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Land Reclamation and Land Tenure in California

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ALTHOUGH it was gold which had drawn most people to California when Henry George lived here, California was then, and still is, a land of much sunshine and no rainfall during the summer months. California's valleys were then marked as deserts in all the geographies. No large reclamation projects had been attempted until some years after George left California.

In *Progress and Poverty,* Book V, Ch. II, George explained clearly why it was that wages were " so suddenly and so largely raised in California in 1849, when gold was discovered on free land." As soon as the best mineral lands were " enclosed," wages dropped severely, and the late arrivals began the much more difficult task of turning water into golden fruit and crops.

As in earlier regions, where civilization began in Assyria, Egypt, Persia, Greece, Rome, etc., the common need for artificial irrigation of land, made co-operative or community action necessary. The common need for water for land not irrigable by easy gravity diversion from the rivers, played an important part in the debates preceding the adoption of the 1879 California Constitution. George lived in Sacramento, the capital of California, and although not a delegate to the Constitutional Convention, some of his friends were, and his influence was not inconsiderable.

The four printed volumes of the debates at this Constitutional Convention are filled with arguments and discussion about the evils and dangers of land speculation, and the necessity for provisions to control it. Reading them to-day, it is clear that George was justified in the disappointment he expressed, when certain safeguards were defeated. But the final draft which was adopted, and which still governs, requires all State and local assessors to show separately the value of land, and the value of improvements, for purposes of State and local direct *ad valorem* taxation.

The following is also still in the Constitution (*Art. XVII, sec.* 2): "The holding of large tracts of land, uncultivated and unimproved by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property."

By 1887 California's population had grown so that virtually all the easily irrigated land bordering the rivers and streams had been improved. The Legislature enacted the first statute allowing the holders of land in one water shed, or susceptible of irrigation from a common source, to form an Irrigation District, with power to borrow money to finance the cost of the necessary public works, and to exercise the sovereign power of the State to tax landed property. Little was done under this law, until certain amendments were made to it in 1897.

The law originally allowed the Irrigation District to tax or rate not only the land values, but also buildings, planted orchards, etc. It was soon apparent that taxing buildings and improvements imposed a penalty on the industrious. The law was amended in 1909 to allow the electors in any district to vote in favour of raising all the district revenues by way of an annual direct *ad valorem* assessment or rate on privately held land, irrespective of "trees, vines, alfalfa and all growing crops and all buildings and structures of whatever class or description erected or being erected upon said lands or city or town lots."

It was not long before elections were held in all the districts, and the people voted to exempt improvements from rating, without exception, so that in 1917 the Legislature made such exemption of improvements mandatory. (*St.* 1917, *p.* 764.)

During the ten years, 1917 to 1927, all important irrigation works in California were accomplished under and with the help of this epochal 1917 statute. Over one hundred Irrigation Districts were organized, which contain over four million acres of what is to-day the most desirable and most intensively cultivated

land in California, and the benefits direct and indirect of this venerable legislation have been very great.

As an illustration, the land within the Modesto and Turlock Irrigation Districts was in very few hands in 1897. The annual assessments on land value which the law required those districts to collect each year, to cover their necessary expenses, soon made it disadvantageous for absentees to try and keep land idle and waste. The feudal interests appealed to the courts, time and again, objecting in one case that the Irrigation District law was "Communism and confiscation under guise of law." That was in the 1890s, but the Supreme Court of the U.S. ruled unequivocally that this law infringed no right protected by the Constitution. (164 *U.S.* 112.) This decision had the effect of compelling the holders of large tracts to seek settlers, able and willing to use appropriately and improve the land, and to allow settlers to acquire possession of the land, on terms they could afford to pay. Not that all the big land holders accepted the Court decision as final, as many of them continued to attack it countless times in both the California and United States Courts.

