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# Tax Delinquency in the United States

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It is commonly assumed that taxes on real property, once lawfully levied and made a lien against the property by law, cannot be evaded or avoided by land holders. The purpose of this paper is to report some evidence that merits serious and sober study by every citizen.

In 1930 I first sought to interest the authorities at Washington, and in several States, in the alarmingly growing amount of real estate in every State, which the holders had allowed to go tax delinquent. In Florida it amounted to over 50 per cent of all the land. I then urged that the Federal Government should make ready to consider buying such of the land as the States were able and willing to convey clear title to, for not more than the unpaid taxes, and that such land should be made into forests, game refuges, playgrounds, etc.

Rexford Tugwell thought enough of the suggestion to submit it to a group, which according to the newspapers, included Secretary Wallace, Sen. Jos. T. Robinson and several others. The item in the Washington papers said that those present denounced the suggestion as "communistic."

The New Dealers must therefore have concluded that a land holder who fails, neglects or refuses to pay the taxes due on his land, and lets the taxes stay delinquent longer than the period allowed by State law for redemption is a fine American citizen, while any one who questions his legal or moral right to retain possession of land on which he has paid no taxes for many years, is a Communist. Also we might fairly deduce from this that those New Dealers had not seriously considered the case of the tax-paying land holder, and the increased tax rate he was legally liable for, and has since had to pay for every piece of land in his community which contributed nothing in support of Government.

In 1933 President Roosevelt vigorously urged that the Government "Remove marginal land," but he has never, even yet, suggested a formula for selecting the land to be removed and getting the title to it.

Instead of attacking the problem by inviting the States to submit offers of sizable tracts of tax-reverted land, as I persistently urged, those

in charge of the job at Washington employed " soil experts " to honeycomb the nation, like bloodhounds, searching for the " marginal lands," and without any clear instructions as to what constituted a " marginal " body of land. But, even worse, without any definite policy for getting title to the land. These experts spent a vast amount of time and money " negotiating " with mortgage-holding interests, and individuals, and the President's marginal land removal experiment is indeed one of the saddest examples of mess and muddle in our history. It is now among the forgotten adventures.

### SAVING THE LAND OWNER AT THE COST OF THE BONDHOLDER

Failure to come to grips with the question of tax-delinquent land soon found Congress enacting an amendment to the National Bankruptcy Act (Sec. 78 to 80) in 1934.

This legislation, which was promoted by the big land and mortgage-holding interests, and was viewed with favour by the private utility interests, sought for the first time in our history to subject the taxing and borrowing power of the States to the Bankruptcy Clause in the Federal Constitution. In brief, it meant that whenever holders of land in a county, city or local government of any kind failed, refused or neglected to pay the taxes that had been lawfully levied, it would be possible for that community to file a petition in Federal Court for bankruptcy, and if the bondholders were unwilling to go to the expense of employing costly legal counsel and fighting the scheme, their bonds would be scaled down to any extent the group promoting the petition might think they could get away with.

The investors in many millions of dollars of county, city, school and other district bonds threw up the sponge, when this law was passed, and accepted new bonds at lower interest, and in some instances surrendered their bonds as low as 15 cents on the dollar, while no mortgages or private debts against the same land were brought into or made a part of the bankruptcy proceedings. Thus, in many communities, mortgage holders and absentee landlords were " saved," while the investors in public bonds, which had always before been payable from unlimited ad-valorem taxes, were put through the " wringer." A few investors, however were not bluffed, and took their case to the U.S. Supreme Court, which court ruled in Ashton *v.* Cameron County, 298 U.S. 513, that Congress had no power under the Constitution to subject such bonds to the bankruptcy clause, with or without consent of a State.

But, refusing to be bound by the Supreme Court's decision, the same interests immediately got busy and quietly worked to get Congress to pass Sec. 81 to 83 of the Bankruptcy Act. Although Sec. 80, which required the consent of the State was held unconstitutional, and Sec. 81 is silent on the question of State consent, and requires no consent by any State, the new Supreme Court said the new Act is constitutional, if the State gives its consent. This was said in U.S. *v.* Bekins, 304 U.S. 27.

MUNICIPAL BANKRUPTCY PREFERRED TO TAX ENFORCEMENT

Hence, as the decisions of the United States Supreme Court now stand, Congress has the power to destroy public bonds under the bankruptcy clause, although the same court has always ruled Congress is without any power to even tax the income individuals receive from them. Both the bankruptcy and the taxing clauses in our Constitution are in equally general language. Hence, the court has, in effect, ruled that the taxing power of our Government is inferior in dignity and importance to the bankruptcy power. Always before the rulings have been that the taxing power is the paramount power, but seemingly that must give, when it jeopardizes titles to land.

Every person, seriously interested in this question is urged to read the two Supreme Court decisions, cited above. Then there will be no doubt in his mind as to what would almost surely happen if the taxes on land values in any community were ever made higher than the land owners " chose " to try and pay. They would quickly resort to Sec. 81 of the Bankruptcy Act.

Instead of encouraging the States and local governments to compel the payment of taxes due from land holders, the Congress has allowed the States to get some $26,000,000,000 in grants, gifts and loans since 1932. This has made it easier for the States to pass tax-sale moratorium laws, which effectively protect any and all tax-evading land holders. This, despite the fact that our tax laws now expect the holders of real estate to contribute only 8 per cent of the cost of State and local government compared with 25 per cent less than 25 years ago.

