as between owners and occupiers.

The separate valuation of sites would not improve valuation generally.

It is also claimed that the separate assessment of site values would tend to a fairer assessment of the hereditament as a whole, on the ground that land is a property which commands a larger number of years' purchase in the market than buildings or structures. This raises the question whether the basis of the assessment of property for local taxation should be radically altered by the

substitution of capitalised for annual value. We have already expressed our opinion against the introduction of such a change.

A special additional tax on "site" or land values would be inequitable and cannot be justified either on the ground of ability or benefit.

The remaining, and by far the most important, object for which the new system of valuation is sought to be introduced is the imposition of a special tax on the "site" or land values, and as to this, we desire to say that we cannot concur in the suggestion that it would be equitable to select land as a particular class of property and place on it a burden in addition to that which it bears in common with all other rateable properties. Such a proposal does not appear to us to be justified upon either of the two grounds which have hitherto formed the basis of our system of local taxation, since neither in respect of their ability to pay, nor of the benefits which they receive, does it appear to us that the owners of land values, using the term in its widest sense, contribute inequitably to local expenditure at the present time, as compared with the owners of other classes of rateable property. It would be difficult, in our opinion, to maintain any effective distinction between sites which have increased and sites which have diminished in value; but, even if it were possible, land is not the only class of rateable property the value of which may be enhanced by circumstances beyond the influence or control of its owners, and we see no reason why, by reason of such enhancement of value, it should be placed in a new and separate category so far as rating is concerned. In any case, however, it is obvious that, if a special burden is to be imposed on land, on the ground of any increase of its value, the object could not be equitably met by the imposition of a new rate on site value from year to year. The extent of such increase varies not only as between district and district, but as

A general rate on all site value would be in no way proportioned to the increments of value, but would fall also on the sites which have decreased in value.

between different parts of the same district, and in some cases there is either no increase at all, or a diminution of value. The imposition of a new rate of any given amount upon the annual value of all property in land would, therefore, bring into existence new inequalities of liability, unless measures were taken to differentiate not only between district and district, but between property and property—an obligation which, in our opinion, could not be satisfied by any possible modification of existing rating machinery.

Existing contracts present an insoluble difficulty. Breach of contract is indefensible, and on the other hand, a new site value rate falling on occupiers and lessees would be most burdensome and unfair.

A further difficulty arises in considering the manner in which existing contracts should be dealt with. We see no justification for allowing existing contracts to be broken for the benefit of occupiers who have not shown that, as between themselves and the owners, those contracts are unjust. Trustees and others have purchased ground rents on the faith of contracts that the occupiers should pay all rates on the properties which secure the ground rents, and all such persons would be injuriously affected by the proposed schemes, for the benefit of occupiers who, through their representatives, incur and control the expenditure which falls on the rates. Other advocates of the special tax proposed have, however, expressed their desire to leave such contracts undisturbed in any manner whatever, the result being that large numbers of owners who have accepted fixed rents for fixed periods, extending to 99 and 999 years, or even in perpetuity, on condition that their lessees shall bear all rates and taxes, would be entirely unaffected by the proposal. The new tax would, in such cases, fall to be borne by the lessees, who are not only already rated to the full extent of the enhanced value of the property, but whose interest in it is often gradually diminishing in value, both by reason of the effluxion of

time and the growth of waste and dilapidations. The case of the purchaser of a 99 years' lease of a house, subject to a ground rent, may be cited as a case in point. Large numbers of such leases have been purchased in recent years through the instrumentality of building societies and other provident organisations. The value of the hereditament to the lessee increases but slowly, his capital outlay should be replaced, and the lessor's claim for dilapidations will ultimately fall to be met. It would be difficult in such cases to reconcile the lessee to the justice of imposing upon him a new and special tax, from which the lessor would be exempted by reason of the existence of a contract having still a long term to run, and a particular form of thrift which Parliament has in the past done much to protect and promote would be seriously prejudiced.

No new tax on land is practicable or equitable.

To conclude our observations on this branch of the subject committed to us, we would remark that the advocates of what would be in effect a new land tax, to be applied in aid of local expenditure, have failed to convince us that it would be equitable to select a particular class of rateable property for the imposition of a new and special burden. No new tax on land appears to us to be required to meet any special expenditure incurred by Local Authorities for its benefit, nor does land differ so essentially from other property, as regards the alteration of its value from time to time, as to justify it being rated exceptionally. In any case it would, we believe, be impracticable to ascertain what that alteration may be—a problem which must of necessity be solved if the tax is to be of equal incidence: whilst the practical difficulties of ascertaining even the annual value of what is one element only in the value of the rateable hereditament, and of

paying due regard to the existence of contracts having either a perpetual existence or a long term of run, constitute, in our judgment, additional reasons against any alteration of our rating system in the direction proposed.

The following extracts are from the Separate Report on Urban Rating and Site Values :—

(*Signed by* LORD BALFOUR OF BURLEIGH, LORD KINROSS, SIR EDWARD HAMILTON, SIR GEORGE MURRAY *and* MR. STUART, M.P.[1])

ENGLAND.

HOW SITE VALUES SHOULD BE RATED.

Division of rates in proportion to value of site and structure not desirable.

Concluding then that a valuation of sites can be made, we next have to consider in what manner it should be utilised for the purpose of taxation.

A proposal has sometimes been made for the division of rates in proportion to the respective values of site and structure, *i.e.*, a scheme by which the total rates levied in respect of each hereditament would remain the same as at present, but the part proportionate to site value would be charged on the "owners of site value," and the rest on the occupiers. But this scheme is open to all, and more than all, the objections which can be brought against the old scheme for the division of rates half-and-half between owner and occupier; and, on the other hand, it has none of the advantages which may be claimed for true site value taxation as we have defined it.

A special site value rate should be levied in urban districts.

We therefore have recourse to the idea of a special site value rate, to be levied alongside of the existing rates.

Questions then arise as to the area over which, and the Authority by which, such a rate should be raised.

[1] Mr. Stuart signed subject to certain reservations.

The question of area is a difficult one. We have no doubt that the scheme should be confined to urban districts in a non-technical sense of the words, and to land which has received the large increase of value which is associated with a dense population and the execution of the great services of urban local government. But we frankly admit that to define the suitable areas by a precise formula is not easy, for it is well known that some "urban districts" in the technical sense are really more rural in character than some areas still known as "rural." It might be confined to boroughs and urban districts with a population in excess of 10,000, though it might be well to include any urban districts with a population between 5,000 and 10,000 in which the density of population was in excess of, say, 10 per acre. For London we think the area should be the administrative county.

The Town or Urban District Council, and in London the County Council, should be the authorities responsible for raising the rate and entitled to receive the proceeds. The actual collection should be carried out through the same machinery as the collection of the ordinary rates.

It may be urged that, since site value is included in the value on which rates are at present raised, the imposition of a special site value rate would be making the owners of site value pay twice over. We cannot admit that this statement is correct. The owner of site value would not be taxed twice over for the same purpose, for, of course, if the charge for an improvement were defrayed from the site value rate, the ordinary rates would be relieved from that charge. The result of the proposal indicated in the immediately preceding paragraphs would be that all urban rateable property would be taxed alike, as at present, for such purposes as poor relief, police, &c.; and that

expenditure on improvements beneficial to site value would be defrayed by a special charge proportioned to the site value alone. Of course it would follow that the total rates on site value would be higher than the total rates on the structural value, and it is open to anyone to describe this arrangement as "double taxation." But, in any case, it is only double taxation in the sense in which the occupier of licensed premises can be said to be taxed twice over, because he pays both Income Tax on the value of his house and a license duty which is proportioned to the same value.[1]

The rate should be charged in part on owners when existing contracts expire.

The mode of charging the rate is a rather complicated matter, with regard to which it is not easy to choose between several alternative plans. We have more than once indicated our opinion that the real incidence of a rate depends mainly on the nature of the property in respect of which it is levied, and is but little affected in the long run by being primarily charged on this or that particular person. Thus, we believe that the real ultimate incidence of a site value rate would be upon the owners

[1] There are two other misconceptions which it may be well to remove :—

(1.) Students of Local Taxation and of Income Tax statistics are familiar with the division of rateable property into the two classes of "Lands" and "Houses." In this classification "Land" means uncovered land, *i.e.*, mainly agricultural land, "Houses" means the entire hereditaments, site and building together. This classification has, therefore, nothing to do with the distinction between site value and structural value, which we are discussing in the text, and a Site Value Rate such as we propose would not increase the burden on "Lands" as distinguished from "Houses," except in so far as the new rate was applied to uncovered land.

