

THE PROPOSED RE-VALUATION OF LAND IN IRELAND. A SURVEY OF ITS MEANING, SCOPE, AND EFFECT.

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THE clauses in the Finance Bill which provide for the general revaluation of all land in the United Kingdom should have for us in Ireland a special interest, which I fear has been absorbed or has disappeared in the discussion of other features of the Budget. On the general subject of valuation of land, there has been some desultory debate, chiefly dealing with the estimated cost of the process; but upon its special reference to Ireland, and the history, condition, and distribution of Irish land, there has hardly been a word of explanation or criticism. The Bill itself is evidence of this. Out of the 42 clauses, (occupying 41 pages of print), of Part I. of the Bill, there is not a line (except in regard to the method of appointing Referees) which differentiates Ireland from England in the matter of land taxes and valuation. Middlesex is for this purpose the same as Connemara, and the owner of houses or land in or near decaying Irish towns is subject to the same code of taxation as the ground landlord of Belgravia. It will be the purpose of this paper to comment, (as far as necessarily brief limits will allow) on the extent and nature of the process of valuation, the machinery proposed, its cost, and result, and to include some remarks on its probable accuracy, uniformity, and general expediency. If I refer to the special taxes or other features of the Budget, it will be only so far as they bear on the question of valuation.

Nature of Proposed Valuation.

Section 26 of the Bill provides that the Commissioners shall, as soon as may be, cause a valuation to be made of all land in the United Kingdom, showing separately *total* value, *site* value, and *agricultural* value, as on the 30th April, 1909. Every piece of land under separate occupation is to be separately valued, and, if the owner so requires, any part of any land (in different portions of the same holding), is to be also separately valued.

It must not be supposed that the above three named are the only values to be ascertained. Section 25 defines also *gross* value, *full site* value, *total* value (not the same as *gross*, be it remarked), and *assessable site* value, and there are

also a number of deductions to be valued. The matter does not end there. We go back again to Section 2, defining another sort of value, namely, increment duty value, being the difference generally between the *original site* value on the date named, and on the day when the duty is payable;—but even this *site value* is subject for *four* separate interpretations, according as the land passes by transfer, by a lease, on death, or is held by a body corporate or incorporate.

It is to be noticed that this general valuation covers *all* land, including, of course, every house and site in the United Kingdom, and covers all land exempted from taxation, *i.e.*, land below a certain value, land in hands of local bodies, companies, charitable institutions, etc.

The Bill does not specifically provide for a fixed periodic revaluation of all land—except undeveloped land, which has to be revalued every fifth year. The definition of undeveloped land (Section 16) clearly shows that all land used for agriculture in the widest sense of the term, and however intensively, *e.g.*, market gardens and allotments, is to be deemed “undeveloped,” and has to be periodically valued every five years. All other land, though free from this quinquennial valuation, has to be valued in the same manner periodically, though at uncertain periods. Increment duty is payable—on transfer, on death, on the granting of a lease, and on the falling in of a reversion; and in every one of these cases there must be fresh valuation to ascertain the incidence and amount of duty. For the purpose of succession and estate duties “total value” must be ascertained, so that on the whole, not only is there to be a general valuation, but it will be perpetually revised, in some cases at uncertain periods,—in the case of agricultural land at fixed, as well as uncertain periods.

But the important question remains as to what is the specific value to be ascertained; what is the meaning of the word “value;” a term of infinite pregnancy, that has given rise to volumes of discussion in the literature of economics.

It is remarkable that “value” in itself is nowhere defined in the Bill. We can get at the mind of the legislature, inferentially, by noting that in the definition of *gross* value and *site* value (Section 25), value is taken as the amount which the land would fetch in the open market by a willing seller. If it is *gross* value, land is to be taken in its then condition; for *site* value it is to be assumed as “divested of any buildings or other structures on, in, or underneath the surface,” and of “all growing timber fruit trees . . . and other things growing thereon.” Site value is therefore a purely artificial thing, *i.e.*, the market value of a thing which does not exist, which is not even imagined to exist except

in parts of our great cities, and for which, in fact, (speaking generally), there is no market. Assessable site value is still more hypothetical—for to get at it you must deduct from full site value other hypothetical elements, for example, the cost of “divesting the land of buildings, trees, and other things.” There are many other complications into which it is unnecessary to enter. Speaking for myself, I can only say that the more I study these clauses the more difficulties and ambiguities I see, and the greater I perceive the practical impossibility of applying to the 20,000,000 acres of Irish land, principles or definitions which I thought might have some clear meaning in the City of London, or in the minds of City valuers, until I observed that even these gentlemen differ widely in their interpretation, and agree seemingly only in this—that they will open a vista of litigation, and will not effect the purpose intended, of promoting building operations.

There is another ambiguity which goes to the root of the matter, and will tend to make any valuation of either total or site value absolutely wanting in uniformity.

The test is market value; but “market” presupposes sellers and buyers, and one of the elements of value is the purpose or purposes which buyers have in their mind for the use of the land or site. No sort of indication or direction is given in the Bill as to how the valuer is to ascertain and compare the uses or purposes to which land may be put, nor how he is to estimate the particular merits of various forms of use, and the likelihood that anyone will be found to adopt them.