EXTENT AND EFFECTS OF TAX DELINQUENCY

In California, for example, our Legislature has granted moratoriums to tax-delinquent land holders continuously since 1932, and it is still impossible to get good title to any tax-defaulted land, and this will continue until 1940, when the moratorium will likely be again extended.

It is obvious that as long as the States are able to get free handouts from the Federal Treasury, they are not going to be as punctilious about seeing that land holders pay their taxes, and the trend continues in many other States.

The Governor of Florida recently testified in Washington that more than half of all the land in Florida had paid no tax whatever in more than 10 years. It is significant that a very great many communities in Florida have petitioned for " relief " under the Municipal Bankruptcy Acts.

Of course, when land holders know that nothing will happen if they don't pay their taxes, their community will be unable to meet its bonds as they fall due. But when it comes to a showdown between preserving and upholding the taxing power and the borrowing power of the States and Local Governments, or " saving " the big land holders, Congress

has decided in Sec. 80 and 81 of the National Bankruptcy Act that land and private mortgage interests come first. Truly, the tax PAYER has been and is the " forgotten man."

The California Planning Board, Public Works Building, Sacramento, issued a fine report on " Tax-delinquent land in California, a copy of which is well worth sending for. It refers to such land as " An invisible empire," which is accumulating rapidly, and as a genuine menace, which is now of major fiscal importance. It shows that many thousand parcels have contributed nothing to the cost of government in more than 25 years, some as long as over 50 years, and yet the State has never foreclosed and taken final deed to any of it.

The slump has left a vast new frontier on the doorstep of the States and Local Governments for unpaid taxes. The National Resources Board concedes in their reports that this is a fact, but beyond talking about it, no one at Washington seems willing to suggest a positive formula for attacking the problem. Ignored, it could easily grow and have much the same effect on democracy as a bad apple in a box of good apples.

Arkansas is the first State to even try and come to grips with this problem. After two years study by a Farm Tenancy Committee, the Governor recommended and the Legislature enacted a law, which goes into effect in June, 1939. This law will permit the State to sell or rent tax-deeded land to selected farm families, now share-croppers or tenants, and is being hailed in Arkansas as the Second Emancipation. It is a little encouraging to know that the Governor, in at least one State, has supported legislation aimed to help landless and homeless farm families enjoy easier access to a piece of tillable land, on which they may have a fighting chance. Then, again, it might be an indication that the big land and mortgage owning interests did not have the influence in Arkansas that they appear to enjoy in California, Florida and some other States and Washington.

## CALIFORNIA IRRIGATION DISTRICTS

By way of contrast to this tale of tax delinquency—the most important and extensively employed " Single Tax " law in the United States of which I have any knowledge, is the California Irrigation District Act. It has been law for more than 50 years, and has stood up under every attack against it, by the big land and mortgage-holding interests. It has been under fire in the State and Federal Courts almost continuously for many years, and has been sustained by the United States Supreme Court on several occasions.

The big land holders have always bitterly opposed it, because they knew that if any of their land was ever gotten into one of the districts they would simply have to get busy and improve or sell it. This is because these districts tax the value of land, and do not tax any improvements. Unlike the bonds of many drainage, levee and other districts,

the bonds voted and sold by the California Irrigation Districts constitute general obligations, payable from unlimited ad-valorem taxes on all the taxable real property within the boundaries of the district. These are, in no sense, an assessment for benefits, and the courts have ruled squarely that the taxes levied may exceed any benefit, and are not dependent on benefits any more than a tax levied by a State, County or City.

Recently the California Supreme Court in 96 Cal. Decisions 497 to 512, ruled that land foreclosed by an Irrigation District, for non-payment of taxes due it, is " Land owned by the State," which the district is required to sell or to rent and collect the full economic rent for the support of the district. The tax-sale moratorium has not and does not stop our Irrigation Districts from foreclosing for delinquent taxes due them. The Court also ruled that the districts are " Agencies of the State," and constitute " Public Trusts," none of whose property is subject to execution by any creditor, and that any practice which seeks to remove the land from the liability to pay taxes to meet debts of the district is contrary to the law. Also that no property owned or held by these districts is subject to tax by the State, County or any other tax unit as long as it is held by the Irrigation District (97 Cal. Dec. 348). Also that wheat in warehouse, which a farmer had delivered to an Irrigation District as rent for the use of land owned by the District, is not subject to taxation as personal property by any tax authority, because it is the property of an Irrigation District, which is a State Agency.

Seeing that there are about four million acres of the finest land in California within these Irrigation Districts to-day, and that some of them are now discovering that they can collect much more from tenants as rent, than they were before able to collect from big land holders as taxes, we may soon see the beginning of many " Enclaves " in California, unique, in that they are beyond the power of the State to tax at all.

It is no exaggeration to report that the battle to prevent the big absentee land and mortgage holders getting away with countless changes they have tried to get made to this law, in recent years especially, has been as real a war, in every way except bullets, as that in Spain.

I have gone into such detail about this, primarily to serve as an object lesson to Georgeists, as to what they may surely expect if they should get any other State to enact Land Value Taxation or allow any of its agencies or political subdivisions to operate under such a law. You can levy taxes but COLLECTING them from unwilling land holders is a detail that too few Georgeists seem to be thinking seriously about.