

An Afghan Lesson

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This is the third article in a series highlighting some of the points made in papers presented at the conference of the International Federation of Surveyors, 1968.

LAND REGISTRATION is essential for the administration of a land taxation system, and it can also be a great aid to conveyancing.

The modern history of land registration in Britain began with the Land Registry Act of 1862, it was not until 1897 that compulsory registration was introduced, and even then it applied only to the City of London. Progress was relatively slow, but with the publication of National Grid plans for the whole of the country in 1946, it became easier to extend the system. By 1964 compulsory registration had been extended to an area containing about 11.5 million people, and the present programme of expansion of H.M. Land Registry envisages that by 1973 most of the urban areas will be covered, embracing a population of about 38 million.

According to Mr. T. B. F. Ruoff⁽¹⁾ there are now more than 2.75 million titles on the register and property worth more than £500 million is being registered annually—transactions worth £1.25 million a day. Ordnance Survey maps (mainly at a scale of 1/1250 in urban areas) are now progressively revised, and to assist the Land Registry the survey staff are making more than 17,000 special surveys every year to clarify recent changes arising from new developments or to verify earlier work.

In a predominantly urban country like Britain survey maps must provide the basis for registration. Expansion of the system depends on the employment of trained staff, and in this respect the Land Registry is subject to some extent to the vicissitudes of government economic policies.

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In Australia⁽²⁾ land registration was put on a firm footing in 1858 by Sir Robert Torrens, who introduced in South Australia a system which was to become widely recognised as reliable, simple, cheap and speedy. Other States quickly followed. Under this system, no transaction can become effective until it is entered on an official record kept by the State. Once this has been done it cannot be upset. Registration requires two documents—an original kept by the Office of Titles, and open for public inspection, and a duplicate kept by the owner. Each document contains details of ownership and a description of the land with full reference to

easements, encumbrances and other conditions. A map shows the position of the plot by reference to common boundaries. The system also provides for the registration of property units in three dimensions, *i.e.* it provides for flats and maisonettes.

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In contrast with the long development of the English and Australian system, Afghanistan⁽³⁾ has recently embarked on an ambitious programme to secure the registration of its 234,000 square miles of territory. This is a formidable task in a country of fourteen million people, of whom about one sixth are nomadic. Advised by the United States Agency for International Development, assisted by technical direction from the Public Administration Service of Chicago, and further helped by the U.S. Peace Corps, the Royal Government of Afghanistan has set up a new legal and administrative system to bring some order into a land tenure system of religious deeds recorded by magistrates and of unrecorded transfers made by mutual agreement of interested parties in the presence of village elders.

The three-fold purpose of the cadastral survey is to identify boundaries and minimise disputes; to improve the land tax administration and increase revenue; and to provide statistics for development programmes.

Describing the method of approach, Mr. L. A. Dove pointed out that the registration will be undertaken in two stages; the first objective is to establish temporary registers to assist in resolving boundary and ownership declarations and the second objective will be the establishment of a permanent register.

All agricultural land in Afghanistan is subject to land tax but until 1968 taxes were assessed only on land declared by the owners. It is thought that less than half the arable land is now included on the tax rolls, but with the extension of the survey and improved administration, it will be practicable to raise as much as twenty per cent. of all government revenues from land tax. This registration of land for tax purposes will in itself assist the clarification of ownership since the payment of tax without dispute will serve as strong evidence to the courts in any legal determinations.

An interesting feature of this imaginative programme

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⁽¹⁾English Registered Titles to Land and Function of Ordnance Survey Maps, T. B. Ruoff (U.K.).

⁽²⁾Land Tenure in Australia, R. J. Love (Australia).

⁽³⁾A Cadastral Survey Programme for Afghanistan, L. A. Dove (U.S.A.).

and to compare the effects of programmes of alleged reform in the countries she has chosen for special study.

Early in her book she notes the absence of feudalism in those places where "reform" is changing the existing system of land tenure. "Whatever governments are abolishing, it is not tenure-in-fief . . . The land is not owned by military aristocracies holding rights of ownership in land and jurisdiction over its inhabitants under obligation of military service to an overlord; and for the most part has never been so owned . . . As Adam Smith said, feudal law did not create large proprietors or their rights of jurisdiction. The real purpose of tenure-in-fief was to define and limit the rights and powers of land-holders—it was, in effect, a sort of land reform. What is wrong with many modern land systems is that the land is held under no sort of obligation."

This total absence of a true feudal system is emphasized at some length in the chapter on Principles, and in carefully defining the true and proper meaning of feudalism as applied to land tenure, the author has highlighted the essential and all-important difference between land held *with* and *without* obligation. In her words, "The elements of reciprocal obligation are lacking between land owner and state and between land owner and serfs." This abrogation of any obligation to the community has resulted in the debasement of capital and labour, leading to a kind of "quasi-feudalism" or "capitalistic-feudalism" where "the manorial lord (or tribal chief) has repudiated his economic responsibility vis-a-vis the community and has become an individual capitalist, exercising only the prerogatives but not the duties of his position."

This quasi—or capitalistic—feudalism has often produced a hybrid modern feudal business man who flies out daily to his estate from a city residence, so that any sharp distinction between feudal and capitalistic ownership is blurred—almost impossible of definition. "What exists," says Doreen Warriner, "is a mixture, with the evils of both and the merits of neither."

Where land reform has been undertaken, recourse to expediency has resulted in some bizarre consequences.



Large land-holders having been expropriated, the land is then parcelled out to peasants—holdings being limited to between 50 and 300 acres. The all-important rental element having been ignored, the new owner cultivates the land to meet his own needs in consumption and ex-

change, the result often being an overall drop in agricultural yield, requiring the importation of food to feed the urban masses who have not shared in the so-called land reform. In Brazil, when there is a big rice harvest, the government stock-piles rice to keep up the price. The result is increased production benefiting no-one—farmer or urban poor.

Land Reform in Principle and Practice is concerned almost exclusively with agricultural land; even so, it is a valuable contribution to our knowledge of land tenure and agrarian reform and gives an insight into the problems involved in the efforts of governments to come to grips with the pernicious consequences arising from the private monopoly of land, which has enslaved whole peoples leaving them impoverished and ripe for some future collectivist vassalage.

EVEN in Hell the peasant will have to serve the landlord, for while the landlord is boiling in a cauldron the peasant will have to put wood under it.—Russian proverb.

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is its valuation methods. Since, initially, the system must be a crude one, because of limitations of skilled staff and valuers, all land is to be graded into one of five rating values, having regard to water availability, soil classification and location. The calculation of tax will be made on electronic processing equipment and billed automatically according to tax rate, value factor and site area. The whole process will be controlled by the Revenue Department of the Ministry of Finance.

There can be no doubt that the Afghan Government has taken a bold step in calling upon the technical skills available and setting up what could well become a model for all developing countries. In a very few years the wisdom of this move should be evident and measurable in economic performance. It is indeed encouraging to find such a story in a small but enterprising country, which, before the ravishings of the Mongolian armies of Genghis Khan and Tamerlane, was one of the most fertile countries in the world.

These three papers illustrate the varying degrees of sophistication in land registration. They also illustrate the paramount importance of cadastral surveys in land taxation. Afghanistan and Australia have had the benefit of both.

Who knows when either measure will become a practical reality in Britain? As Mr. Ruoff has pointed out, as far as Britain is concerned, compulsory registration, when extended to the whole country, will not of itself ensure that all land is registered, since this occurs only on transfer. In his own words, "Some land never has and never will change hands."

It certainly will not without land-value taxation!