Take the case of so-called “undeveloped land.” It is “undeveloped” if used for agriculture, but developed if buildings are erected, and those buildings are used for *any* business, trade, or industry. There may be a hundred forms of business, trade, or industry, and as site value depends on which of these forms would be possible, or remunerative, it appears to me that the amount put down as site value will depend on the uncontrolled imagination, or, in plain English, on the whim of the valuer. To exercise any sort of reasonable judgment, the valuer must be a man familiar with local conditions, yet not be a man with only local experience; he must have experience in all trades and businesses; he must have a knowledge of the building trade, of agriculture in all its forms, of the value of soils, stock, and mixed farming, and he must look into the future and forecast the course of politics, and the application of science to practical trade and manufactures.

If these qualifications are not universal amongst the valuing staff there will not be uniformity of valuation, and want of uniformity in the basis of Imperial taxation is an indefensible injustice. Where the primary object of valuation is to fix

the basis of local taxation, it is sufficient if there is uniformity within the area for which the local rate is struck, for only a fixed sum is levied. For state taxation where the rate of charge is first fixed, and the maximum total amount is levied, lack of general uniformity throughout the whole taxable area, means underpayment by some and overpayment by others.

This general uniformity was attempted to be secured in Griffiths' Valuation (though made primarily for local purposes) by the terms of the various enacting statutes and the regulations made under them. I look in vain throughout this Bill for any principle or rule to ensure the necessary uniformity, in fact the Commissioners themselves have nothing to go upon. No methods are suggested to them for testing and harmonizing the decisions of their subordinates. As the Act stands, I am not sure that the Commissioners have any duty in this respect at all; they have certainly no statutory or enforceable duty except to "value."

Without a strict defined basis of valuation, without rules and principles securing uniformity, it is obvious that the appeal given to the Referees and to the High Court must be largely illusory. The onus of proof will be on the person taxed to show that the Valuers or Commissioners are wrong—an almost impossible task for an appellant when the decision, or rather the discretion appealed from, need not be kept within any defined limit or principle.

Capital and Annual Value.

I have to note two other points with regard to the description of value contained in the Bill. First, that the value to be ascertained is the *capital*, not the *annual* value; secondly, that it is to be the *competitive*, and not the fair or any other description of value. The significance and importance of these elements can hardly be exaggerated. No general valuation of land, on a *capital* basis, has ever been attempted or made in this country, nor, as far as I can ascertain, in any other country in Europe except Switzerland, where it partially obtains. In the United States capital valuation of both real and personal property has been carried out in various forms in the different States of the Union, with results which I shall hereafter describe in the language of notable American publicists.

In this country, as in France and other countries where cadastral valuation has been much more scientifically carried out than here, *annual* value (and not capital value) has always been the end sought and recorded, and has been the basis of local and imperial taxation.

There is a good practical reason for this. Capital value

is far more difficult to ascertain with precision, it can be subject to much fewer tests, and it is dependent upon personal desires, wants, even whims, which are almost impossible to estimate, and are constantly varying. Annual value can be fairly measured in money, *i.e.*, the net proceeds of the use of a thing to the possessor, or the sum which another person will annually give for that possession and use. Capital value is often independent of, or does not vary direct with annual value, as is shewn by the extraordinary difference in the rate of interest coming from the same capital sum, invested in diamonds, consols, or mining shares. Moreover, to ascertain capital value with any sort of accuracy, a forecast must be made as to the relative permanency or security from the annual return. Add to this the difficulty of putting the thing valued into a hypothetical market, when in fact there is no market, or a market where the values shown are fictitious or abnormal.

There are other additional elements entering into *capital* value, and that of land especially, which contribute largely to its variation and uncertainty, as they are distinct far from mere value in use, or the power of producing profit. As Mr. Murrough O'Brien stated more than 20 years ago before this Society,*

"Position is one of the most important elements in the value of land, position not only with reference to towns and villages, but with reference to residents with 'dry money' in their pockets. Each plot is unique in this respect; its position and irremovability make it different from every plot of land in the world."

So true is it that market value depends largely on the accumulated savings of persons in the district wanting land, that it is impossible (as Mr. O'Brien infers from figures and results in France, Ireland, and other countries) to frame a general rule, or rely on averages:

"So infinite is the variety of circumstances which determine the value of every plot of land sold in a free market, that each case requires an explanation to itself."

If that be so, how can then a general valuation of land possess that certainty and uniformity which all economists from Adam Smith downwards declare should be the basis of equitable taxation?

These elusive personal elements of value cannot even be guessed at without the employment of local valuers, but in that case there is the danger of local influence, and also the inevitable result that there cannot be uniformity as between one district and another. This has been the experience in

* "Statistical Society Journal," vol. IX., p. 289, &c., Title, "Sliding scales for Rent."

the several States of the United States of America, where it has been found that even the establishment of central Boards of equalization for the purpose of harmonising the results of local valuations failed to produce uniformity.