(2.) For several reasons it would be a misconception to describe the site value rate which we propose as "a new Land Tax." For one thing, the Land Tax is an ancient fixed charge on immovable property, and the distinction of site and structure was never thought of in connexion with it. Thus, an ordinary rate is far more like the Land Tax than the new special rate which we suggest. If anyone can be said to impose a new Land Tax, it is the Local Authority which adds a penny to the Poor Rate, not the advocates of a special rate on site value.

of site value in any case, even if it were simply charged on occupiers as the present rates are. The ultimate incidence cannot be affected by the mere legal mode of charge, so long as contracts are respected, because, when a new bargain is made, each party will take full account of the way the burden is distributed. Accordingly, we regard the question of the party on whom a rate is to be charged as a question of sentiment and temporary convenience; but within these limits it is of very considerable importance. The present system of concentrating the whole legal charge upon occupiers and leaving them to shift it so far as they may be able, or to contract themselves out of it, if they see fit, has very great advantages. But it has also serious disadvantages, to which we have drawn attention.

(1.) As regards rates existing when any contract is made, it obscures the shifting and diffusion of the burden which without doubt really take place; and the apparent inequality is made a popular grievance.

(2.) As regards increase of rates, and especially increase during the currency of any contract, it unduly narrows the reservoir of taxable capacity which can be readily and immediately drawn upon, and thus causes chronic friction.

On the other hand the danger is obvious that a direct charge of rates upon lessors might lead to extravagance and plunder, since lessors in most cases have no votes as such, and if they had votes would probably have no adequate voting power.

Balancing these considerations one against the other, we are disposed to recommend that under future contracts the site value rate should be charged partly on owners and partly on occupiers. The rate should be collected in

the first place from the person at present liable to pay rates, and no deduction should be permitted from rents fixed under existing contracts; but the share of the rate chargeable on owners should be deducted from all rents hereafter fixed, and all agreements to the contrary should be declared of no effect. Strict respect for existing contracts would not be incompatible with the immediate and universal imposition of the tax. For its primary object, which is the readjustment of burden as between different hereditaments and different districts, would in any case be effected at once. It may, of course, be urged that the effect would be to increase the burden upon occupiers. But this is true only to a very limited extent. In the first place, the burden would only be increased in central districts, where site value is high—elsewhere it would be diminished. In the second place, the great majority of ratepaying occupiers have short tenancies, and will be able to throw back the owner's share of the charge at an early date. The mass of compound householders are only concerned in so far as they will benefit indirectly but surely by the lightening of the burden on buildings; while those who hold long leases are really part-owners and in very many cases (especially in central districts) are themselves deriving benefit from the increased value of the site. In the third place, the new charge, even where it falls most heavily, would be counterbalanced by the relief proposed to be granted in the shape of increased subventions.

It may be observed that the effect of the proposal would be in many respects similar to that of the London Equalisation of Rates Act, 1894,[1] a measure which appears on the whole to have operated not inequitably.

[1] 57 & 58 Vict. c. 53.

As regards the different lessors on the other hand it will be seen that as each re-enters upon his property, he will become liable for a direct and visible charge, as well as for the share of the present rates which falls indirectly upon him; and the prospective value of a reversion will be correspondingly diminished.

The problem of deciding which of the several owners ought to be taxed as the owner of site value becomes less important, when the operation of the scheme of deduction is confined to future contracts; and most of the difficulties will, we believe, disappear when it is recognised that, on the grant of a lease, the lessor secures the value of the site as it then exists, less such portion as may have been secured to prior lessors under previous contracts (if any), and that each lessee secures any subsequent increase of that value during the term of the lease.

Necessity of safeguards. Limitation of purposes and amount of rate.

We have already expressed the opinion that to confer upon occupiers, even indirectly—in their capacity as voters—the power to impose or increase a rate payable by owners is a measure which ought to be accompanied by stringent safeguards.

We accordingly propose that the purposes for which the site value rate might be raised should in the first place be defined by Statute. We are conscious of the difficulty of framing an exact definition or an exhaustive catalogue of such purposes; but speaking generally we are of opinion that they should be strictly limited to expenditure tending to increase directly the value of urban land.

The best plan would be to divide the site value rate half and half

In the next place, although as regards equity of distribution and ultimate incidence, the site value basis is the important matter, and the charge on owner or occupier is a matter of temporary convenience, we recommend that

one-half of the site value rate should be deducted from the rents payable to owners under all future contracts, and the remaining moiety should be finally charged upon occupiers.[1]

between owner and occupier.

Lastly we would suggest, that the rate in the £ of the new impost should be strictly limited by Parliament.

The proposal to divide the site value rate half and half between owner and occupier would be consistent with the recommendation of the Town Holdings Committee for the division of rates, except that not all the rates, but only the special site value rate would be thus divided. From the point of view of reasonable conservatism, such a scheme would provide, alongside of the other safeguards, an automatic safeguard against predatory tendencies, because for every penny charged on the owner the occupier would have to pay a penny out of his own pocket. From the reform standpoint, on the other hand, it offers not less attractions, for in reality the substantial reform desired is the imposition of a rate in

[1] In this connexion we may refer to some remarks made by Mr. Costelloe. He said : "I am inclined to think that, in the long run, the proportion to be borne by different tenements (apart altogether from the question of the direct burden on the owner) will be divided up, not according to the present rateable value so much as according to the present site values. I think you will find that it is quite a possible view that, in the end, the site values column which we propose will come to be, not only the measure of the owner's rate, but also the measure of the occupier's rate. As between tenement and tenement, I think there would be advantages in estimating the assessable value of each tenement, not by the present measure, which is the rent it will bear from year to year, but by the site value measure, that is to say that tenements bearing a high site value, such as tenements in the city, ought to bear, even in the shape of an occupier's rate, a higher proportion than tenements upon the outskirts, which have a practically vanishing site values estimate, but which now bear a considerable proportion of the rates, because of the building value which is put upon them. I think that the present system, as a matter of fact, tends in a certain way to discourage building on the outskirts, and in a way which is hardly fair to the various interests concerned." (Vol. II. of Minutes of Evidence C. 9150 of 1899—20,274.)

respect of site value, and with such safeguards it would indisputably be easy to ask Parliament to sanction a higher maximum rate and a greater elasticity in its application. Moreover, there is a good deal of expenditure which undoubtedly increases the value of sites, but yet concerns the owners, as distinct from the occupiers, only remotely. For such expenditure a site value rate on occupiers appears to be theoretically the most equitable mode of charge.

The desirability of a rate on Site Values does not necessarily depend on any particular view of incidence.

We are aware that a scheme for taxing site value, but saving existing contracts, may be attacked on one side as ineffective, and on the other as revolutionary. But we entertain a hope on the contrary that some such scheme may commend itself to persons of different opinions. We do not flatter ourselves that the views which we have expressed on the intricate question of the incidence of the present rates will command universal assent. Some persons will continue to think that the occupiers really bear all the burden. We are unable to assent, but we would commend our proposals to such persons as an honest attempt to make the owners of site values contribute fairly to the expenditure from which they derive benefit. Others may continue to hold that all rates fall *ab initio* on the ground landlord. Again we are unable wholly to agree, but to such persons we would appeal especially to recognise that a scheme which pays absolute regard to contracts can at least work no injustice to ground landlords, while it will do something to remove an apparent grievance which stirs dangerous ill-will.

Unoccupied Property and Uncovered Land.

Unoccupied properties should be subject to the Site Value Rate.

Properties which are unoccupied, whether empty buildings or uncovered land, are not generally liable to rates in England and Wales, though it appears that in Scotland unlet properties are liable in law for the owner's share of almost all the rates which are levied wholly or partly upon owners; and in the City of London unoccupied tenements are liable for one-half of the sewers rate levied by the Corporation.

We believe that it will be generally agreed that it would be fairer to the other ratepayers, if some charge were made in respect of empty properties, which, undoubtedly, receive some benefit from public expenditure, and take the place of property which would otherwise contribute to such expenditure. But, at the same time, there would be hardship if the full burden of rates were imposed in such cases. We think the equity of the case would be met by continuing the exemption of unoccupied property from the ordinary rates, and by providing that the new site value rate which we have proposed should be charged in respect of all unoccupied, as well as all occupied, property.

This procedure derives additional support from the fact that the ground rent and other fixed charges continue to be paid whether the property is occupied or not, and it would also guard against a danger to which the Town Holdings Committee drew attention—that taxation of vacant houses "would tend strongly to check the supply of houses,"—since a rate in respect of the site alone would have no such effect. It would be a simple operation to levy the new rate in respect of the value of the site of empty buildings.

