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The Land Commission's Betterment Levy

by
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A wonderful and horrible thing is committed in the land; the prophets prophesy falsely, and the priests bear rule by their means; and my people love to have it so; and what will ye do in the end thereof?

Jeremiah 5: 30-31.

THE Land Commission Act, 1967, is a great measure of land reform according to Mr. S. C. Silkin, Q.C., Member of Parliament for Dulwich.¹ And the Prime Minister, Mr. Harold Wilson, told the Labour Party Conference at Scarborough last year that the Land Commission had made the land racket an almost forgotten controversy².

Professional support for these wonderful and horrible utterances comes in a memorandum submitted to the Minister of Housing and Local Government by the Chartered Land Societies Committee on behalf of the Royal Institution of Chartered Surveyors, the Chartered Land Agents' Society and the Chartered Auctioneers' and Estate Agents' Institute. The conclusion is reached that since the Land Commission Act became law, betterment³ is taxed at so many

different points and in so many different ways that there is no further scope for taking fiscal measures against it⁴.

Indeed, the man-in-the-street who glances at the White Paper of 22 September 1965⁵, might be tempted to jump to the conclusion that everything possible is being done when he reads that the two main objectives of the Government's land policy are:—

“(1) to secure that the right land is available at the right time for the implementation of national, regional and local plans;

“(2) to secure that a substantial part of the development value created by the community returns to the community and that the burden of the cost of land for essential purposes is reduced.”

In order to bring about these objectives the Act gives the Land Commission wide powers of acquisition, management and disposal of land (Part II of the Act), whilst the Betterment Levy provisions (Part III of the Act) provide that a levy will be charged where “development value,” or part of the development value of land is realised after the first appointed day (6 April 1967).

In connection with the powers of acquisition of the Land Commission, the concern has been expressed that, under different management, these powers might be used to bring about “back door” nationalisation of land. Certainly the activities to date of the Commission in this connection have been fairly modest and restricted to a few purchases, principally amalgamating small sites (where sometimes the owners could not be traced) and by such assembly making viable sites available to private enterprise builders.

The Land Commission Act provides also for a “second appointed day,” not yet named, when the Commission's powers of compulsory purchase will be considerably extended.

The two “appointed days” have been referred to in professional circles as FAD and SAD, and there seems to be sufficient evidence to suggest that the first appointed day was indeed sad enough in its disruptive and, subsequently, inhibiting effect on a land market already considerably constricted and confined. Bearing in mind that a levy of 40 per cent. was to be charged on the net development value deemed to have been realised upon the disposal of land or in the event of its material development on or after 6 April, 1967, the resulting hasty digging of thousands of trenches⁶ (to establish that development had been commenced) and the state of frenzy⁷ in the

sales of land for development immediately prior to the first appointed day bear witness to the waste resulting from bad law. A sublime level of absurdity was reached.

“Six labourers, using a mechanical shovel, dug the neat hole, twenty feet long and five feet deep. Then at the bottom of the hole they laid a stretch of road. But it was what happened next that startled the spectators. The labourers covered the road with paper—and filled in the hole. Yesterday, the men were re-levelling the ground over the buried road in a car park at Church Street, Luton, Beds., so that the cars could be parked again . . . A spokesman said: “The road is at the right level. It will be used one day as part of the development.” (*Daily Mirror*, 13 April 1967).

The *Sunday Mirror* on 9 April 1967, had reported: “The Great Hole-Digging Race has ended at last. Over Britain, labourers and mechanical diggers have been working flat out for the past few weeks. By spending less than £50 a hole, the builders have in many cases saved hundreds of pounds in levy . . . Builders have had photographs taken of the holes and got affidavits sworn with solicitors to show that they were dug before the deadline.”

All this appears to have been followed by a period of stagnation. After a few months, however, the land market seemed to recover, but reports from all over the country indicated that there was a marked shortage of land suitable for development, and such land as came onto the market was in many cases sold at record prices in areas of great pressure for land, but this did not apply in other areas. Certainly there was a drying up of the supply of land on the market, partly due, no doubt, to the excesses indulged in prior to 6 April 1967, and partly as a result of owners holding off and hoping for a change in the law. The Conservatives have promised to abolish the Land Commission, although how completely they would eliminate the betterment levy is not clear.

What is clear, however, is that quite apart from any party political considerations, the betterment levy is a thoroughly bad impost that acts as a penalty on the change of use of land and as a fine on development. It is the levy that is the object of attention in this paper, and it is to be hoped that observers from abroad whose attention has been drawn to the Land Commission will pay particular heed

to the betterment levy provisions, and, as has so aptly been suggested by a serious wag, will regard them as a warning rather than as an example.

From as far away as Japan hopeful eyes have been cast towards these shores. In Tokyo the price of land was stated to be fifteen times higher than it was ten years ago according to a staff writer on one of Japan's leading daily newspapers *Yomiuri Shimbun*. The *Estates Gazette* of 4 November 1967 reported that this writer, Mr. Fujii, was in the course of a visit to the headquarters of the Land Commission at Newcastle-upon-Tyne to learn about the Commission's work. He said that Japan faced serious overcrowding, and land was in short supply. This was why his country was so interested in the Land Commission.