Mr. Richard T. Ely, formerly Professor of Political Economy in the John Hopkins University, Baltimore, and Member of the Maryland Tax Commission, has gathered together an enormous amount of evidence on the methods and effect of taxation and valuation on a capital basis in the States of the Union, and he states unequivocally that :

"At its best a Board of Equalization is a bungling affair, and never performs its work satisfactorily. The best such Boards can do is shrewd guess work, as their task transcends human powers."*

Professor Ely points out that whilst such capital valuation may be fairly uniform over a small area like a county, it cannot be so over a large area like a state, and, further, that the results generally of taxing capital values is that mobile, or fluid personalty escapes both valuation and taxation, and land, being immovable, bears an undue burden—and that generally the wealthy escape easily, whilst the poor are hit. (pp. 144-145, and *passim*).

Mr. Bryce, in his work on the American Commonwealth, confirms this statement, and cites new facts as illustrating the difficulties inherent in a property tax [*i.e.*, a capital tax], and explains how this results in bitterness of feeling amongst American farmers against capitalists; the farmer owns his land and is taxed on his visible property, whilst much of the rich man's wealth escapes taxation.†

M. Leroy-Beaulieu, the eminent French economist, has made a thorough and philosophic examination of the relative merits and justice of capital and annual valuation, especially of land, and his verdict is no less clear. As he points out, to get at anything like certainty in estimating capital value, the net revenue must first be ascertained. In fact, it is not possible to express capital values accurately and uniformly except in terms of revenue, for though there are many things that have a capital and no annual value, such as pictures, jewellery, etc., such things are, as he states, '*un capital de fantaisie susceptible des évaluations les plus diverses . . . sa valeur dépend du caprice, de l'imagination non du calcul.*' Rent, moreover ("*la valeur locative*"), is much easier ascertained than saleable value ("*valeur vénale*").—(*Traité de la Science des Finances*, 6th Edn., Vol. I., pp. 260-261.)

M. Leroy-Beaulieu further points out that the cadastral valuation in France, though taken on the more just basis of

* "Taxation in American States and Cities," p. 252.

† "The American Commonwealth," vol. II., pp. 128-130.

annual value, is unequal and disproportionate, except perhaps for the single area of the Commune, and therefore cannot afford a uniform basis for departmental taxation, whilst for general state taxation it gives rise to great anomalies and injustice: "Les évaluations, ne sont pas faites sur les divers points du territoire, on même sur deux points voisins l'un de l'autre, par les mêmes hommes, au même moment, ou bien du moins, par les mêmes méthodes. Elles n'ont donc de valeur que pour la circonscription où les mêmes hommes les ont faites et dans les même vues." In fact, as he points out, the cadastral valuation required a period of 43 years (from 1807 to 1850) to complete it, and was largely unequal and out of date before it was finished. (*Traité des Finances* Vol. I., p. 388.)

Professor Bastable (a name well known in this Society), in his work on Public Finance, arrives at much the same conclusion. Property, *i.e.*, capital as distinguished from income, is "in many cases only an abstraction made by capitalizing revenue." In others, capital value is independent of income or revenue, or does not vary with these elements. As for survey and valuation, "Such an inquiry takes a long period to accomplish for any country, and by the time it is completed the results for the districts first treated have become antiquated."*

Special Case of Irish Land.

All these observations are specially true of the capital value of land, and not least of agricultural land in Ireland. That value does not vary directly with fertility, or even "proximity," or climate, but depends often on a number of human, or what might be called emotional elements, incapable of being measured or forecasted. Small cottier holdings in the West or South-West will fetch more per acre of bad land than "economic" farms of good land in Leinster, with easy access to ports and markets. We have it recorded in the evidence of the head of the Valuation Department in Ireland, that whilst at one time he thought it possible to work out a new annual valuation of Irish land, taking the price paid for tenant-right as an element of value, he was obliged to abandon the idea (a view which the House of Commons Committee adopted), owing to the extraordinary and unaccountable differences in the prices paid for tenant-right. As everyone knows, it is impossible to speculate in some districts whether a farm will fetch 15 or 30 years' purchase. Yet this is the basis of "value in the open market," on which by the Finance Bill, taxes (both special land taxes and estate duty) have to be paid.

* Bastable, "Public Finance," pp. 383, 419.

The result will be not only want of uniformity and unfairness of incidence as between one price of land and another, but a real injustice to the owners.

Competitive Market Value.

In taxing competitive market value in Ireland, *i.e.*, in making the occupying owner pay a cash quota on that basis, you permit the State to do that precisely which the State has forbidden the landlord to do, as being against natural right and public policy. Rent on a competitive basis was declared unfair; unfair for the landlord to extract; unfair to the tenant to pay; how can taxation on this forbidden basis be fair?

The Land Acts provided that the excess or difference between competitive and fair rent was to be retained by the tenant, as necessary for him to live and thrive on, or as representing interest on the tenant's own improvements. The new duties, therefore, either take away part of the means of livelihood, or the value of the tenant's improvements, or an indivisible mixture of both elements.

Valuation for Death Duties.