But a far more intricate problem presents itself when we come to deal with uncovered land. For here it is no longer merely a question of occupation or non-occupation, but we have to face also the difficulty of valuation.

Uncovered land in urban districts is mostly occupied, and, therefore, already rated to some extent, but not in full, nor on its value for building.

Uncovered land in urban and suburban districts is not to any great extent actually unoccupied; it is mostly occupied for pasture, gardens, recreation grounds, or various "accommodation" purposes. When occupied, it is rateable (subject, of course, to the limits imposed by the Public Health Act and the Agricultural Rates Act), and being rateable, it must be valued at the rent which a tenant might reasonably be expected to give. But this has been interpreted to mean the value to an occupier in its existing state, *rebus sic stantibus*. Thus, land used for agricultural purposes must be valued at the rent which an occupier using it for agricultural purposes would give, although if it were offered for building it might be possible to obtain a rent many times greater.

The alleged holding-up of land.

Beyond the merely fiscal aspect of this question, it is necessary also to bear in mind the allegation, frequently made, that land is withheld from building by persons who are speculating for a rise, and the suggestion that the method of taxation should be altered with a view to removing the premium now existing in favour of this practice. It cannot be disputed that land is sometimes withheld from building; but, on the whole, though it is very difficult to obtain definite and exhaustive information, we are inclined to believe that merely speculative holding-up does not occur to any great extent, or for very long periods. The cases in which speculation might appear to be the motive will often be found to be complicated by other and less simple considerations, *e.g.*, if an estate is being developed as a high-class residential neighbourhood,

the owner often prefers to wait a while for desirable tenants rather than grant leases for factories or small houses. Again, a large suburban garden is, no doubt, often preserved as a garden, when it might be cut up into building lots, as much for the sake of the amenity which it affords and in order to avoid disturbance, as on account of the increase in the value which it will command in the building market hereafter.

Rating of uncovered land on its building value clearly desirable in some cases, but surrounded by difficulties.

If we take a strong case, such as that of a plot of land in a neighbourhood well provided with open spaces, and suffering from lack of house accommodation; if we assume that such a plot, being in a favourable situation, would beyond all doubt let at a considerable ground rent, that it is increasing in value because the town is spreading round it, and is being improved by large expenditure which involves heavy rates, and that the owner, reckoning on this increase, declines to allow the land to be utilised; in such a case we apprehend there would be little difference of opinion as to the propriety of imposing a moderate charge proportioned to the true value of the site. But, having said thus much, we are bound to admit that the difficulties of devising a scheme which will meet such cases without involving undesirable results in other cases are very serious.

Proposal of Housing Commission—in what respects defective.

The question first came into prominence when the Royal Commission on the Housing of the Working Classes recommended (in a majority report from which some of the most eminent members dissented) that "land available for building in the neighbourhood of our populous centres" should be "rated at, say, 4 per cent. on its selling value."[1]

Such a proposal seems, for several reasons, impracticable.

[1] C. 4402 of 1885, Reprint (1889), p. 69.

First, to charge *the whole* of the rates on a value thus arrived at would be plainly excessive. The scheme put before us by the London County Council contemplated only the imposition of a special rate of limited amount. Secondly, the attempt to rate vacant land on its capital value, without any corresponding charge on other property, was anomalous, and, as Mr. Goschen observed, certain to lead to evasion by the running up of temporary structures. But perhaps the most important defect of the proposal is the absence of any distinction between land which is actually ripe for building and land which is only ripening. To the latter class belongs much land, some of it included in urban areas, which at present is genuinely and entirely agricultural, which, in fact, nobody would take for building, but which has a selling value greater than the capitalised equivalent of the agricultural rental, because there is a prospect that some day it may be wanted for building. Such land may be rightly taxed by reference to its selling value, rather than by reference to its existing annual value, in the case of an impost like the estate duty, which treats all property alike on a capital basis. But to incorporate such a tax in our present system of rating would be anomalous and oppressive, and could not be defended on the ground that it would tend to oblige the owner to place the land in the building market, since *ex hypothesi* no one would be willing to lease it, however willing the owners might be to offer it.

The new Site Value Rate should be levied in respect of all land which can be let for immediate building.

These weighty objections would be met by the revised proposal which we are inclined to recommend for adoption, viz., that the new site value rate which we have proposed should be charged in respect of the site value of all uncovered land which is intended to be let, or could be let, with a covenant for immediate building.

This proposal has various considerable advantages. In the first place, the charge would be moderate in amount. In the second place, it would avoid the injustice of taxing owners and occupiers of agricultural land upon a capital value which could not be realised in the form of annual income. In the third place, it adheres closely to the definition of value as the rent at which a property might reasonably be expected to let. It may, indeed, be urged that this definition, even as it stands, ought to cover the rent which a tenant would give for land for building purposes. The courts of law have, however, decided against such a view, on the ground that land must be valued on the hypothesis that it is to be used for the same purpose for which it is at present used, or in its present state *rebus sic stantibus*. What our proposal amounts to is, in effect, the removal of the limitation thus put upon the definition of value.

The discouragement of open spaces.

It is an important question of policy whether the rating of uncovered land might not unduly discourage the preservation of open spaces. The reply to the objection on this ground is that a space reserved for private occupation is, as a rule, of less public advantage than a space dedicated to the public. The rating of vacant land would facilitate, and ought to be accompanied by, a liberal and far-sighted policy in the direction of acquiring parks and gardens for public use. The present system may help to preserve some open spaces, but it is, at best, a mere accident if those spaces are situate where they are wanted. The reform which we propose would make it easier to get houses where houses are wanted, and open spaces where open spaces are wanted. A provision might be added, empowering the Local Authority to reduce or remit the charge in any case where that Authority

considered the retention of the land in its present condition desirable on public grounds, even although it were not formally dedicated to the public.

Further, we think that, in putting our proposal into legal shape, provision should be made for safeguarding land which is *bonâ fide* occupied as a garden or pleasure grounds in connexion with a dwelling-house, and thus adds to the amenity and healthfulness both of the hereditament and of the neighbourhood. In such a case, it would probably be well to enact that no higher value should be put upon the site than such proportion as will fairly be attributed to it, if the property continues to be valued and occupied as a whole, in accordance with the principle described by the words *rebus sic stantibus*. The value of such a provision can easily be illustrated; for instance, it seems obvious that, when the ground now forming Brockwell Park (and wholly exempt from rating under a recent decision of the House of Lords) was in private hands, it would have been in the public interest not to put such a burden upon it as would have tended to prevent its being maintained as an open space.

There are, however, other classes of uncovered land; and, first, there are the plots of land which may sometimes be seen in important thoroughfares, lying waste and neglected, destined for no purpose but building, yet withheld from the builder. In such cases, we entertain no doubt, either as to the propriety of imposing a rate on the true site value, or as to the ease with which this object can be effected. Next, there is a somewhat different class of land—which is, perhaps, the most important in this connexion—the land on the outskirts of towns, which continues in use for agricultural purposes, when it is fully ripe for building.

Difficulties of Valuation and suggested safeguards.

With regard to such properties, we do not disguise from ourselves that there would be some difficulties in carrying our proposal into effect. There can be no doubt that the task of determining what land could be let for immediate building, and of assigning a value to such land, involves some risk of mistakes. It is impossible to frame a legal definition of such land which would work automatically, and the decision could only fairly be made on the facts of each case and in the light of both expert and local knowledge.

The burden of proving that land was ripe for building would, of course, fall on the Assessing Authority; and it may be observed that if, in doubtful cases, a mistake were sometimes made, no very great injustice would result, because in such cases the site value would necessarily be small, perhaps, indeed, not greatly in excess of the accommodation value at which the land ought to be rated under the present law. By way of further safeguard, in addition to the rights of objection and appeal, it may be suggested (following the precedent of the scheme for betterment charge as settled by the House of Lords) that, if the owner of the land considered the valuation excessive, he should be entitled to require the Local Authority to take over the land at a fixed number of years' purchase of that valuation.

Further, it is to be remembered, in the first place, that we do not propose to empower the Local Authority to impose the whole of the rates upon the value thus ascertained, but only a special rate of limited amount; and, secondly, that the general scheme for a site value rate is very advantageous for suburban landowners, because the rate would be small in the outskirts of a town, as compared with the present rates. Thus, against the new burden

involved in the extension of the site value rate to uncovered land, it seems fair to set the consideration that, if the owner of such land would consent to let it for building, he would generally be able to do so to greater advantage than at present.

