

## The Fairhope, Alabama, Land Tax Experiment

The very name "Fairhope" sparkles with a promise of a brighter tomorrow. Fairhope, Alabama, was founded in November 1894 on the east shores of Mobile Bay about 25 miles from the city of Mobile. The founders were "single taxers" who chose the site in Stapleton's pasture for their experiment in testing the economic theories of Henry George. Those theories recommended placing a community's total tax burden upon the land. In February of 1894, prior to coming south, the single tax group had incorporated in Des Moines, Iowa, as the Fairhope Industrial Association. Ten years later they were reincorporated as the Fairhope Single Tax Corporation.

The constitution of both corporations contained the following article: "Purpose: Its purpose shall be to establish and conduct a model community or colony, free from all forms of private monopoly, and to secure to its members therein, equality of opportunity, the full reward of individual efforts, and the benefits of cooperation in matters of general concern."

In 1894, the Fairhope Single Tax Colony purchased its first land, some 150 acres at a price of \$6 an acre. This purchase included about one-half mile of frontage on Mobile Bay. An additional 200 acres was purchased about the same time for only \$1.25 an acre.

The eastern shore of Mobile Bay between Montrose and Battle's

Wharf was chosen because of its climate, its beauty, and the cheapness of the land. There are conflicting versions of how the name Fairhope came about. The oldest version states ". . . As plans were being discussed, a member remarked, 'There is a fair hope that we will succeed.'" Thus, the name Fairhope was chosen for the proposed new community.

### The Colony

The first Fairhope settlers included 25 men, women, and children. Two families came by covered wagon and the remainder came by boat. These early settlers faced a true series of obstacles. The land chosen for the Fairhope location was to a certain extent submarginal. The settlers were strangers to each other and they had different cultural and social outlooks. They were not acquainted with the agriculture of the region and had little money for the purchase of the large tracts of land that they felt were needed to demonstrate the single tax principles. They were also troubled by a band of Socialists who became attached to the community. This Socialistic group had ideals that were mostly antagonistic to the Henry George principles of the founders.

### Development

The determined band of single taxers faced a bleak immediate future. The survival forecast was a gloomy one because other colonies had tried to implement the single tax theory and had failed. However, the "Fairhophians" were sustained by their strong dedication to the basic economic principles of Henry George. By 1917 the colony owned 4,000 acres of land. There were 125 homes in place and the population had reached 500. They had erected bath houses on the beaches, built a school and a library, and the community had the only public waterworks in Baldwin County. The business district had a dozen stores, three hotels, a sawmill, a brickyard, a blacksmith shop, and a printing shop. The previous dozen years had been busy ones. In 1895 a public well and pump were put in use; in 1896 a wharf was built in Mobile Bay, and a public school was built and put into operation by the colony with no outside financial assistance.

In the days before highways and motor transportation, bay boats were the important means of transport and continued to be until the late 1920s. The colony bought its first boat (called *Fairhope*) in 1900. In one of a series of early misfortunes, the boat burned in 1905. The second *Fairhope* was then built and continued in use until the 1920s.

### *Problems*

Dissentions began early in the Fairhope experience. Joseph Fels, the wealthy soap manufacturer, social reformer, convinced single taxer, and philanthropist of Philadelphia and London, advanced money to the colony to construct a telephone system. The initial expense of installing a telephone service was \$457.42. However, criticism of the telephone system revolved around two points: (1) Many thought the service was being provided much too far in advance of public demand, and (2) many felt that the colony had already strained its resources in providing an adequate water system, a public service much more in demand than a telephone system.

The phone system began operation in Fall 1904 with 12 subscribers. Each user furnished his own equipment and received free service. In practice, the upkeep of the system did prove costly. There was growing unhappiness among the lessees, an increasing proportion of whom were not members of the corporation and had no official vote in Colony matters. These people felt that the small group of telephone users were benefitting at the expense of a large number of rent payers who were paying unnecessarily high rents and receiving inadequate water, public school, and other facilities.

Problems reached crisis proportions in late 1904. These problems were so severe and so well publicized that throughout the country, single taxers began to talk about "the Fairhope controversy." The basic principle at issue was whether the single tax doctrine necessarily demanded that an attempt be made to collect the full annual use value of the land irrespective of the desires of the community for public services.

Paul and Blanche Alyea in their book *Fairhope 1894-1954* detail other areas involved in the controversy. There was the basic principle concerning the propriety of characterizing as "single tax" a plan that actually operated within the framework of state and local taxation, and that included structures and personal property in the tax base. Also in dispute was the degree of democracy in government or management of the Colony which would be necessary to square the experiment with Henry George's emphasis on the importance of freedom. In addition, a major controversy arose because the Fairhope group owned and managed the land through leases rather than through the issuance of deeds.