The new method of valuation for death duties effects this in a double way. Improvements on or in the soil, such as buildings, drainage, etc., are included in the competitive saleable value of the land; improvements not attached to the soil, such as machinery, are covered by the wide net of estate duty which includes all forms of property. Unless all species of property of the deceased, land, stock, crops, furniture, money, farm appliances, etc., are under £500 (without allowance for debts) land is to be taken at its competitive basis, and the full scale of duty, and not the low fixed duty, is payable. I am not at all sure that in ascertaining this limit, land is not *always* to be taken at its full market value, but the wording of Sections 60 and 61 is so ambiguous, (involving reference to the previous Act and the decisions under it), that it will probably require a decision of the highest Court to unravel the problem. At any rate, it is quite certain that the unrepealed Section 16 of the Finance Act of 1894, (which seems to have been overlooked by some commentators) limits any relief to cases where *all* property is under the limit of £500, so that probably nearly all holdings at or over £15 valuation will be hit, and many under that limit, where tenant right sells well, and farmers have adequate capital and stock.

There are 60,147 holdings in Ireland over £10 and under £15 valuation, and 154,810 over £15 valuation, so that it seems a moderate estimate that 150,000 tenant farmers, when land purchase is fully spread, will be taxed by the State on the competitive value, *i.e.*, virtually the basis of the forbidden competitive rack rent.

It is no answer to say that under the right of free sale such value is realizable in cash, if the tenant is so minded. The great majority of farmers have not sold, and do not want to sell, and whilst they are occupying tenants their tenant-right is not property in the ordinary sense, but a goodwill guaranteed them by the State, and the right of occupation under fixed conditions. It is unnecessary before this audience to develop this argument.

Nor does the exemption in the case of the very small farmer remedy the injustice in the case of the moderate and big farmers, who are entitled to the benefits of the Land Acts; it rather increases that injustice, for it creates a gross inequality. The extent of the exemption should, moreover, not be measured by the mere number of persons exempted, but by the money value of the remission. Figures show what *a priori* we should have expected, that the area of land held by tenants of £15 valuation and over, is more than two-thirds of the area of land held by smaller holders, and probably the value, and therefore the basis of taxation, is represented by a greater fraction.

If the difficulties, anomalies, and injustice of the new valuation are striking as it affects the death duties, the result is even more remarkable in the case of the special land duties, especially the increment and undeveloped land duties.

It is clear from the definitions in Sections 2 and 25 of the Bill that the increase of site value, and the site value, which are respectively taxed, include that special competitive value, that central kernel of value, or excess of "fair" or real value, which has been the object of all Irish land legislation to preserve intact for the tenant.

In the first place, site value is, in terms, declared to be taken at its "market value" basis; (Sec. 25, Sub-Sec. 2); on the accession of transfer, site value is to be taken to be the consideration, or the value of the fee simple; and on death, the site value is to be principal value of the property as valued for death duties, which, as we have seen, is now full market value, subject to the exemptions, in the case of small estates, and certain specified deductions.

Now these deductions are defined in Section 25, and not one of them can, by any stretch of language, be made to cover the abnormal competitive value which obtains in Ireland for agricultural land. Site value in the Bill is, of course, not what is popularly called site value, *i.e.*, the value of a

possible building site, but an artificial creation of the Bill, and as no deduction is allowed for the special land hunger, the *pretium affectionis* of the Irish peasant, these things are taxable because they have a "market value."

It would be strange if it were otherwise, for the peculiar circumstances of the Irish peasant freeholder were not considered. The very words of the exemption relating to agricultural land illustrate and prove my statement. Section 7 provides that "Increment value duty shall not be charged in respect of agricultural land while that land has no higher value than its value for agricultural purposes only."

What agricultural land fulfils this condition? None, certainly, that comes, or could come within the ambit of the Land Act of 1881. Even before that Act, every piece of land had a capital value in the mind of the Irish tenant, or by custom, far exceeding its value "for agricultural purposes only," that value depending on the right of possession of a home, a place to live in and live by, a permanent refuge from the road or the workhouse.

The Act of 1881 defined these shadowy unwritten claims, gave them legal validity, and by giving permanence (under fixity of tenure), and the right of transfer under free sale, largely increased the marketable value of these [rights. Any person who wishes to prove that agricultural land in Ireland is exempted by this clause will have to prove there is no tenant right.

It was largely because landlords were said to demand, and tenants were said to pay, rents in excess of rents "for agricultural purposes only," and independent of such purposes, that the Land Acts were passed, and in fact it may be stated that a large part of the 30 or 40 per cent. reduction in rents made by the Land Commission since 1881 represents a cutting off of that excess. It is well known and admitted, that the reductions in rent far exceed the interest on tenant's improvements, and we have the authoritative decision of the Court of Appeal that the "true value" of a tenancy, even when sold to a landlord at a price fixed by the Court, is not restricted to the value of the tenant's improvements.* It follows *a fortiori* that the full competitive value of the occupation interest, realisable on sale, and now to be taxed, includes, and is based on, values far other than the tenant's improvements sold; in other words, the competitive value includes something not measured by "agricultural purposes only," and independent of these purposes. The late Lord Justice Fitzgibbon suggested that true value and competitive value were related proportionately, as "fair rent" and rack rent.