SUMMARY.

Summary of conclusions.

It may be convenient that we should here briefly summarise the conclusions which we have formed on the question of Urban Rating, and to which we desire to call special attention. They are as follow :—

(1.) That misconception and exaggeration are specially prevalent on this subject.

(2.) That, as a rule, others besides the freeholder are interested in site values.

(3.) That the value of the site as well as of the structure is at present assessed to rates.

(4.) That, while site value is enhanced automatically by extraneous causes, yet it has no monopoly of such enhancement; but that the outlay of ratepayers' money does increase the value of urban sites to a special, though not easily measurable, extent.

(5.) That site and structure, which are now combined for rating purposes, differ so essentially in character that they ought to be separately valued.

(6.) That, when separated from structure, site value is capable of bearing somewhat heavier taxation, and should be made to bear it, subject, however, to strict respect for existing contracts.

(7.) That the differential treatment should take the form of a special site value rate, payable in part by means of deduction from rent on the Income Tax method, and that thus a part of the burden

should visibly fall on those who have interests superior to those of the occupier.

(8.) That, subject to the conditions which we have specified, the special site value rate should be charged in respect of unoccupied property and uncovered land.

(9.) That, if proper regard be had to equitable considerations, the amount capable of being raised by a special site value rate will not be large; and that the proceeds of it, whatever the amount may be, should go in relief of local, not Imperial, taxation.

(10.) That it may be well to apply the scheme on the principle of "local option," and to limit the immediate introduction of it to urban places, having a population in excess of a given number, and of a given density.

The advantages which can be claimed for the proposal are, we venture to think, not inconsiderable.

Advantages of the proposal.

(1.) It would conduce to placing the urban rating system on a more equitable and thus sounder, basis.

(2.) It would be making the ground-owner, and others who may under the leasehold system acquire an interest in site values, contribute somewhat more to local taxation than they do now, and the contribution would be direct and visible.

(3.) It should go some way towards putting an end to agitation for unjust and confiscatory measures.

(4.) It would enable deductions for repairs to be made solely in respect of the buildings.

(5.) It would do something towards lightening the burdens in respect of building, and thus

something towards solving the difficult and urgent housing problem.

(6.) It would tend to rectify inequalities between one district and another district, and between one ground-owner and another ground-owner.

(7.) It would, or at least it should, conduce to the removal of some of the widely spread misconceptions which seem to prevail, not only in political circles, but among economic authorities and responsible statesmen; for, while it would be an admission that there were defects in the urban rating system and an attempt to remedy those defects, it would show that there is no large undeveloped source of taxation available for local purposes, and still less for national purposes.

We would point out that, if a moderate proposal to effect these objects is ever to be made, it would be specially opportune to make it at a time when, under the schemes which we are putting forward, the burden of rates in towns will be appreciably relieved. By making use of this opportunity, it will be possible to introduce a sound and advantageous principle into our local taxation without disappointing legitimate expectations. More especially, since anything that tends to relieve the pressure of local taxation, or to prevent the growth of it, must ultimately, sooner or later, benefit the owners of site values, it seems desirable that any increased provision made by the State in aid of services locally administered shall be accompanied with some make-weight in the shape of an owners' site value rate.

SCOTLAND.

For the reasons explained in the former Report, we conclude that a separate valuation of sites, apart from the structures upon them, should be made, and a rate proportioned to the site value alone should be levied for urban improvement purposes in the larger burghs. It should be divided equally between occupiers and owners. All existing contracts should be absolutely respected, but, in the case of future contracts, the owner should be entitled to deduct from any rent, feu duty or ground annual payable to a superior, the amount of the rate in the £ upon the value which attaches to the site at the date when the contract is made: a like right of deduction being given to any intermediate parties against their superiors. The rate should apply to unoccupied property and uncovered land under the conditions laid down for England.

APPENDIX II.

Housing of the Working Classes Commission.

Extract from Report, 1885.

"In connexion with any such general consideration of the law of rating, attention would have to be given to the following facts. At present, land available for building in the neighbourhood of our populous centres, though its capital value is very great, is probably producing a small yearly return until it is let for building. The owners of this land are rated, not in relation to the real value, but to the actual annual income. They can thus afford to keep their land out of the market, and to part with only small quantities, so as to raise the price beyond the natural monopoly price which the land would command by its advantages of position. Meantime, the general expenditure of the town on improvements is increasing the value of their property. If this land were rated at, say, 4 per cent. on its selling value, the owners would have a more direct incentive to part with it to those who are desirous of building, and a two-fold advantage would result to the community. First, all the valuable property would contribute to the rates, and thus the burden on the occupiers would be diminished by the increase in the rateable property. Secondly, the owners of the building land would be forced to offer their land for sale, and thus their competition with one another would bring down the price of building land, and so diminish the tax in the shape of ground rent, or price paid for land which is now levied on urban enterprise

by the adjacent landowners—a tax be it remembered which is no recompense for any industry or expenditure on their part, but is the natural result of the industry and activity of the townspeople themselves. Your Majesty's Commissioners would recommend that these matters should be included in legislation when the law of rating comes to be dealt with by Parliament."

Extract from Memorandum by the late Lord Salisbury.

"A recommendation is made in the report that vacant land in towns or in the neighbourhood of towns should be rated on its capital instead of its income value. This paragraph was introduced into the report just before it was signed, and I cannot find that it is based on any evidence laid before the Commission. I believe that the evil results of such a change would outweigh its advantages. There may, possibly, be something to be said for a general recourse to the American system of taxing capital instead of income values; but to adopt it in the isolated case of vacant land in or about towns would not only lead to much evasion but would have injurious sanitary effect. It would operate as a penalty on all open spaces except those belonging to a Public Authority. Urban or suburban gardens would especially suffer. On the other hand, when any pecuniary advantage was to be gained by keeping the land vacant, its capital value could be easily reduced by collusive alienations of portions of it. By a colourable sale of the outside edge, the capital value of an interior block could be, for the time, to a great extent destroyed."

Memorandum by Lord Goschen, in which Lord Cross concurred.

"In addition to the reservations which I have made in the joint memorandum of Mr. Lyulph Stanley and myself,

I wish to record my dissent from the recommendation of the Report with reference to the rating of vacant land, an extremely important point, on which no evidence at all proportionate to the magnitude of the subject was placed before the Commission.

"The suggestion involves an entirely new principle in the law of rating, namely, taxation of capital instead of annual value, and I could not concur with such a far-reaching change in the whole system of local taxation without more examination of the bearings of the proposal than the Commission were able to give to them. It is almost certain, too, that if vacant land were rated, the measure would have to be followed by the rating of empty houses. Evasion of the law by the running up of temporary structures would otherwise probably be easy, and there are other considerations which would also contribute to render this further step inevitable. But if that were so, the rating of empty houses would act as a discouragement of that development of building which the rating of vacant land is intended to promote, and the general change would fail in its purpose."

APPENDIX III.

EXTRACTS FROM AN ARTICLE BY PROFESSOR EDGEWORTH IN THE "ECONOMIC JOURNAL," MARCH, 1906, ENTITLED "RECENT SCHEMES FOR RATING URBAN LAND VALUES."

IT is only the disciples of Henry George who would treat a landowner like a slaveowner,[1] whose unhallowed property may be confiscated without compensation. It is not proposed to argue here against this principle; argument about first principles is unavailing. There is postulated a general agreement with the doctrine of unearned increment—as taught by Mill, not as caricatured by George.

The application of Mill's doctrine would be simple, but that the law on which it is based is cut into by another law of incidence. It is not only true that, in the words of Ricardo, "a tax on rent [proper] would fall wholly on landlords," but also that "a partial tax on profits will raise the price of the commodity on which it falls." Now a site-value tax under the prevalent system of urban tenures is apt to fall to some extent on the profits of the business-men who supply house-accommodation. The prospect of a rise in the value of house property encourages the supply of house accommodation; the prospect of an additional impost, however named, to be levied in the future on those

[1] The parallel is expressly drawn in the Eighth Report of the Illinois Labour Bureau.

who in the present are making efforts and sacrifices in the way of production tends to discourage that supply.

