

# LAND & LIBERTY

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## CONTROLLING THE USE OF LAND—THE GOVERNMENT'S PLANS

THE GOVERNMENT'S proposals with regard to compensation and betterment outlined in the White Paper on the Control of Land Use seem to involve the following features:—

All land will be subjected to a restriction preventing any change from its existing use except with the permission of the planning authority. Change of use includes not merely a different kind of use, e.g., for industry instead of housing, but also change in the degree of use, for example, the erection of a block of flats instead of a single house. The White Paper does not explain how the latter criterion is to be applied, and it is clear that difficult cases will arise where a single family house is replaced by a larger and better one, or where a block of flats is replaced by another block containing a larger number of smaller flats, or vice versa.

Where permission to change the use is applied for the planning authority may either give or refuse its consent. If it gives consent the owner will generally be subject to a betterment charge. If it refuses consent, the owner will generally be entitled to compensation. Both of these cases are subject to certain exceptions.

### Betterment Charge

The betterment charge is to be 80 per cent. of the increase of value consequent on the consent, that is to say, 80 per cent. of the difference between the value of the land if permanently restricted to its existing use and the value with the benefit of the consent.

The charge is apparently to be assessed and collected at the time when the consent is given. There will thus never be any complete valuation showing the land value as at one date. Uniformity of valuation will not be achieved. In the isolated cases in which consent is asked and the two valuations have to be made, the process of valuation will inevitably tend to become of the nature of the arbitrations at present in use for compulsory purchase. As two valuations will have to be made of the same piece of land, the opportunity for dispute will be even greater, and the result even more anomalous.

Both the amount and the incidence of the charge will depend upon fortuitous circumstances. In a district which was laid out and developed many years ago and is now ripe for redevelopment, there will presumably be many applications for consent. In a district which has recently been built up there will be none. Nevertheless it is quite pos-

sible that in the former district the value of land is not increasing, while in the latter it may be increasing rapidly. The paradoxical result follows that in the one case the owners will continue to enjoy the increasing land values for many years without bearing any special charge, while in the other the owners may have to pay a charge for permission to change from an obsolete form of development to a modern one, although the land value may be stationary.

### Based on a Fallacy

The argument for the betterment charge, according to the White Paper, is "that increases in land value arise, for the most part, on account of a change in the use of land." This is not correct. It is rather the reverse which is true. Changes in the use of land arise because of changes in its value, and changes in value can, and most usually do, take place without any change of use. The fact is notorious that in most cities there are many houses which have been built up to a century or more ago which command enormously higher rents than when they were first built. The structure in many cases is less valuable. It is the land which has gone up in value, although the use made of it has not changed.

The betterment proposal of the White Paper is, therefore, based upon a fallacy. It is also unjust as it treats different owners of land in different ways. Some will get large increases of land value without contributing; others much less fortunate will contribute.

The betterment charge is not a tax upon all increases of land value. It is a charge upon such part of any increase in land value as can only be realised by changing the use to which a particular piece of land is put. Any increase in value which the owner can secure by continuing to use the land as at present will not be subject to the betterment charge.

### Compensation

Experience has shown that in a settled country increment taxes are not a source of much revenue, especially in their early years of operation. The proposed charge will be even less satisfactory as a means of raising revenue. This point is of some importance because the White Paper assumes that the betterment charge will provide sufficient revenue to meet the payments of compensation which the scheme involves. This in turn is based upon

the assumption, adopted from the Uthwatt report, that planning does not destroy values of land, but merely shifts them from one spot to another. There is no economic foundation for this belief.

Where consent to change the use of land is refused the White Paper contemplates that "fair compensation" should be paid to the owner, except in those cases where under the existing Town and Country Planning Acts no or only reduced compensation would be payable. The compensation is to be based upon the value of the land as at 31st March, 1939, and not upon its value at the date when the consent is refused.

This involves a large number of valuations relating to the epoch 31st March, 1939. As the making of such retrospective valuations will evidently become more and more difficult as time goes by, the White Paper proposes that in those cases where they are most likely to be needed they should be made immediately. For this purpose it would divide all the land in the country into three categories, viz., "green land," "white land" and "built-on land."

### Fanciful Distinctions

The "green land" is rural land which at 31st March, 1939, possessed substantially no development value. The term "rural land" is not defined. In any case, the crux of the question is whether the land possessed at 31st March, 1939, a greater value for some use other than its then use. If the owner claims that it did, it will have to be valued although it was classified as "green land."

The term "white land" is defined to be all unbuilt-on land which is not green land. It is proposed that a valuation should be made as at 31st March, 1939, of the development value of all such land, i.e., of the difference between its value if restricted to its existing use and its value if not so restricted. The authors of the White Paper do not appear to realise that in many cases the land was not used at all, and its value if restricted to its existing use would be nil. The so-called development value would be the whole value.

It is not proposed that a valuation should be made of the built-on land, because it is said that there are comparatively few cases in which the owner would have had a right to compensation under the Town and Country Planning Act, 1932. Such land is, therefore, to be valued only where the owner

claims that he would have been entitled under that Act to compensation for refusal to develop. It is to be remembered, however, that the Act of 1932 did not impose the drastic restriction upon change of use which the White Paper contemplates.

#### A Chaos of Conceptions

The "fair compensation" to be paid is not defined in the White Paper. But it is made clear that this will not be the "development value," but some amount to be determined hereafter. Owners of "green land" who establish a claim for compensation are to be paid out at once. In other cases no compensation is to be paid for five years, and in the meantime another "expert committee" will be set up to study the problem of compensation. The idea is to avoid paying compensation for speculative values. But it is far from easy to say how much of the value of any plot of land is speculative and how much is not.