* *Curneen v. Tottenham* [1896] 2 I. R., 356; see per L. J. Fitzgibbon, at pp. 362-363.

The general effect of these provisions I shall deal with, when pointing to some results of this legislation ; at present I am generally confining myself to the meaning and nature of the process of valuation. That process is of such amazing complexity, that I can do no more than dwell on its more salient features, but I should like to add a further word on this particular point. Difficult as the operation is to fix uniformly the *gross* or *total* capital value of land for the reasons I have stated, it will be even more difficult to put a value on the statutory deductions, to be ascertained before getting at the site value and "assessable site value." It may, and I suppose, will be done, but I submit the results will be mere guess work, based on individual opinion, and not on facts or principles that can be tested. It would require almost superhuman intelligence to know (1) what in fact all the structures and buildings "in and under the land" cost ; (2) what their value is now ; (3) what it would cost to take them away, as also growing timber, fruit trees, etc. ; (4) what part of these works are of capital nature ; and, above all (5) to what extent any of these things increase the total value. Records of original expenditure will, in most cases, not be forthcoming, values of material and labour are altered, the very existence and nature of many kinds of past work, *e.g.*, drainage and alteration of watercourses, cannot be ascertained, and still less their monetary value. To combine this labyrinth of hypotheses is bad enough, but worse remains, for the valuer has finally to ascertain the "market value" of the resulting "site," an abstraction that was never bought or sold in the world's history. Abstraction is, in fact, a term too complimentary, for the human mind cannot put into one conception this mixture of incongruous and uncertain elements. The terms used are, in fact, neither scientific nor popular. If they are neither one nor the other, the administrators and interpreters of the law, valuers, referees, judges, cannot use them with precision and uniformity, and the taxpayer will have no comprehension of his rights or his obligations.

Extent and Cost of the Process.

To measure the extent of the process of valuation some brief considerations will suffice.

Every piece of land under separate occupation has to be separately valued, and also separate portions of each holding, or unit of ownership have to be valued, if the owner so desires. Owing to the varying qualities, position, and value of land, and especially owing to the necessary separate valuation of sites, the number of units of valuation must far exceed the

number of separate holdings. Even the valuation of holdings alone will involve, practically, the separate valuation of almost every field. Now, the area of Ireland extends to 20,832,745 statute acres ; the number of agricultural holdings is 599,873, say 600,000 ; and the number of inhabited houses is 858,158. In addition, there must be separate valuations of all farm buildings, manufactories, workshops, stores, offices, public buildings, schools, etc., for it may be noted that Crown property, or other property exempt from taxation, is not exempt from valuation. When I add the additional valuation of mineral rights, and mineral sites, and the separate valuations of licensed premises, it is not too much to say that at least 2,000,000 separate primary units of value will have to be ascertained and recorded, involving also records and calculations as to a very much larger number of sub-units, in fact, as many as there are fields and buildings in the country. Moreover, under every unit will come the sub-headings of different kinds of value, some twelve in number, with entries showing the deductions, if any, in each case.

It would seem to be a very moderate estimate to take ten shillings as the cost of ascertaining and recording these results per unit, which would give the cost of the general valuation in Ireland alone at £1,000,000. I should be glad to see this figure criticised, but when one considers the high salaries that will have to be paid for efficient valuers, salaries that should make them independent of local influence, the enormous sums necessary for travelling and hotel expenses, and for administration of the Central Office, the sum named may be thought to be under rather than over the mark. If survey and fixing of boundaries is included, the sum named must be largely exceeded, and we have the authority of Sir John Barton, the head of the Irish Valuation Office, for saying that these surveying and mapping operations are an essential preliminary to a general valuation. This would involve, as he pointed out before the Select Committee on the Irish Valuation Acts in 1902,* the correcting of the boundaries of every farm, and the valuing of every field in every farm, and marking the boundaries on the new Large Scale Ordnance Map. He further pointed out that for the purpose of a valuation, the maps and descriptions attached in each case of purchase, and lodged in the Registry of Deeds, could not be accepted, as it is there expressly stated that the accuracy of the maps is not guaranteed, and therefore (as he states) they are "practically of no value." But the new 25-inch scale map is far from being complete, and it has taken 30 years to survey and map about two-thirds of Ireland, and it will probably take 10 more years to complete. Even

* Report of Select Committee, No. 370, 1902, pp. 46 and 54.

when completed the new ordnance map will have to be largely added to, in detail, to be of use for the new survey, for example, in setting out the nature and extent of boundaries between fields, which are represented on the existing sheets of the map by mere mathematical lines, whatever their size or character. There are other features of the ordnance map which shew that it is not well adapted for the purpose of general valuation, a purpose, I believe, foreign to the original object of the map.