It may be objected that the prospect is too remote to affect present action; and it has been admitted that the producer of a house will not be so much affected by the prospect of taxation extending over a series of future years as the producer of a hat—Ricardo's favourite instance—is affected by an ordinary tax.[1] Full allowance being made for this difference, a considerable effect in the way of increased burden to the consumer must still be attributed to the prospect of diminished profits for the producer. The distance in time to which the outlook of the building *entrepreneur* extends is well illustrated by a form of lease which seems to be not unknown in Chicago, in which the future increase in the value of the property is the subject of stipulation. Here is a specimen:[2] the lease of a certain plot of ground for ninety-eight years and eleven months from June, 1894. The lessee is to construct a first-class building thereon by May 1st, 1895. He is to pay up to April 30th, 1895, $5,000, and afterwards annual rents as follows:—

	$
For nine years	12,000
For next ten years	15,000
For next ten years	17,000
For next ten years	20,000
For remaining fifty-nine years	25,000

The prospect of future increment is evidently not indifferent to the lessee. *Primâ facie*, if the Government exacted from that *enterpreneur*, under the title of site value, a sum in excess of that surplus which he can afford to

[1] *Economic Journal*, Vol. X., pp. 510—511.
[2] Taken from the aforesaid report of the Illinois Labour Bureau.

hand to the ground landlord, the supply of house accommodation would be restricted.

No! it may be objected, all that will happen is that the rent of the ground landlord will be *pro tanto* diminished. Fine issues are here raised. Let us approach the question by first considering a rate of the ordinary kind *ad valorem* on the rent payable by the occupier. This impost, if levied on the building owner, would not be thrown by him altogether on the ground landlord, as some high authorities have conceived, but in part at least, and very possibly altogether on the occupier.[1] Now when we substitute for this kind of impost that reduction of profits which may be apprehended from a site-value tax levied on the building owners, is the case materially different? The answer of pure theory is, yes. There is in the abstract all the difference between a tax on a margin and a tax on a surplus.[2] But the theory is seldom applicable in all its purity to concrete circumstances. There is not usually a practical difference of first importance between a specific tax and a tax by way of licence. To be sure, there is usually absent a condition which is apt to be present in the case now under consideration—namely, the existence of land for which there is no other use at all comparable in profitableness with the production of that commodity on the producer of which it is proposed to levy an impost. But this condition is not always present in the case under consideration. Suppose the Chicago builder above instanced to forsee that in the first three periods in which he had been ready to give the ground landlord 12,000, 15,000, and 17,000 dollars per annum respectively, he

[1] *Economic Journal*, Vol. VII., p. 66 and context; Vol. X., p. 340 and context.

[2] See *Economic Journal*, Vol. VII., p. 57.

would in consequence of the new impost be exposed to an exaction of 50 per cent. more in each of those periods; will not his enterprise be damped? He cannot withhold from the ground landlord more than he was prepared to offer him; the prospect of a charge on profits which cannot thus be recouped tends to check building enterprise. Moreover, it is doubtful how far a rate on site value of the kind proposed is to be regarded as a tax on surplus. Suppose that transactions by which the building owner raises money on the security of the premises are hampered by the prospect that the interest payable in return for those advances will be in the future pursued with a so-called site-value tax, even into the hands of the creditor. Lenders would insist on more onerous terms, and the extension of the *entrepreneur's* operations would be checked; the effect of the impost would then be of that *marginal* kind which, as we have seen, restricts the application of building capital, and imposes a burden on the consumer of house-accommodation.

Altogether, the case may be compared, in respect of the uncertainty of its incidence, to a customs duty. The incidence of such a duty is not the same as that of a duty on home-made articles. Theory admits that a part of the tax may fall on the foreigner. But only reckless and ignorant politicians act upon the supposition that all the tax is always borne by the foreigner.

The neglect of the burden repercussively imposed on the occupier is the capital error of the schemes criticised in the former paper; schemes justly described in the Separate Report[1] as "crude and violent," neither "equitable nor workable." The writers of the report honourably

[1] Separate Report on Urban Rating and Site Values, pp. 162, 166.

abstain from the violent interference with contracts, discerning its tendency to check enterprise. "The proposed violation of contracts would greatly aggravate existing evils by destroying confidence and discouraging building enterprise."[1]

With regard to the incidence of the proposed imposts, unaccompanied by violence, the writers of the Minority Report perceive clearly enough that foreseen rates of the ordinary kind are apt to be in part thrown on the occupier, even though levied from the building owner.[2] But they and the promoters of Bills founded on their report, have not equally realised that a foreseen impost levied from the owner does not lose the property of transference to the occupier, because it is called a rate on site value.

The neglect of this incident exposes to some doubt the Minority's fine reasoning as to the local distribution of the new impost; the consequences thus described by the promoter of a Bill on the lines of the Separate Report :—"The inner ring of the town will move out the outer rings, and the outer rings will push out the population still further outwards."[3]

So far as the proposed rate on site value acts like a tax on rent proper, doubtless, *ceteris paribus*, the taxation by which the enterprise of the builder is checked will be reduced; and since there is most building at the periphery, building there will be most encouraged.

But whereas the new rate is, after a short interval, to fall upon the building owner[4]—that is, the *entrepreneur*, or a party from whom he obtains payment—it is to be expected that the proposed rate will act partly as a tax on

[1] Separate Report on Urban Rating and Site Values, p. 164.
[2] *Ibid*, p. 156.
[3] Hansard, Vol. 103, p. 483.
[4] Separate Report, p. 171 ; and the Bills founded on the Report.

profits. To that extent building enterprise will be checked. The check may be expected to be greater at the periphery than the centre; not only absolutely or *in toto*, because there is more building at the periphery, but also per cent. of the outlay, for a reason above indicated, that the foreseen decrement of profits are less capable of being deducted from ground-rents where ground-rents are low, as at the periphery, than where they are large enough to recoup anticipated loss of profits, as at the centre.

Without insisting on this paradoxical consequence, may we not invoke the general presumption against seeking to compass by taxation ulterior objects other than revenue. Disturbance to industry is in general a much more certain consequence than any beneficial result that is proposed. Thus the promoter of a Land Value Rating Bill, after admitting that in his scheme within "the inner ring of the city" "the tax would increase on each property," goes on:—"But even there there would be no hardship on property owners. For they would only have to build better premises and use their land better, and they would not as now be subjected to a higher tax on their enterprise."[1] If it is meant to suggest here, as in other passages, that the new impost would supply a new motive to the owner to use his land better, the deduction appears to be very questionable. If it did not before pay him to replace an old building, it will not pay him any better to do so, because, under the new system, whether he does so or not, he will be placed under the necessity of paying a site-value rate. This and other points of theory here touched upon are elaborately demonstrated by Professors Luigi

[1] Preface to Zimmermann's "Taxation of Land Values" (1905).

Einaudi in his *Studi sugli effetti dell' Imposte,*[1] the most exhaustive and sagacious treatise on the whole subject known to the present writer.

Similar criticisms may be directed against the proposed land value rates in their relation to vacant land. The promoter of such a measure argues,[2] "the landlords will come tumbling over one another in their eagerness to sell, and down will come the value of the land to the price at which it ought to be sold—that is, a little above its agricultural value." In this and like passages there seems to be involved a disputable opinion as to the functions of the speculator in land: too low an estimate of his usefulness, too high an estimate of his power to prejudice the consumer. As in other industries—if not quite so much as in other industries[3]—the speculator is useful in finding a market for the article. As Mr. Edward Bond, in a debate on one of the Bills now under consideration, urged, "they had to rely principally, if not entirely, on the efforts of speculative builders and commercial men, who went into the business with a view to getting a fair return for their money."[4] The discouragement of this necessary middleman would, he thought, not conduce to the result aimed at, "namely, to bring more land into the market," but to the opposite result. As in other industries, the speculator is not so responsible as he appears to be for high prices. Their fundamental cause—the urgent demand for an article of which the quantity in existence is limited—is not created

[1] Reviewed in the *Economic Journal*, Vol. XIII., p. 237.

[2] Preface to Zimmermann's "Taxation of Land Values."

[3] Can it be maintained that pure speculation in land unaccompanied with any other productive activity—to "buy to hold and sell at a profit," as the advertisements put it—is attended with all the advantages ascribed by economists (J. S. Mill, for instance, "Pol. Econ.," Book IV., Ch. II., sect. 4) to speculation (without monopoly) in a commodity like wheat?

[4] Hansard, Vol. 103, p. 522.

by speculators. We may therefore apply to the above-cited proposals, what is said in the Report (Lord Hobhouse's) of the Local Government and Taxation Committee of the County Council,[1] with respect to certain earlier proposals of similar design. "We doubt first whether it is possible to force the market, as they suggest, by the indirect agency of rates upon land-owners. It is the interest of land-owners to bring their land into profitable occupation as quickly as they can. We doubt secondly whether, if the land market could be artificially forced by a system of rating, it would be found of advantage to land-owners."