There is perhaps no other State law that has been as frequently and implacably attacked in the Courts as this law, which applied the principle advocated by Henry George for raising the necessary revenues of the Districts. But the proof of the pudding is that the average holding in the Modesto and Turlock Irrigation Districts, which contain about 250,000 acres, is about 30 acres to-day, and the transformation from big to small holdings was accomplished without regimentation, or arbitrary action by any public official, but by the application of the principle urged by Henry George, which made it disadvantageous to hold land not put to its best use.

Not that the operation of this law left no opportunity for speculation in land title deeds within many of the Irrigation Districts. Banks and mortgage lending interests were, whether wittingly or not, helping along the land speculators, by loaning farm and home seekers money to buy the land title deeds, and accepting as their security a mortgage on the land, which had also been made subject to taxation; and the law made the lien upon the land for unpaid irrigation district taxes the first lien ranking ahead of all mortgages or other private interests in the land. In fact the law provides that when this tax is not paid, title to the land escheats to the District, "Free from all encumbrances," and this penalty has been sustained by our highest Courts. (131 *Fed.* (2) 513; 13 *Cal.* (2) 191.) The District is then authorized to administer the land as a beneficient landlord, by way of sale or lease, and collect the rents, issues and profits which people are able and willing to pay for its tenure, and use the rent to meet the operation and other lawful expenses of the community.

This law hit land speculators and mortgage lending interests hard, in the 1929 slump and after. About half of all the rural mortgage loans in California were on land within these Irrigation Districts. Suits were filed, but the Courts protected the law, and the problem of the mortgage interests became a life or death matter for some of them.

A brief review of their moves and manœuvres during the next few years was published in the April, 1943, issue of the *American Journal of Economics and Sociology,* entitled "The California Irrigation Districts Case." Although the U.S. Supreme Court first held squarely that intervention by the Federal Government would be repugnant to the constitution (298 *U.S.* 513; 300 *U.S.* 352, 366-369), that Court allowed Federal intervention, when the feudal interests tried again. (304 *U.S.* 27.) With the obligation to pay taxes, thus lifted, under a simple federal statute (11 *U.S. C.A.* 401-403) the speculators have since swarmed into the districts, and California is to-day caught in the grip of a land boom, greater than ever before.

The phenomenal population growth of California, especially since 1935, created demands for water, both in country and many cities, far greater than the available dependable supplies. But the feudal and mortgage-owning forces set faces of flint against the California Irrigation District Act, as amended in 1917, and discouraged its use in every way they could. In recent years, the Federal Government has undertaken to construct and operate a vast land reclamation project, known as the Central Valley Project of California, which will cost around $2,000,000,000 to complete, at present cost levels. The land benefited by this huge and expensive public improvement, cannot be taxed by Congress to pay any part of the cost, because the U.S. Constitution does not allow the Federal Government to tax the value of land to pay the cost of a Federal public improvement.

California law allows Irrigation Districts to contract with the U.S., but although this great Federal Reclamation project is far along, only a very few Irrigation Districts have contracted to help the U.S. to recover its investment. One hurdle is and has been the provision in the Federal Reclamation Act of 1902, which prohibits the use of water from a Federal project on more than 160 acres, in one ownership. This wise provision in the U.S. law has been attacked many times before, but has been kept in the Federal Act by both Democratic and Republican Congresses. It was placed in the Act, upon the advice of President Theodore Roosevelt, Gov. Gifford Pinchot, and other early conservation leaders, to protect the smallholders against monopolization of the water by the strong.

The historical background of this 1902 Federal law is interestingly given in Part III of a booklet, "Landownership Survey on Federal Reclamation Projects" (1948), issued by the U.S. Department of the Interior, published by U.S. Government Printing Office, Washington, D.C. This publication reviews many of the laws aimed to prevent monopolization of land in the U.S.A., and contains a good, brief résumé of land reform in Denmark. It also contains quotations by several Popes, Thomas Jefferson, Horace Greely, and other well-respected political leaders denouncing monopolization of land, within its 100 pages. One such exhibit is as follows: "How far, O rich, do you extend your senseless avarice? Do you intend to be the sole inhabitants of the Earth? Why do you drive out the fellow sharers of nature and claim it all for yourselves? The Earth was made for all, rich and poor, in common. Why do you claim it as your exclusive right?"—*St. Ambrose* (*A.D.* 340-397.)