It is hardly conceivable that these facts, and the evidence and report of the Select Committee, were present to the mind of those who framed these valuation clauses, and put forward an estimate of £2,000,000 only for the general valuation of the whole United Kingdom, though various bodies of experts have estimated the total cost at various sums from £13,000,000 to £20,000,000. Griffiths' last poor law valuation cost at least £300,000, and this took 15 years, from 1850 to 1865, and no doubt Griffiths largely used the results of his previous valuations (the cost of which is not included), and was guided by a fixed scale of prices, and to a great extent by the existing rental, the basis being *annual* value. The cost of such a valuation 50 years ago can afford little clue to the present cost of a survey and valuation absolutely novel in basis, and tenfold as complex.

The cost of valuation is, of course, a matter of the first importance, as it has to fall on the taxpayer, an unpleasant vista in the future, when the final bill will be presented for payment. At present a cost of £250,000 only is budgeted for, the Irish proportion of which sum would hardly pay for the revaluation, on the new basis, of a Dublin suburb. Ireland will, in any case, have her proportion of the total valuation of the United Kingdom, or probably it will be preferred to make her pay the cost of her own valuation by increased taxes.

Some Results.

Here again unsolved difficulties arise. The operation of revaluation is obviously intended to be spread over a long series of years; if so, I do not understand how it can become a just basis for general taxation, not merely because values may and will vary, but because some taxpayers will thus have to pay before others. There are special reasons from the very nature of the taxes, why increment duty, and undeveloped land duty, should not be paid until the general valuation is complete, and all the values adjusted and compared, inasmuch as increment duty is payable on the basis of an original site value, on a fixed date, and undeveloped land

duty is an annual duty falling on *all* owners of such land based on values supposed to be taken simultaneously and periodically. If it is the final decision that Ireland is to bear these duties, untold inequalities, anomalies, and complications would be removed if the incidence and liability were postponed until the general valuation was completed, and until land purchase operations were practically finished, say a period of five years.

I have given reasons for shewing that increment value duty falls generally on agricultural land. The main exception to this general rule (Section I, Sub Section (a)), no doubt exempts from increment duty land purchase transfers where the agreement for purchase is made before the commencement of this Act.

But by the express terms of the Bill increment duty is payable where the transfer is made "in pursuance of a contract made after the commencement of this Act," so that in respect of *future* agreements the liability to duty may arise upon land purchase transfers, when perfected. At any rate valuation must take place, and the question of liability must be decided. Is it not clear that both upon the declaration of the Estate Commissioners that the property forms an "estate," and upon the final transfer, an increase of value accrues both to the landlord and to the tenant?

Up to the moment the agreement is sanctioned the fee-simple value of the landlord's interest is most uncertain, for under the general law he only possesses the right to sell in the open market, perhaps at ten years purchase, whilst the final operation of the Land Purchase Acts gives him an added increment value of from 10 to 14 years' purchase.

The increment duty is payable by a stamp on the instrument of transfer; and is payable by the transferor; whether the valuing of the land and increment to ascertain the duty, and the consequent stamping will not cause delay in the operation of vesting, is at present a speculation. It is certainly a matter over which either the Land Commission or the parties have no control, but will depend on the views and action of the Inland Revenue Commissioners and the regulations they choose to make under Section 4, Sub Section 5 of the Finance Bill. It is certain that fresh delay must be caused on the distribution of the purchase money, as presumably the liability to duty must be ascertained and calculated, before the purchase money or bonus is paid out to the landlord. In any event, if any increment duty is payable upon such purchase transactions, it seems most inequitable that the owner should have to make a new payment to the State for carrying out transactions directed and, in fact, subsidised by the State itself, as being of public policy.

The liability to pay this duty will add a new complication, a bone of contention in many future negotiations between landlord and tenant, and will hardly hasten or cheapen the process of land purchase. It is not easy to see why parties to sales entered into after the Finance Bill should have to pay a tax which owners who have already sold do not pay. It seems an ingenious method of making Ireland pay the bonus, or the losses on issue at a discount, and again illustrates the late Colonel Saunderson's saying that "the tears of Erin are always dried with an Irish pocket-handkerchief."

It is to be remembered that the scope of the Land Purchase Acts is not confined to agricultural land, and that a large portion of land to be sold, consists of demesne lands, residential holdings, lands adjoining towns and villages, and sites in towns, which, whatever interpretation be put upon the exception as to "agricultural purposes only," will be under the general liability to the tax.

The partial exemption as to lands already purchased does not apply to undeveloped land duty, (which continues to be a charge on land transferred), nor to estate duty, and here arise new complications and burdens for future owners. The possible incidence and liability to these taxes will have to be considered in any future agreements; and as to past agreements not completed by transfer, the burden will certainly fall on the new owners.

This will not facilitate land purchase, nor fail to arouse strong discontent and complaints from those subject to a new inquisitorial valuation and unforeseen liability. The classical adage, "*non haec in foedera veni*," will be universally translated into vigorous words, and perhaps action, not palatable to the Treasury that collects the annuities. At any rate, I see no clause which exempts from increment duty the profit which a tenant purchaser may make on re-sale of the lands, to be measured, proportionately, if not altogether, by the difference between the original purchase money advanced and the price subsequently obtained on resale; and before this is settled there must be the inevitable official valuation, and the cost to the tenant of employing experts, legal and other, to protect his interests. This difference, and therefore the tax, will increase continuously, as annuities are paid.