It is to be hoped that the Japanese will not be so foolish as to burden themselves with a similar betterment levy, thereby aggravating the situation as has been done in Britain (Northern Ireland has been spared).

To understand fully how this levy applies in all its ramifications one needs to be little short of a genius. Briefly, however, the law provides that the levy shall fall on net development value realised in any of the six cases A to F, as shown on facing page⁸:

Very broadly, to arrive at net development value one must deduct from market value a Base Value which is either 11/10ths of the value of the land were planning permission denied, or the price at which it was previously purchased, provided that the previous purchase took place between 1 July 1948 and 22 September 1965, or on or after 6 April 1967. Various expenses may also be taken into account.

The essential difference between the betterment levy and a straight-forward tax on land values is that the levy applies as a capital payment, and applies only as and when land is materially developed or disposed of for material development, whereas, of course, a land-value tax is a regular annual tax levied on all land valued at optimum permitted use, but irrespective of the use actually being made.

To greatly oversimplify; suppose that a plot of land with a market value of £3,000 is sold or developed, and that 11/10ths of its value if it had been denied permission for material development would be £300, which also happens to be the price at which it was previously

<i>Case</i>	<i>Description of Case</i>	<i>Relevant Sections</i>
A	The sale of a freehold or of a tenancy on or after the first appointed day (<i>i.e.</i> , 6 April 1967)	27(2) & 29
B	The creation of a tenancy on or after 6 April 1967.	27(2) & 30
C	The commencement of a project of material development begun on or after 6 April 1967	27(2), 31 & 32
D	The receipt, on or after 6 April 1967, of compensation for revocation or modification of a planning permission or the discontinuance or interference with authorised development by an Order made under the Town and Country Planning Act 1962.	(27(2) & 33
E	The grant of an easement or the release of an easement or restrictive right on or after 6 April 1967.	27(2) & 34
F	Occurrences which, while basically similar to chargeable acts or events falling within Cases A to E differ sufficiently in detail to require some adaptation of the main provisions in order to meet their special circumstances.	27(2) & 35 also SI.1967 No. 496

purchased during the permitted dates. The calculation of levy would be as follows:

Market Value	£3000
less Base Value	300
	—
Net Development Value	£2700
	—
Betterment Levy at 40 per cent.	£1080

In contrast, under full land-value taxation the annual tax would be of the order of £150 (£3,000 x 5 per cent.), which would not only throw less of a capital burden on the developer just when his expenses were at a maximum, but would also have the effect of loosening up the land market—the exactly opposite effect that the betterment levy has been seen to have.

This, perhaps, is the most important point to be got across at the present time to all who take an interest in public questions—that the betterment levy provisions are the antithesis of land-value taxation. Unfortunately we know from past experience of similarly abortive legislation⁹ that many good people who grasp the essential ethic of land-value taxation without mastering the details of its application fail to discern the difference between one sort of “land tax” and another—an outlook as fraught with economic perils as would be the maritime perils to which a ship was exposed that had a helmsman to whom one point of the compass was as good as any other!

We have to get back on course. The fact that the earth itself is not the result of any human effort is our starting point. This is the rock upon which the whole ethic is built. But although the earth is not man made, none of the transient products of human endeavour could be produced without access to some part of it. These products can only come into being as a result of exertion, a giving up of some part of one’s life, and to deny that these products are proper to their makers and rightly subject to private property is to rob a man of part of his life. But we cannot conceive that it is proper for any part of the human family to be able to exclude their fellows from the earth or to charge them part of their life for permission to use it.

The improvements on it or even in it may be private property, but the earth itself belongs to a vast family, of whom many are dead, a few living, and countless numbers are yet unborn¹⁰.

To preserve that harmony of exclusive private *possession* of land that yet recognises that we are all tenants for a brief day on what is *common* to all and the absolute *property* of none, presents no insuperable problem. For the economic phenomenon of land rent arising and varying from place to place according to the presence and activities of the people of a community leads logically to the simple and eminently practicable conclusion that the economic rent of land should be collected as the rightful first source of public revenue before any tax is placed upon labour or capital. But the ground has already been so well covered by so many . . .

A wonderful and horrible thing indeed is committed by our legislators in having saddled England, Scotland and Wales with the complexities of the betterment levy, and we may not rest until we have seen the end thereof.

REFERENCES—

- ¹. *South East London Mercury*, 7 March, 1968.
- ². *The Times*, 5 October 1967.
- ³. *i.e.* increases in land value resulting from public expenditure, etc.
- ⁴. *Estates Gazette*, 2 December 1967.
- ⁵. *The Land Commission* (Cmnd 2771) HMSO 1s. 6d.
- ⁶. *Contract Journal*, 28 December 1967.
- ⁷. Annual review by Henry Marley and Sons Ltd., Crewe, in the *Estates Gazette* 13 January 1968.
- ⁸. From Section 27 of the Land Commission Act 1967 (HMSO, 14s. 6d.) and pp. 22-23 of Desmond Heap's excellent work *Introducing the Land Commission Act* (Sweet and Maxwell, 25s.).
- ⁹. *e.g.* the Development Charge of the Town and Country Planning Act, 1947.
- ¹⁰. p. 104, *My Africa* by Mbonu Ojike, Blandford, 1955.