The Central Valley Project of California is comparable in several respects with the vast "Bonifica Integrale" launched by Mussolini about 1928. It is now crystal-clear that the main effect of this vast public outlay was to make the poor, poorer, and leave millions "displaced." This result was predicted by Prof. Schmidt, of Columbia University, in a cogent article, "Land Reclamation in Fascist Italy," published in the *Political Science Quarterly,* September, 1937, issue. He explained that the land holders, as such, were going to pay little, if any, of the cost, by way of a tax or rate on the land, made valuable by the public improvements.

Knowing, as we dc, that like causes create like results, it will require study and hard work by economic and political leaders, to title to the land escheats to the District, "Free from all encumbrances," and this penalty has been sustained by our highest Courts. (131 *Fed.* (2) 513; 13 *Cal.* (2) 191.) The District is then authorized to administer the land as a beneficient landlord, by way of sale or lease, and collect the rents, issues and profits which people are able and willing to pay for its tenure, and use the rent to meet the operation and other lawful expenses of the community.

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Knowing, as we do, that like causes create like results, it will require study and hard work by economic and political leaders, to prevent the great Central Valley of California becoming another Italy. If it is prevented, it will be because much more vigorous use is made of the principles in the venerable California Irrigation District Act of 1897, as amended in 1917, and now codified as *Stats.* 1943, *Ch.* 368, *Div.* 10, 11 (California Water Code), than the feudal interests have permitted since 1930.

The same fundamental, economic and political principles can also be applied for the proposed Jordan Valley Authority in Palestine, the Yangzte in China, and in all the other Land Reclamation undertakings in every state or nation. Hon. Harold L. Ickes, former Secretary of the Interior, well expressed the problem when he wrote: "It is the age-old problem of who is to collect the unearned increment in land values created by a public improvement."

The same principle of resting taxation on the value of land, irrespective of improvements, has been embodied in many other California statutes, which have enabled local communities to borrow money needed to pay the costs of roads, sewers, tunnels, drainage and levee systems, but these statutes have been used very, very little since 1935, when the Legislature adopted State sales taxes, and countless other taxes which increase living costs and hamper production and distribution. Much of the revenue so received by the State is now "given" to local bodies, which are thus enabled to rate land values much more lightly than they would otherwise have to do. Also, since 1935 all the States have succeeded in pressuring Congress to hand out money collected by the Federal Treasury as taxes, no part of which is raised as a direct tax on land values. This, too, has had the economic force and effect of shifting taxation from the landed to the landless, until our economic structure has been pushed so far off balance that further inflation seems inescapable.

Recent rulings by the Supreme Courts of California and of the United States contain a glimmer of hope. In Shelley *v.* Kraemer, 334 *U.S.* 1, the Court construed the force and effect of the 14th Amendment to the U.S. Constitution, for the first time, in respect of land tenure. In Oyama *v.* Cal., 332 *U.S.* 633, only a few weeks before, the same Court issued FIVE opinions, all different, construing this same Constitutional provision, and by a 5-to-4 vote the Judges allowed the land law to stand, although it unquestionably infringed the U.S. Constitution, as interpreted a few weeks later, unanimously, in the Shelley (334 *U.S.* 1) decision. Oregon had a similar Alien Land Law as California still has. The Oregon Supreme Court on March 29, 1949, disallowed the Oregon law *in toto*, on the ground that it infringed the equal right of all persons to land, secured by the 14th Amendment to the U.S. Constitution. How unfortunate Henry George did not live to see these historic Court decisions, which affirm that the equal and inalienable rights of man which he so steadfastly tried to defend, were intended to be protected by the U.S. Constitution, ever since 1868!

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