* * * *

So far, indeed, as the current schemes involve Mill's principle of taxing unearned increments they are defended by the present writer. But the defence on this ground is not so strong as might *primâ facie* appear. The schemes do indeed include taxation of unearned increment as well as other kinds of taxation. But in fiscal science the greater does not always comprehend the less. Compare the working of Mill's principle with the modern form of site-value tax. In the case of premises in the centre of a town when a new lease is created—or the land is otherwise disposed of by the ground-landlord, Mill's plan is—with due regard to the interest initially existing—to dock the future receipts of landlords by a substantial percentage, such a percentage as Professor Wagner, in the passage above quoted, has proposed to take from unearned increment. If this plan had been adopted in Mill's time some two millions sterling might now be flowing into the Municipal treasury.[2] But nothing like this could be

[1] "Minute of the Proceedings of the London County Council for 1891."

[2] As argued in the former paper, p. 499 (where there is an obvious misprint of 20,000 for 200,000), and p. 516.

obtained from the same ground-rents according to the methods now in vogue. Dealing with wheat and tares—earned and unearned increments—promiscuously, as above argued, they could not, under the name of site-tax, impose so drastic an impost, or rather an appropriation. It would be particularly impossible to do so in the case where the value of the cleared site is much greater than that of the site *plus* an existing tenement. Some advocates of new schemes may claim indeed that their schemes will put a stop to that anomaly. But it has been argued above, that this claim is not admissible. If, as appears to be the general design of these schemes, a site-value rate is to be imposed on the land before it changes hands, to follow it into new hands without breach of continuity, and to be fixed at a constant percentage for a whole country, or at least district, then an operation on anything like the scale contemplated by Mill with respect to newly created ground-rent would be impracticable.

Like remarks apply to the proposed taxation of vacant land. Mill's plan would be to wait till the egg is laid, and then if you like, scoop out all the yoke. The plan of taxing the value of the goose derived from the prospect of future eggs cannot well be so drastic. It will be observed that this objection is distinct from and additional to the more familiar objection already in effect urged, that tampering with the process of capitalistic incubation will diminish the number of eggs available for consumption.

If there is no other general principle but Mill's conducting to a "peculiar" taxation of site-value, the only question is how far is it in practice safe to follow that principle. May we apply to English tenures the regulations which are now proposed in Berlin. "An increment tax shall be levied whenever the present purchase price or

the market value [*gemeine wert*] of the real estate exceeds by more than 10 per cent. the price paid at the former change of hands," to which price is to be added expenses for improvements and repairs.[1]

Or are such inquisitory methods to be depreciated because, in the words of the Majority Report on Local Taxation, they "would bring into existence new inequalities of liability," and, we may add, check supply by harassing enterprise "unless measures were taken to differentiate not only between district and district, but between property and property—an obligation which in our opinion could not be satisfied by any possible modification of the existing rating machinery."[2]

On this important question the present writer has nothing to add to the considerations summarised in a former article.[3] Possibly, as in the case of agricultural land in Great Britain, the application of Mill's principle may seem, under existing conditions, impracticable. Possibly, as in the case of agricultural land in Ireland, after much boggled legislation, long banishment of political economy to Saturn, the treatment ultimately adopted will embody the ideas of Mill.[4]

[1] "Berlin's Tax Problem," by Robt. C. Brooks, *Political Science Quarterly*, December, 1905.
[2] Report of Royal Commission on Local Taxation, p. 44.
[3] *Economic Journal*, Vol. X., p. 516.
[4] See "England and Ireland," by J. S. Mill, 1868.

APPENDIX IV.

ENGLAND.

SUMMARY OF BILLS FOR THE RATING OF LAND VALUES INTRODUCED INTO THE HOUSE OF COMMONS SINCE THE ISSUE OF THE FINAL REPORT OF THE ROYAL COMMISSION ON LOCAL TAXATION.

THE first Bill for the rating of site values brought in after the Royal Commission on Local Taxation had reported upon the subject, was the "Urban Site Value Rating Bill," introduced by Mr. Trevelyan, M.P., in 1902. It was framed with the object of carrying out the recommendations in the separate Report on Urban Rating and Site Values by Lord Balfour of Burleigh, the late Lord Kinross, Sir Edward Hamilton, Sir George Murray, and Mr. Stuart, M.P., contained in the Final Report of that Commission. The Bill would have given power to the London County Council and the Councils of the larger Boroughs and Urban Districts to raise, alongside of the existing rates, a special rate upon site values throughout their areas. Site value was defined as "the annual sum at which the surface of the land might be expected to let clear of the building (if any) situate on the land," and the rate was to be charged upon uncovered land ripe for building as well as upon land already built upon. The rate for each financial year was limited to 2s. in the £ on the site value, and was to be charged upon the persons at present liable to pay rates (or, in the case of unoccupied property, upon the person entitled to immediate possession), and collected in the same way as the present rates. Contracts existing at the time of the passing of the Bill were not to be disturbed, but an occupier under a lease or agree-

ment made after the measure had passed, was allowed to deduct from his rent one-half of the rate on the site value at the commencement of his tenancy. Intermediate lessees were given a similar right of deduction. The purposes upon which the proceeds of the site value rate might be expended were enumerated in a schedule, which, it is explained in the memorandum attached to the Bill, was framed so that the rate could only be applied to purposes which tend to increase the value of the land upon which the rate would be assessed. The second reading of the Bill was defeated by a majority of 71 in a House of 387.

In 1903, the "Land Values Assessment and Rating Bill" was brought in by Dr. Macnamara, M.P. The Memorandum attached to the Bill said its object was to give Urban Authorities a new source of revenue in relief of the present rates, and so to diminish the existing burdens on building enterprise. The Bill would have enabled the London County Council and the Councils of every Borough and Urban District to raise money for local expenditure by means of land value rates. "Land value" was defined as "the price for which the hereditament could be sold, as by a willing seller to a willing buyer, if it were freehold in possession, and if there were no building or structure thereon." This is, in effect, the capital value, and it would, of course, include unoccupied property. The rate for each financial year was limited to 1*d*. in the £ on the land value, and was to be charged upon the persons at present liable to pay rates, or, in the case of unoccupied property, upon the person entitled to immediate possession. In London the County Council, and in Boroughs and Urban Districts the Councils thereof, were to be the Collecting Authorities. Contracts existing at the passing of the Bill were to be respected, but an occupier under

a lease or agreement made subsequently was to be entitled to deduct from his rent the amount of the land value rate calculated on the land value at the time when the rent was fixed. Intermediate lessees were given a similar right of deduction. The second reading of this Bill was also refused, the majority against it being 13 in a House of 353.

The "Land Values Assessment and Rating Bill" of 1904 was presented to the House by Mr. Trevelyan, M.P. It proposed to charge unoccupied hereditaments, as well as occupied hereditaments, in London, the Boroughs, and the Urban Districts, with all local rates, but unoccupied hereditaments comprising buildings as well as land were only to be chargeable upon the annual value of the land. Any hereditament, however, of which the annual value of the land exceeded the rateable value was to be rated upon the land value,—a provision which would apply where land ripe for building is not used for building, or where very poor buildings are allowed to stand on valuable sites. The annual value of land was defined as "an amount equal to three per cent. of the amount for which the land could be sold as by a willing seller to a willing buyer," which is, in effect, equivalent to three per cent. upon the selling or capital value. Restrictions upon the use of the land, other than those, if any, imposed by the lease were to be allowed for. In the case of unoccupied property the rate was to be payable by the person entitled to immediate possession. No interference with contracts existing at the passing of the Bill was proposed, but an occupier under a lease or agreement subsequently made, might deduct from his rent the rates upon the annual value of the land. Existing exemptions from rating were preserved, and the ascertainment of the land value was to be utilised in calculating the deductions for repairs, etc., which represent

the difference between the gross value and the rateable value under the existing law. The second reading was passed by a majority of 67 in a House of 379. It was not, however, proceeded with.

The Bill of 1905, with the same title as the Bills of 1903 and 1904, was presented by Sir John Brunner, M.P., and was almost identical with the Bill of 1904. The two most important distinctions were (1) that the deduction allowed to be made from his rent by an occupier under a lease or agreement made after the passing of the Bill, was limited to the rates upon the land value as it was assessed at the time the lease or agreement was made, and (2) that the London County Council or the Councils of Boroughs and Urban Districts might exempt public parks, pleasure grounds, and open spaces from the operation of the measure. This Bill also passed its second reading, the majority being 90 in a House of 314, but no further progress was made.

SCOTLAND.