Exemptions.

As the main subject-matter of this paper is valuation and not taxes, I do not propose to discuss at length the statutory exemptions from duty. I have previously alluded to the exemption from a special incidence of higher estate duty.

If my previous observations are well founded, agricultural land in Ireland is generally subject to increment duty, unless the land held by the owner does not exceed 50 acres, subject, however, to a value limit. Reversion duty is not subject to any such exception, whilst in the case of undeveloped land duty, the only exemption of agricultural land is where the site value does not exceed £50 an acre, and where the total amount of land held does not exceed £500 in value. I confess I do not see upon what principle these exemptions are framed in a country where Land Acts and Land Purchase Acts are of practically universal application, and where such exemptions will only extend the hardship and inequality for those not exempted. The transfer of land, whether by mortgage or sale, will be still further complicated, and the wider the scope is claimed for the exemption, the less justification is there of a general valuation of all lands.

Machinery.

As to the machinery to carry out valuation, it is practically all contained in one Section—26—which is of the vaguest and most general character. “The Commissioners shall cause a valuation to be made.” Survey and boundary fixing are not alluded to, and though the Commissioners are bound to record particulars of all valuations and assessments, (Section 30), they are seemingly not bound to do this with reference to tested and registered maps, for the word map does not occur in the Act. There is no allusion to the number, nature, tenure of office, or qualifications of officers or valuers who are to carry out the work. All is left at large, even the officers’ salaries; in fact, there is no provision made in the Act for their payment, nor any sum allotted for these and other expenses. 500 valuers and other officers were named by the Prime Minister, but whether this number is to be diminished or increased is apparently left to the Commissioners.

The only glimpse of definite instruction I can find is in Section 31, Sub Section 2, which provides that “the Commissioners may give any general or special instruction to any person to inspect any land and report the value thereof,” a very meagre and vague provision for a Taxing Act.

The “Commissioners” themselves are, of course, the Commissioners of Inland Revenue, whose chief office is at Somerset House, London, and their names are to be found in Thom’s Directory. They have, of course, no special knowledge of Irish land and its complicated history, and special legislation, and from the very nature of their past duties and experience, can know little or nothing of the methods and process of land valuation, and, above all, of such an artificial valuation as is now provided for. There is no

resident Commissioner in Ireland, and the comptrollers and surveyors of taxes under the Department in this country, have hitherto had duties far other than valuing land. Valuation for estate duty purposes has of course been within their province—but this has been a comparatively small matter, and was reduced almost to a question of simple arithmetic by the provisions (now repealed) of the Finance Act, 1894, and the now famous decision of "*Attorney General v. Robinson.*" *

At any rate, I find no provision securing that the Head Commissioners should possess, in respect to the serious and complicated problems presented to them in Ireland, the special experience and knowledge admittedly so necessary.

The Commissioner of General Valuation and Boundary Survey of Ireland is in this country the head of an independent Department, not under the Inland Revenue, and so far his duties are defined by Statute in connection with the Poor Law Valuation.

That valuation is of an absolutely different kind to that now proposed; in fact, that Department has no statutory power to make a general valuation of Irish land, and in all cases is confined to finding *annual* value, and, moreover, it is an *independent* Department.

The ratepayer whose value is altered knows now at any rate, that the body which does this, has no sort of interest in the matter, and is in no way responsible to those who strike or collect the rates, or even to the Inland Revenue, when value is the basis of Income Tax.

Under the new system, the persons who value, or decide the value, are themselves the taxing officers. They are supposed, (I presume) to act judicially where they value and assess; they certainly act executively when they demand payment. But their primary duty is to levy the maximum sum the scale will permit, not to apportion a fixed quota, (as in the case of rates). Knowing what human nature is, it is fair to assume the taxable public would have felt more confidence in an independent valuation department, where there would not be even the appearance of conflict of duties.

It is true that in the course of debate in the House of Commons, it was hinted that the present valuation would be placed under the Inland Revenue, and that somehow the new valuation work would be delegated to the present Irish Valuation Department. But there is no word of this in the Bill; and the statutory duties of the Department remain as to adjusting and amending the Poor Law valuation, duties clearly defined (not by a single clause, as in this Bill), by the carefully drawn code of Griffiths' Valuation Acts, which are still unrepealed. I cannot conceive how an independent

* [1901], 2 Ir. R., 67.

statutory department in Ireland can be abolished or placed under another Department in England, constituted for an absolutely different purpose, without Parliamentary authority, and I cannot find any such authority.

There have been many proposals brought before Parliament from time to time for amending the system of annual valuation for Poor Law and Inland Revenue purposes, but those proposals always involved a comprehensive Act of Parliament defining fully the basis of valuation, and the methods and principles to be followed by valuers, of which an example may be found in the Act (the work of the late Lord Goschen) providing for the separate valuation of the metropolis. The fact that general taxation depends on the new valuation makes it doubly necessary that there should be the clearest statement of principles, which the valuers should not depart from, and which it would be possible to test.