### *Rent Level Opinion Differences*

Like so many arguments of principle, the Fairhope controversy actually may have revolved about money. Generally when people say it's not the money, it's the principle, they mean that it is the money. Tenants com-

plained bitterly about rent increases running as much as two-thirds between the years 1903 and 1904. Their principle questions and objections included "why any raise at all?" And, if any raise, why such a large one? Also, was it desirable to increase rents if rental income could be used to refund the taxes paid by lessees on their improvements, stock of goods, and so on. At least one member did not object to the rent, but he simply objected to the way the money was spent. He thought it had been squandered.

Another member, who had served as a Colony officer, asserted that it was not part of the single tax to "rack rent." As he understood it, George had proposed that the landowner/holder would be left a small portion of rental value in order to cover the services rendered by him and also to prevent loss on the sale of his improvements in the event that increasing taxes made it necessary for him to move.

Colony officials, in defense of their rent policies, countered with statements that (1) rental values of Fairhope lands had not increased by two-thirds in 1903, they had simply been too low in the past and now it was necessary to catch up with the market; (2) the agricultural value of the land was irrelevant because they should be assessed not as farmlands, but for other purposes that currently are in demand; (3) rentals charged in Fairhope had caused county tax officials to raise assessed valuation.

Then the council went on to state that Fairhope rents afforded no proper basis for assessing taxes. The Council was also concerned that county tax officials might be discriminating against the colony. Apparently, the officers were persuasive. At the close of their meeting, the question of rent levels was put to a vote and only one person stood to object and stated that they were too high.

In November of 1904 the Executive Committee again made its annual rent appraisal and recommended further substantial increases in rent. The lessees immediately organized and requested a special meeting of the membership to hear complaints on the proposed rentals. At this time the tenants argued that rents on leasehold lands had become a real burden and that reasonable capitalization of proposed rentals would show values of Fairhope land equal to that of city and suburban properties in the North. The tenants also called for detailed financial statements and information on all transactions affecting the corporation.

#### *Rights of Lessees*

This background is important because the same scenario is being re-enacted at the present time. During the past year a group of tenants was successful in getting legislation passed by the Alabama State Legislature

which imposed binding arbitration on the single tax corporation and the tenants in matters of rental dispute.

In late April 1979, the Fairhope Single Tax Corporation was named the defendant in a suit filed by nine lessees in the United States District Court of the Southern District of Alabama. The suit charges that the plaintiffs were deprived of "their civil rights under color of State law." The suit charges that the application of the single tax economic theory "deprives the plaintiffs of their rights, privileges, and immunities secured to them by the Constitution of the United States."

The complaint goes on to state that "the defendant has adopted and applied a rental formula in such a manner as to discriminate against the plaintiffs." (Lessees have charged that the rental rates vary greatly within a small area and that they are significantly different for land that shares the same natural advantages.) "The defendant has adopted a rental policy and is charging plaintiffs rental rates that are confiscatory." Defendant actions toward the plaintiff have "violated their trust," and "the aforementioned lessee leases provided for arbitration rental disputes."

In an effort to redress the lessee's grievances, the State of Alabama enacted an arbitration statute Title 10-4-194 which applies to the defendant. The defendant has willfully refused to obey the provisions of Title 10-4-194 although the demand has been made upon it to do so. Single tax members have said they find Title 10-4-194 particularly offensive since it requires the corporation to recognize and deal with the lessee's association. They argue that the lease agreements were entered into with individuals.

However, the lessees feel that they need to be able to deal with the corporation jointly on matters of their common interest. They brought another suit to court. The suit asked the court: (1) "To declare that the rental charges would violate the plaintiff's property rights"; (2) "To require the defendant to adopt and apply a nondiscriminatory formula"; and (3) "To require and direct the defendant to obey Title 10-4-194."

#### *Class Action Suit*

There also is a class action suit against the single tax corporation which was filed in 1977. This suit deals with the corporation's use of rental monies collected in excess of taxes paid by the corporation. Apparently the corporation has had a continuing concern about the issue of rent levels. As early in 1914 the corporation lessees unanimously adopted a report submitted by W. A. Sommers recommending a system for determining rents. The Alyeas' book has a chapter on the Sommers system and quotes the Sommers report in its entirety.

*Sommers System*

Essentially, the Sommers system recognizes the need for a land value map and the importance of establishing benchmark parcels for value comparison. Sommers started with the most valuable inside lot as his 100 percent land. Then other lots were scaled in value based on Sommers' judgment of their relative value compared to the 100 percent lot. The same general procedure was followed in establishing rents for farmland. That is, the best and most valuable tract outside of the town line was marked "100" and from this every tract was marked proportionately.

In 1914 the gross rent for the Colony lands was established at \$6,500. This amount was prorated by the Sommers formula over the street units and acre units as indicated on his land maps. At the time, the Sommers system was well accepted by the lessees and there was relative harmony between the lessees and the single tax corporation. However, the system did not address itself in ensuing years to changes in relative value. This meant that the Colony's appraising officials had to address this point, and thus they were forced to make decisions on changes in the amount of rents annually assessed on Colony lands in terms of: (1) the algebraic sum of increases in some street unit values and decreases in other unit values, (2) changes in the level of general demand for colony land, and (3) the amount of Colony land actually under lease.