A "Lands Valuation Bill" for Scotland was introduced into the House of Commons by Mr. M'Crae, M.P., in 1903. The Bill only dealt with unoccupied land in Burghs, and did not propose a special rate upon site values generally. It intended to provide that where it was in the power of the proprietor of land not built upon, to let such land for building purposes, the annual value on which the rates were to be levied should be the full duty or rent which might be obtained for the land, if so let, and not merely its value, *rebus sic stantibus*, as under the existing law. The value was not, however, to be less than the rent for which the land was *bonâ fide* let at the time, and power was given to the tenant or occupier to deduct from his rent the occupier's rates upon the value, if any,

in excess of the rent. The additional burden involved by the proposal was, therefore, thrown entirely upon the owner. The Bill was not to apply to public pleasure grounds, school playgrounds, or cemeteries. It was not proceeded with after the First Reading.

This Bill was re-introduced by Mr. M'Crae in 1904, and read the first time.

In 1904 there was also brought in a Bill, entitled the "Land Values Taxation (Scotland) Bill." It was presented by Mr. Caldwell, M.P., and proposed to give power to the Town Council of every Burgh to levy an assessment not exceeding 2*s*. in the £ upon the annual value of all land in the Burgh. The annual value was to be calculated at 4 per cent. upon the price as between a willing seller and a willing buyer, exclusive of all buildings, etc., on or connected with the ground. Proprietors were required to furnish returns showing the extent of the ground, and the value so estimated, but the Assessor was not bound by the proprietor's estimate. The rate was to be charged upon owners, who were given a right of deduction in respect of any ground burdens (including feudal casualties) payable to their superiors, irrespective of existing contracts. Various institutions of a public or semi-public character were excluded from the provisions of the Bill, and the proceeds of the rate were to be allocated *pro rata* to the several accounts in respect of which police and Municipal assessments were levied. The Bill was not proceeded with after the First Reading.

The Bill of 1904 was re-introduced by Mr. Ainsworth, M.P., in 1905, and again by Mr. Sutherland, M.P., in 1906. The Bill of 1905 passed its Second Reading by a majority of 20 in a House of 266. The Second Reading of the Bill of 1906 was passed, in the newly-

elected House, by a majority of 258, the members voting numbering 380, and on April 24th it was committed to a Select Committee.

On May 3rd the following members were nominated for the Select Committee: Mr. Hugh Barrie, Mr. A. Dewar, Mr. Findlay, Mr. J. Henderson, Mr. M'Killop, Mr. Mitchell-Thomson, Mr. O'Hare, Mr. Remnant, Mr. T. F. Richards, Mr. Sutherland, Mr. Trevelyan, Mr. A. Ure, Mr. Dundas White, Mr. Wood and Mr. Younger.

In 1905 another Bill, entitled the "Land Values Assessment (Scotland) Bill," was presented to the House of Commons by Mr. Munro Ferguson, M.P. By this Bill the land value was to be estimated upon the same principles as under the Bill introduced in 1904-5-6, viz., at 4 per cent. upon the selling price, but no special rate was suggested. Where, however, the land value exceeded the yearly value entered in the valuation roll, which, it is explained in the Memorandum attached to the Bill, may happen where land ripe for building is left lying idle, or where very poor buildings are allowed to stand on valuable sites, all rates were to be levied upon the land value, and, in the case of unoccupied property, the rates chargeable upon occupiers were to be levied from the person entitled to possession, though upon the basis of the land value only if the property comprised both land and buildings. Power was also given to occupiers to deduct from their rent so much of the rates paid by them as corresponded to the land value at the commencement of the tenancy, but this provision only applied to future contracts. The Bill was to be operative in both Counties and Burghs. It was not proceeded with after the First Reading.

BRADBURY, AGNEW, & CO. LD., LONDON AND TONBRIDGE.

ADDENDUM I.

SCOTLAND.

SUMMARY OF THE LAND VALUES (SCOTLAND) BILL, INTRODUCED INTO THE HOUSE OF COMMONS IN 1907.

IN 1907 a Bill (the "Land Values (Scotland) Bill") to provide for the ascertainment of land values in Scotland, passed its second and third readings by large majorities in the House of Commons, but was rejected by the House of Lords. The Bill was introduced into the House of Commons by the Lord Advocate on behalf of the Government, and followed the recommendation of the Select Committee which considered the Land Values Taxation, &c. (Scotland) Bill of 1906. It was expressly provided by the new Bill that until Parliament otherwise determined no person was to be rated in respect of the land values ascertained under the Bill, and no immediate alteration of the incidence of taxation was, therefore, involved. The Bill was intended to pave the way for subsequent proposals regarding the amendment of the existing system of local taxation, and to furnish statistical data upon which those proposals might be based.

The provisions contained in the measure were that an additional column should be inserted in the valuation roll for each county and burgh in Scotland and that the capital land value of lands and heritages (other than those valued

by the Assessor of Railways and Canals) should be inserted therein. "Capital land value" was defined as the sum which the lands and heritages might be expected to realise if sold by a willing seller in the open market, and assuming that they had been divested of buildings, erections or improvements of any 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 had been executed not more than twenty years preceding. The value of any common interest in land was to be included, and it was to be assumed that the land was sold free from all burdens, public and private, except building restrictions or servitudes. Restrictions or servitudes fictitiously created after the passing of the Act might, however, be disregarded.

In the case of lands and heritages for which there are two or more occupiers, *e.g.*, houses let off in flats, the assessor might, unless a separate capital land value could be ascertained in respect of each occupancy, enter the total against the occupancy he considered most appropriate. It is obvious that the simplicity so secured could not have been retained if the capital land value had been made the basis for taxation.

The first valuation on the new system was to be made for the year commencing Whitsunday, 1909, and the procedure of the Valuation Acts was, with minor amendments, to be applicable to the new entries in the valuation roll. Returns stating the capital land value might not, however, be called for from the tenant or occupier, and the Secretary for Scotland was empowered to alter, for the purposes of the Bill, the dates prescribed by the Valuation Acts for the various stages of valuation procedure. The Bill also provided that appeals to the Court of Session upon valuation matters should be heard by three judges instead of by two only. This provision would have secured a decision in all

such appeals, no decision being at present obtained when the opinions of the two judges differ.

The most important features of the Bill were, perhaps, the provision for the valuation of all land in rural districts as well as building land in urban areas, and the adoption of capital value in preference to annual value. In the case of large areas of building land awaiting development no direction was given as to whether the land should be valued as one plot or as several.

ADDENDUM II.

EXTRACTS FROM THE REPORT OF THE SELECT COMMITTEE ON THE LAND VALUES TAXATION, &C. (SCOTLAND) BILL, SIGNED BY THE COMMITTEE ON DECEMBER 13TH, 1906.

IT will be observed from the foregoing description of the proposals of the Bill that land values are not taken as the sole basis of Burgh rating. The rating of occupiers is to proceed upon the present basis—the annual value of land and buildings taken together as a composite subject. The rating of owners is to proceed partly on the present basis and partly on the basis of land value alone. The amount of the new rate is fixed, *ab ante*, at 10 per cent. on the new standard, regardless of all other considerations. The Bill does not therefore give complete effect to the new rating standard which it sets up. It is confined in its operations to Burghs. It leaves owners as well as occupiers of land and buildings still rated on the present basis, the rental of the whole composite subject. It leaves them so rated in the same proportions as they are rated at present. And it proposes to levy on owners alone an additional rate, fixed, no doubt, on a basis assumed to be sound, but absolutely arbitrary in amount. Your Committee consider these proposals to be indefensible. No evidence was adduced in support of them. No one justified the choice of 10 per cent. It was apparently arrived at by haphazard without any calculation or estimate of

what its effect would be. The objections entertained by your Committee to the proposals of the Bill were such as to compel them to come to the conclusion that it ought not to be proceeded with in its present form. But as a large amount of evidence was laid before your Committee bearing upon the principle which underlies legislation of the class to which this Bill belongs, your Committee deem it to be their duty to express their views upon the main topics to which that evidence was directed.

The main principle which, in the opinion of your Committee, underlies proposals to tax land values, is the setting up of a standard of rating whereby the ratepayer's contribution to the rates is determined by the yearly value of the land, which he owns or occupies, apart from the buildings and improvements upon it, the object being to measure the ratepayers' contributions, not by the value of the improvements on the land to any extent, but solely by the yearly value of the land itself. The justification given for the adoption of the new standard is that land owes the creation and maintenance of its value to the presence, enterprise and expenditure of the surrounding community. The value of the land is not created or maintained by the expenditure or exertion of its owner, except in so far as he is a member of the community. It is well, therefore, to select a standard of rating which will not have the effect of placing a burden upon industry. Hence the proposal to exclude from the standard the value of buildings and erections of all kinds, and fixed machinery. To include these in the standard tends to discourage industry and enterprise. To exclude them has the opposite effect. If then, the value of bare land, apart from improvements, be chosen as the measure by which to fix contributions to local expenditure, the ratepayer will, it is alleged, be merely restoring to the exchequer of the local authority part of that which he has derived from it. Of this

principle, and of the reasoning on which it rests, your Committee approve.