Appeals.

It is obvious from the above considerations that the right of appeal given to the Referee, and even to the Court, will be illusory, except where there is a flagrant ignoring of facts and circumstances. The decision of the valuer is a mere opinion, based on a multiplicity of hypotheses, which cannot be tested. In many cases there can be no right or wrong in the matter, for example, when there is no market guide to test the "market value" of the site. The onus of proof will be on the owner of the land valued, *i.e.*, he will have to prove the valuer wrong, and I see no obligation on the valuer to furnish any reasons for his decisions. It is to be noted that the referee is to determine any matter "on consultation with the Commissioners and the appellant," or persons nominated by them. The double and inconsistent capacity of the Commissioners comes out well here.

Acting judicially through their valuer, the Commissioners come to a certain decision, (and, of course, not in one case out of ten thousand can the Commissioners themselves review the valuer's work), but in the battle before the Referee the Commissioners become a litigant, they instruct a "person," *i.e.*, the official solicitor, who, in what is euphemistically called a "consultation," but in reality a hard-fought fight, will do all in his power as a litigant to prove that the Commissioners as valuers are right.

The indirect costs put upon owners of land to guard their interests upon the preliminary valuation, and in appealing, will constitute in themselves a serious burden, which may be reasonably styled additional taxation, as they are the necessary consequences of a taxing act. For the poor who cannot afford these expenses, the results may be worse, as experience

has proved in the United States. The rich man who fights may get off, the poor man who does not, is surely hit.

There may be a final object in this system of capital valuation not yet clearly disclosed. If it is to be remunerative to the State, the burden of taxes in Ireland must be enormously increased—if it is not remunerative, it cannot be justified. It is certainly not remunerative when the increased land taxes are estimated at £24,000, and increased estate duties at £52,000.

The expense of such machinery as this of course falls on the taxpayer, and the more perfect the machinery, the more he has to pay under the double head of taxes to pay the cost of valuation, and taxes that result from it.

I can hardly conceive a case where the 4th great canon of Adam Smith as to taxation is more completely or literally violated: "Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public Treasury of the State."

If the final object be to destroy "land monopoly" by forcing sales, and reducing the price by the amount of the capitalized value of the tax, whatever may be the justification for such a policy in other countries, in Ireland at any rate, where land monopoly is spread amongst half-a-million freeholders, created by State help and State machinery, such a policy would be as unacceptable to the vast majority of the Irish people, as it would be inconsistent and unjust for the State to undertake.

The stagnant and derelict conditions of our cities and towns, and the diminishing population, prove that the special evils sought to be remedied elsewhere do not exist, and if they do not, the inappropriateness of a heroic and costly remedy is evident. It is specially inappropriate (as the House of Commons Committee has found) to a country, where ownership and tenures are changing on an immense scale.

The new Land Act, providing for still further changes of ownership under compulsory powers, adds a further reason. I leave others to solve my last conundrum, as to whether owners who sell under compulsion, and the tenants to buy, are to be subject to valuation and new taxes, and what are the grounds of such a policy?

To sum up.

Capital valuation of land is, in this country, novel in principle, and untried in practice.

Where attempted elsewhere, the results have been mischievous.

There cannot be the necessary uniformity in the resultant valuation, when on *capital* basis.

Competitive market value is, in Ireland, admittedly an abnormal and unfair value.

The special processes for ascertaining various site values are so artificial and hypothetical, that no accurate or uniform results can be obtained.

The cost of such valuation will largely exceed the proceeds of taxes, and that cost will be an additional burden on taxpayers.

The methods, duties, and qualifications of the valuers should be defined, and not left to the discretion of the taxing authority.

Any valuation for taxing purposes should be carried out by a department independent of the taxing authority.

The system will give rise to an abundance of litigation, and the poor will probably suffer most.

The trouble, vexation and indirect cost to Irish landowners are not justified by any prospective results.

The special evils of land ownership or monopoly do not exist in Ireland;—in fact such monopoly has been encouraged and fostered by the State.

[NOTE.—After the text of this paper was in print my attention was called by a critic, whose opinion I value, to a possible interpretation of my argument as to the competitive valuation of farms which I desire to clear up. My statement as to the results of letting in competitive market value is, of course, confined to tenancies purchased or agreed to be purchased under the Land Purchase Acts. Tenancies from year to year are excepted under the Bill, and in their case the valuation for death duties is to follow the old rule, established in *Attorney-General v. Robinson*. It is a question whether judicial tenancies are covered by the term "tenancy from year to year;" but whether they are or not, all forms of tenancies are rapidly being changed to fee-simple, and in a few years ownership will be practically universal. As I stated in the text, "when land purchase is fully spread," the competitive value basis for taxation will be the rule and not the exception. It is, I submit, illusory to exempt tenancies from year to year or other rent-paying tenancies, when the State is, as fast as it can, abolishing these tenancies. In other words, land purchase gives the State a new and larger thing to tax, and (as Lord Dunraven has pointed out) the State increases the tax the longer and the more punctually State debtors pay their instalments.]