It would appear that until recently there have been very few changes in relative street values for the Colony lands. This would indicate that until the current round of rent increases (land user charges) rents may have been too low. However, the large amount of increase in the short time period is what most upsets the present tenants.

*Dissolution Attempts*

Colony officials are not strangers to litigation. In 1913 Alexander J. Melville established a group called "kickers" to attend a meeting. The purpose was to develop community sentiment to mount an appeal to the courts to dissolve the Fairhope Single Tax Corporation and define the right of the lessees. The Mobile Chancery Court found in favor of Melville and his adherents. The Single Tax Corporation brought an appeal in the Supreme Court of Alabama.

The ruling of the Mobile Chancery Court fully stirred the single taxers into action. Several members of a prominent Memphis law firm joined in filing a brief as friends of the court. Fiske Warren of Boston brought with him William H. Dunbar, a law partner of Lewis E. Brandeis. Dunbar acted as a consultant and also filed a brief. The Joseph Fels estate employed two attorneys to appear in both oral and written argument.

The force of so many high powered attorneys must have had some effect on the State Supreme Court of Alabama, because that body sustained the legality of the Fairhope Single Tax Corporation. The Court readily conceded "that any legislative attempt to apply or to enforce the 'single tax system' would be absolutely void under the constitution of Alabama." The Court also addressed the question of the single tax corporation dissolution because it "has failed and must fail of its purpose." The Court held that it could not be affirmed or denied that the stated purpose is impossible to attain.

### **Survival Expectations of the Colony**

Aside from the current problems with the lessee association, what are the survival prospects for the Single Tax Corporation? A clue may be found in the publication of the counsel proceedings of the Fairhope Single Tax Corporation's meeting of August 16, 1976.

Be it resolved by the Executive Council of the Fairhope Single Tax Corporation that Daphne V. Anderson as president and Ruth E. Rockwell as secretary be — and they are hereby — authorized and directed to exercise and deliver for and in the name of this Corporation (including those located under dedicated streets) to Amerada Hess Corporation comprising 4290.74 acres for a term of five years and for so long thereafter as oil, gas, and minerals are produced therefrom for a consideration of \$125 per acre for the first year and \$1 per year thereafter at the option of the lessee to defer drilling operation during the term of the lease with the reservation of a royalty of three/sixteenths of all oil and gas produced, one-tenth of all other minerals except on sulphur mined and marketed the royalty shall be \$2.50 per long ton and with the following provisions: (1) all rights above a depth of 1,500 feet beneath the surface of the earth shall be excepted, (2) no operation shall be commenced on any land without the express consent of the surface lessee or lessees of the corporation of the tract or tracts on which the lessee desires to commence operations, (3) no drilling operations will be conducted within the corporate limits without prior consent of the city of Fairhope, Alabama, (4) the lease will contain no warranty of title.

The terms of this lease would indicate a first year payment of \$536,342.50 to the Single Tax Corporation by Amerada Hess. This is more than twice the rents collected in 1977.

If our country's drive for self-sufficiency in petroleum products continues and Fairhope's lands yield significant oil, that income will so greatly overshadow surface land rents that the windfall riches may be a source of embarrassment to the 110 members of the Fairhope Single Tax Corporation. The lessees come back into the picture because they could place a high price on their consent for the drilling companies to begin

operations. The stage may be set for another round of disputes between the lessees and the Corporation but this time for the highest stakes ever. In fact, this may be the final round of "show down" in which all the chips are on the table.

#### *Alyea Opinion*

Paul and Blance Alyea concluded their book on Fairhope with an opinion on the survival value of the Fairhope Single Tax Corporation. They state that the corporation should not be judged entirely on its past accomplishments and failures or on its present importance to those directly affected — the members and lessees. In assessing the survival value of the Fairhope experiment, the Alyeas make the following observations:

- (1) "The urban community of Fairhope has outdistanced many small American cities, both in material achievements and in those intangible imponderable qualities which make a community worthwhile."
- (2) "Fairhope has neither unearthed any windfall — such as striking oil — nor has it benefitted directly from an industrial development in the immediate vicinity. The oil might come, but a major industrial development is unlikely."

#### **Conclusion**

The prophetic words were penned 25 years ago. For the moment, major industrial development has bypassed the eastern shores of Mobile Bay. However, successful oil drilling is a very real possibility in Fairhope and the surrounding area. Depending upon its timing and degree of success, Fairhope's single tax colony may be little more than an interesting historical footnote to a century of discussion about George and his land and tax theories. On the other hand, the valuable natural resources of the land controlled by the Fairhope Single Tax Corporation may ignite new popular support for general distribution of the income arising from exploitation of location and land's productiveness.

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