The direct effect of the adoption of the principle enunciated in the preceding paragraph will apparently be to effect a complete redistribution of the burden of rating. Owners *inter se* and occupiers *inter se* will pay the new rate in very different proportions from those according to which they now pay. Owners of valuable land, either unoccupied or occupied by buildings unsuitable to the site, will pay more; owners of highly utilised land will pay less; and owners of land put to ordinary average use will pay the same proportions as at present. The indirect effect of the adoption of the new standard will be to stimulate building and improvements, to bring more building land into the market, to lower rents, and to diminish overcrowding.[1] To what extent the burden of rating would be redistributed by the adoption of the new standard must, it is apparent, be matter of conjecture, inasmuch as no reliable *data* exist from which to form a just estimate of the value of land in Scotland, apart from the buildings and improvements upon it. It seems to your Committee, therefore, to be absolutely essential, before the proposed new standard is adopted, that such a valuation be made. The question which has engaged the anxious attention of your Committee, and to which prominent attention was directed in the evidence, was, whether to make such a valuation is reasonably practicable.

* * * * *

Your Committee, therefore, come to the conclusion that the valuation of building sites is practicable, and is not substantially more difficult or uncertain than is the valuation of many other subjects which fall under the definition of "land and heritages" as used in the present Valuation

[1] See also Cannan on the proposed relief of buildings from local rates (*Economic Journal*, March, 1907).

Acts. Nor is it to be forgotten that the duty of fixing the value of the site is, in the first instance, laid on the owner himself. His estimate will probably be very near the mark. Unwillingness to decry the value of his own property will prevent exaggeration in a downward direction, as the dislike to pay more rate than he can avoid will check exaggeration in an upward direction. The resultant of these two conflicting forces may be expected to yield a just result.

* * * * *

The exclusion of those who draw feu duties from the category of ratepayers is maintained on various grounds. It is said that they are simply out and out sellers of the land who have lent the purchase price to the buyer and continue to draw interest upon it in the form of feu duty. They are thus mere creditors of the owner, and are not themselves owners. It is said, further, that the owners of feu duties, whether the original granters of the feu, or purchasers at a full price of the right to the feu duties, have made a contract under which they are absolutely entitled to payment of a fixed yearly sum, subject to no diminution, and that they have bargained with the feuar that he shall not only pay that fixed sum, but shall also bear the burden of all rates that may be imposed in respect of the yearly value of the property. Exemption from rating under the proposed new standard is, therefore, sought, first, on the ground that the superior is not an owner, but merely a creditor of the owner; and, second, on the ground that he has made a firm contract by which he has secured release from all local burdens.

Your Committee has given the most anxious consideration to the case thus presented, for the exemption of superiors and owners of feu duties. It is impossible, in the opinion of your Committee, to accede to the claim. The legal relation between superior and vassal, and their

relative rights in the land are familiar and well ascertained in the law of Scotland. When a superior feus land he is not truly divested of the lands contained in the grant. His right in the land continues unimpaired, except in so far as the grant conveys what is called the *dominium utile* or property to the feuar. The effect of the feu contract is to disintegrate the right or *jus dominii* and to partition it so that part remains with the superior, and part goes to the grantee. In all questions with third parties the granter's infeftment, as it is called, still subsists, notwithstanding the grant made to the feuar, and his heir is entitled to be vested not in the superiority merely but in the lands themselves. And whether the vassal interferes or not the superior is entitled to challenge encroachments on the feu. In short, after granting the feu the superior can exercise all acts of proprietorship against everybody except the vassal and those deriving right from him. In every definition or description given by the institutional writers in the law of Scotland of the term "feu," it is carefully stated that, after the grant of lands has been made, the radical right in the lands still remains to the granter of the feu. The estate in the land, which was undivided before the grant, becomes a joint estate after the grant. And this is still an inherent principle in the Scots system of land rights. A prohibition against the alienation of land is not in the law of Scotland violated by a grant of feu. Your Committee find it impossible, therefore, to accept the view that the superior is not an owner of land, but is a mere creditor of the owner, with a security over the land. He is, in fact, the owner of an interest in the land, and his title, which is, indeed, a title *ex facie* to the land itself, is such as to enable him to prescribe, by the requisite possession, the full right of complete ownership.

It is, in the opinion of your Committee, equally clearly established that the feu duty, which is the annual return

from the vassal to the superior, is truly a rent for the land. And the superior's right to the feu duty is preferable to the vassal's right to the lands. In the words of a well-known writer of authority in this branch of the law of Scotland, "the superior, having a real legal estate in the lands, having, in fact, the right to the lands and to eject the vassal if he does not fulfil the condition by paying the feu duty, the feu duty is a real and preferable burden on the lands—a *debitum fundi*. It is part of the reserved estate in which the superior stands infeft; and the superior's claim for payment of the feu duty is ranked as a burden on the feu, in preference to the claim of any third party upon the feu made through the vassal" (Bell's "Lectures on Conveyancing," p. 634). If this be sound law, as your Committee believe it to be, then it is impossible to regard the feu duty in any other sense than as the rent of land just as the superior must be regarded as the owner of land.

* * * * *

The conclusion arrived at by your Committee, that a superior is the owner of lands, that feu duty is truly the rent of land, and that the proposed burden is new in character and incidence, would be sufficient to warrant the inclusion of existing feu duties in the new rating standard proposed to be set up. But on more general grounds the same result is reached. To the extent of the feu duty the vassal is not himself in receipt of the full return from the lands. To the extent of the feu duty the superior shares with the vassal the yearly return from the lands. If so, on what stateable grounds can the feuar be asked to pay rates in respect of the full yearly return from the land—a return which he does not and cannot receive? As between a feuar after and a feuar before the measure comes into force, the result of excluding existing feu contracts would be most inequitable. The one would,

and the other would not, be in a position to claim relief from the new rate in respect of the amount of his feu duty. No reasonable ground exists for such inequality of treatment. Nor has the proposal to rate a superior on a feu duty which he may receive, but has not yet received, and to free him from rating on a feu duty of which he is in actual receipt, anything at all to recommend it.

* * * * *

Your Committee desires to place on record its strong opinion that, although the question discussed in the immediately preceding paragraphs is of great interest and importance, there is another aspect of the subject, the importance of which is not always adequately appreciated. The desirability of taking land as the basis of valuation does not depend solely upon the question of the allocation of the burden between parties. The most valuable economic advantages of this reform follow from the change of the basis of rating. We have already referred to the nature of these advantages, which may be thus summarised :—

First.—Houses and other improvements would be relieved from the burden of rating. This would encourage building, and facilitate industrial developments.

Secondly.—As regards the large towns, it would enable land in the outskirts to become ripe for building sooner than at present, and would thus tend very materially to assist the solution of the housing problem. It would also have a similar effect in regard to housing in rural districts.

In our opinion these advantages depend upon the alteration of the basis of rating, and are not dependent upon the question as to what proportion ought to be contributed by the various persons interested in the property. Without seeking to minimise the importance of that question, we think it right to point out that the taxation of

land values is advocated equally strongly by persons who take different views upon this aspect of the question.

* * * * *

Your Committee will now proceed to summarise the conclusions at which they have arrived. They consider that the new standard of rating, based upon the yearly value of land, apart from the building and improvements upon it, is sound, and would prove advantageous; that to set it up, by estimating the value of land apart from buildings, is practicable; that in making the valuation regard must be had to all restrictions validly imposed on the land, and to recent expenditure in preparing it for use; that exemptions such as are proposed in clause 6 of the Bill are proper, but that to these exemptions ought to be added railways, canals, docks, piers, and harbours; that, so far as both occupiers and owners are concerned, the new standard of rating should be substituted for the present standard, and that within the category of owners ought to be included owners of feu duties whensoever created. Your Committee therefore agree to the following

RECOMMENDATIONS.

I. That the Bill referred to the Committee be not further proceeded with.

II. That a measure be introduced making provision for a valuation being made of land in the burghs and counties of Scotland apart from the buildings and improvements upon it, and that no assessment be determined upon until the amount of that valuation is known and considered.