

Charging for Common Land

by Richard Giles

Traditionally, common land has been regarded as free for everyone to use. Now, tolls, and/or congestion charges, are operating on many roads, beaches, beauty spots and national parks throughout the world. Some Georgists agree with such charges and argue that they are forms of land value taxation. Congestion charges are thus justified as Georgist.

This brief article is concerned to argue solely that congestion charges have no Georgist foundation. Moreover it deals solely with the philosophical basis for that view*.

Theoretical Foundations of 'Congestion Charges'

*The inconsistencies in the case and dangers in any universal use of charges on common land, including the dangers to the 'single tax' itself, I have dealt with in a 32-page booklet called *The Theory of Charges on Common Land*.

The chief way charges on common land are legitimised is by the contention that all land is owned by the public.

Charges must be founded upon 'property rights'. Exchange of anything necessitates that the thing exchanged must first be owned. If it is not owned then no one is entitled to exact a charge for it.

Hence it is argued that congestion charges are legitimised by the fact that all land is owned by the public. As one proponent wrote, "Land surface needs to be tenured and allocated by price." But if common land is not owned, it may not be priced. Henry George argues against the public ownership of land in *A Perplexed Philosopher* (Bk. I Ch. IV). Mr. George argues that joint rights in land leads to absurdity. For joint rights, like a joint bank account, require that all those with joint rights agree before anything may be used. In the case of land that is clearly an impossibility.

This view that land is not publicly owned is confirmed by his claim that land is not produced and is thus costless. As such it is not wealth, and not capable of being owned. Land in fact is the "reservoir" from which wealth is drawn by labour.

However, there is another argument for charges on common land that does not seem to require the assertion of public ownership. It postulates that merely living asserts an exclusive use of land. Thus, any charge on common land equalises its use with other uses. This preserves equal rights in the use of common land, while ensuring that it is used by those who most need it, and will use it most productively.

In my view here the term exclusive use gains its credibility by confusing two senses of the one term. It implies that the exclusive use in a legal sense stems from the mere physical occupation of space. At the moment 'exclusive use' in the mere physical sense of the occupation of space does not imply an exclusive use in a legal sense.

This would require the passage of legislation identifying the mere occupation of space as its exclusive use in a legal sense, equivalent to the holding of a private title. This legislation would virtually privatise all common land. It would also require legislation that effectively dealt with the enormous tasks of measuring the value of any space that anyone at any time was using, and collecting and enforcing such payments.

Those who hold this view must convince the vast majority of mankind, who use common land without any sense of having any exclusive use of it, that they are wrong.

Of course the same sort of problems really plague any idea that the use of common land really amounts to some kind of informal leasehold, such as the contention that the use of "pre-emptive capital" (like surfboards, motor boats, or four wheel drives) should be charged.

Reverting to Principle

I believe, however, that when we follow the advice of Henry George and "revert to principle", that the foundations for congestion charges disappear.

Georgism begins with the Golden Rule, as declared by Thomas Jefferson, that all men are created equal in natural rights, and that the purpose of government is to secure those inalienable rights for everyone. A careful look at *A Perplexed Philosopher* shows that Mr. George argued just that: that each has a fundamental or inalienable right to the use of land, and that government may not interfere with that right. All that it may do is to adjust the use of land so that each retains an equal right to use it.

The 'single tax' is but one application of those principles. It is a principle that may adjust the conflicting claims of more than one individual to the exclusive use of the

same piece of land. Mr. George, however, in the chapter noted above, gives us (in the use of the gentlemen's club) another way of adjusting more temporary 'conflicts' over the use of land, and that is the use of good manners and conventions premised upon the acknowledgement by the parties of their "co-equal" (not exclusive) right to the use of common land.

The observation of these few conventions and rules allow virtual freedom of movement on common land, even if that land is being used by some hundreds of people. If this common right to the use of land does not exist on roads, in parks, and on beaches, then where does The Commons exist?

Mr. George stresses that the right is fundamental; it is the right that really matters. Any justifiable regulation or convention affecting that right is only a necessary limitation upon that right so that the right remains equal.

The requirements of joint rights (that is, public ownership), Mr. George argues, displaces the emphasis from the enjoyment of the right to use land to the limitations upon its use. Restriction is given pride of place over freedom. Georgists who would use a congestion charge do just that. They set a condition, a payment, before one may use common land. That pre-condition may very well prevent the exercise of an inalienable right, and turn ordinary people into trespassers, when all that government is entitled to do is to place necessary limits upon the use of common land while it is being used, to ensure that the right to use it remains as far as possible equal.