The new expert committee will have at its disposal no more means of

solving the problem than any one possesses at this moment. If the Government is unable to evolve a formula for settling it now, there is no reason to suppose that any body will find such a formula within the next five years. The problem in fact is not soluble. The value of land is always a prospective value. It depends upon what it is anticipated will be gained from it in the future. What may properly be called speculative values arise when an appreciable quantity of land is held out of use, and the available supply is shortened. But there is no way of measuring what the effect of this is in any particular case.

#### Prevent Land Withholding

The only means of solving the problem of speculative values is to prevent land from being held out of use for the sake of future gain. The White Paper does not even purport to deal with this problem. In fact, the only method of solving it is to level a general tax upon all land value. In that way

pressure will be put not only upon the owners of land which is unused, but also on those whose land is badly used, so as to ensure that it will be developed or redeveloped as required. When that has been done speculative value will be eliminated, and that aspect of the land problem will disappear.

It will be seen that the White Paper involves the making of a considerable number of valuations. These will be distributed in a haphazard fashion and will relate to different points of time. The White Paper therefore makes no contribution towards the establishment of a general systematic valuation of land. Yet this must be the foundation of any rational plan of land reform. It is only when valuation is made of all land upon uniform principles, and when that valuation is available for purposes either of taxation or of local rating that there can be any hope of getting a reasonable and useful valuation. The White Paper contains no effective contribution towards solving the land problem, and indeed hinders rather than helps future progress.

### "THE ROAD TO SERFDOM"

The Editor, *Land & Liberty*.

SIR,—The appreciation of Professor Hayek's book which appeared in your June issue must have been very encouraging to those readers who have noted with dismay the unbroken succession of steps towards a collectivist or totalitarian order in our own country. Professor Hayek reveals many unnoticed but menacing analogies and exhibits with clarity and conviction a situation which our publicists seem determined to obscure, and which politicians of all parties tend to exploit rather than oppose.

Nevertheless, although no candid reader would condemn the book as "a defence of things as they are," the notices which have appeared in different newspapers show that such varied conclusions can be drawn from its argument that it may just fail to convince many thoughtful readers who dread totalitarianism but see no alternative. The *Economist*, for example, claims that the author is really a Planner in disguise; and since Professor Hayek repudiates "laissez faire" without indicating his interpretation of that dubious Gallicism, the claim cannot be entirely ignored. The *Manchester Guardian* considers the book to be a backward-looking plea for a nineteenth century golden age, calculated to infuriate the Planners but not to shift them. It must be admitted that the author fails to show us the basic defects in the alleged liberty of that age, defects which checked the extension of liberal ideas long before collectivism became a serious menace, and which appearing as the increasing economic helplessness of the masses—under "liberal" as well as other regimes—has made State dependence virtually inevitable. When liberals looked to the extension of compulsory State assistance euphemised as "social reform," as the cure for this

helplessness the development of a totalitarian order became a logical sequence. The complete indifference to individualist feeling evident in the *Manchester Guardian* review reduces its value, but Professor Hayek's omission to discuss adequately this problem of economic helplessness, which has such bearing on modern forms of slavery, gives some point to the criticism. The *Observer* reviewer, though more liberal in its attitude to the book, evidently feels the same omission when, after admitting the force of the negative argument, he confesses his dismay that no adequate explanation can apparently be given to show why "free capitalism" leads inevitably to private monopoly.

*The Road to Serfdom* is not claimed by its author to be much more than a negative contribution to the great subject of social freedom, but no negative argument can be really effective unless some radical alternative is suggested even if it is not fully developed. Many who accept Professor Hayek's main contentions must particularly regret his failure to show such an alternative, because it might so easily have been shown to proceed from the general trend of his negative arguments—although it would have been necessary first to decide clearly the meaning of those basic terms indispensable to any serious economic discussion. His omission to define these terms is the more remarkable because he admits the importance of so doing, and without explanation some passages of *The Road to Serfdom* grant damaging concessions, for example: "In a system of free enterprise, chances are not equal, since such a system is based on private property."

By general consent it is in the Rule of Law, recognising, to quote Professor Hayek, "the individual, inviolable rights of man," and consequently limit-

ing the powers of the State, that any free society differs from the totalitarian or collectivist order. He does not define these rights, but it is evident that one of them is the right of property, "the system of private property being the most important guarantee of freedom." Here again no definition is given, no clear indication of the limits of property and privilege or of the components of those "means of production" public ownership of which constitutes so much of socialist theory and popular appeal, and private ownership of which under our "free" system leads so easily to private monopoly.

Consistent belief in individual liberty must imply that every producer has full right to what he produces. This narrows the question of private property to that of ownership of the means of production. As all production requires land, labour and capital, we must decide to whom these rightly belong. Professor Hayek's references to capital (with his use of the word capitalism) leave us uncertain how he understands the term—in one passage he appears to include land with capital, in another to assume that capital produces its own return—but, assuming capital to have the clear meaning of wealth used in the production of further wealth, the whole tenor of his book is to the effect that the individual has a just right to his own capital as to his own labour. He fails, however, to show that labour cannot be exerted nor capital be put to use without access to land, and, land having become in all modern societies increasingly the monopoly of private individuals, the economic helplessness which affects the masses is primarily due to this fundamental monopoly: an effective though unrecognized form of serfdom in full operation within societies calling themselves free. Equal freedom to use land—and not bureaucratic ownership of