

LAND and LIBERTY

MAY-JUNE 1990

UK £1.25 USA \$2.25

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**Poll
Tax:
Nation
under
strain**



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LAND and LIBERTY

Established June 1964

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ISS No. 0023 7574

Vol. 97

No. 1,145

Annual Subscription:
U.K. & Sterling area: £7.50
USA \$13.50, Canada \$15.00



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COVER PHOTO: Queen Elizabeth II — made richer by the Poll Tax, but her subjects riot. Story, Page 37.

Unhappy landings

RENT is usually assumed to be a charge for occupying space. In fact, it's two dimensional.

Take airports. Aeroplanes not only need to occupy space on the runway, they also demand time — the landing slots, a scarce natural resource which is in desperately short supply at many of the world's busiest airports.

Not surprisingly, at these "hub" airports the landing fees are expensive but not as expensive as they perhaps ought to be.

The British Airport Authority, taking its profit-seeking cue from Prime Minister Margaret Thatcher, has just caused outrage among the smaller airlines by raising its charges by £50 to £400 for peak-hour landings at Heathrow, London.

The charges for landing at the less-popular Gatwick Airport, in Sussex, were also raised to £315 for jets and £299 for turboprops. In answer to the complaints about the BAA's charges, an official explained: "The idea is to recognise the value of scarce resources at peak periods at our airports."

The rental value of these slots are not determined in an arbitrary manner: they reflect the demand for a resource that is fixed in supply. Time slots are part of what the classical economist calls "land": a natural resource.

Raising the rents for these slots is necessary, both for economic efficiency and social justice, as we are beginning to see in the United States.

There, deregulation in the skies led to increased competition. The customer benefited, because the cost of flying was reduced enormously compared with the price of occupying seats in, say, Europe, where the carrels continue to carve up the skies at the expense of the consumer.

But along with the increased competition there arrived the phenomenon of over-crowding of the skies; the demand for the time slots increase beyond the supply, in certain locations. This congestion is reported to be threatening

competition at some airports. This, we fear, is special pleading.

NATURALLY, the airlines do not like paying high rents for the time slots: the more they pay, the less they pocket. And the greatest resentment is expressed by the least competitive airlines.

But if the airports did not raise the rents, the economic benefits of monopolising these time slots would simply be claimed by the shareholders of the airlines. Time slots are not an infinitely reproducible commodity: in other words, anyone who occupies them is privileged — for he is denying others access to a piece of space at a particular moment in time.

Fair competition, then, demands that the full market price for the timeslot ought to be charged to the highest bidder — which usually means the airline that is most adept at satisfying its customers. This happens to be the most effective way of combating the entrepreneurs who try to stave off competition. Europe is a case in point.

The major national carriers like British Airways and Holland's KLM have now entered into mergers and alliances that have little to do with efficiency, but everything to do with defensive protection of their share of the air transport business.

Air France, for example, has secured a majority stake in UTA, its privately-owned competitor; in doing so, it acquired the domestic airline, Air Inter, giving it control of 90% of French flights.

The European Commission is investigating these deals. But the Brussels bureaucrats prefer to view the virtues of competition through the prism of regulation. Fiscal policy is a more efficient solution to the threat of a carve-up of the markets.

Small firms may be squeezed out by the giants, but the monopoly profits that consequently accrue can be soaked away by charging the competitive rent for natural resources — in this case, for the use of time in space.

Poll-hit Thatcher seeking revisions

OPINION POLL **Left** Margaret Thatcher in no doubt that her decision to scrap the residential property tax was unpopular. And in council elections on May 3, her fears came true in the ballot box, with the loss of hundreds of Conservative seats to the Labour Party.

The British government now plans to modify the Poll Tax, which is a flat charge on everyone in a council's jurisdiction irrespective of income or wealth.

The British premier claims that rebates for low-income people are more generous than under the old property tax (called rates), but the public was not convinced. Riots occurred in some cities as councillors met in their chambers to fix the Poll Tax rates for the coming year.

Reaction against the government was strongest in Scotland, where the changes were implemented last year. Over 350,000 people have been issued with warrants for failure to pay the tax: the sheriffs' officers are beginning to sell people's household goods, to pay the fiscal debt. Upwards of one million warrants may have to be issued,

Political and economic torpedoes are sinking Margaret Thatcher's flagship. IAN BARRON reports.

in the end, to force people to pay.

The contrast with the property tax is remarkable. Two per cent of Scotland's property tax payers defaulted, compared with 17% of Poll Tax payers in the Lothian region, and 22% in another Scot-



• Margaret Thatcher

tish region.

Observers now believe that, along with the high interest rates policy adopted by the government because of the land price boom that began in 1985, the Poll Tax is likely to cost the Tory government the next general election.

THE economics of the Poll Tax are also disturbing. The Royal Institution of Chartered Sur-

Continued on Page 36 ►

COUNT ME OUT



• Neil Ascherson

NEAL Ascherson, one of Britain's leading newspaper columnists, declares he will not pay the Poll Tax. He explained in *The Independent* on Sunday (March 11):

"Mrs Thatcher's poll tax is the East African sort. She remains the great social engineer — the last Leninist — who proclaims that she can change people's souls by changing their modes of production, and she means this tax to produce far more than cash.

"She wants it to do three things:

to centralise state power even further at the cost of elected local government; to assure the well-off and rich that in the eyes of the state greater wealth no longer implies greater responsibilities; and to force people — women especially — into low-wage employment.

"And I object to all three of those aims. All taxes are to some extent unfair, except for the single tax on the value of unimproved land beloved by the followers of Henry George."

veyors has urged landowners to reduce rents or increase the wages of employees who live in "tied" housing, but this is not a popular message among urban landlords.

Shelter, the housing charity, estimates that landlords made a £40m profit in Scotland when the Poll Tax was introduced. And in London alone, landlords could net £90m in the next 12 months.

The effect of the Poll Tax is complex.

- House prices are being distorted: some prices are going up, because occupiers will make a net saving as a result of the change. But other prices are going down. For example, says the RICS, "If there is a significant variation in the Community Charge (the government's preferred term for the Poll Tax) among neighbouring authorities, there will be a hardening of the market where the Community Charge is high, and



• Mildred Gordon

a softening of the market in lower-charged areas."

- The Retail Price Index is also being raised. The effect will be short-lived, but comes at a particularly bad time for the government, which has pinned its credibility on the ability to control inflation.

- The labour market is also upset. Trades unions are demanding higher wages to compensate for the tax. Wages deals are already being settled around the 9% mark, much to the consternation of the Confederation

of British Industry (CBI), which claims that rising wages will trim industrial jobs by 50,000 this autumn.

The director-general of the CBI, John Banham, says employees ought not to seek higher wages to offset the tax. "Just because mortgage rates or government taxes go up, it does not mean that employers have any extra money available to subsidise them" he declared, ignoring the strictures of the classical economists who warned that such taxes are passed on to consumers through higher wages.

MRS THATCHER now hints that she will introduce changes to the Poll Tax, but no-one believes she will abandon what she calls her "flagship" policy.

The whisper in Westminster is that Tory grandees may spend the summer plotting, and then inform the Premier that, for the sake of the party, she ought to go. The chances are that she will not

ANOMALIES GALORE

THE POLL tax is not supposed to be a levy on property, but a charge on each person over the age of 18 who benefits from the services provided by councils. Yet....

- Westminster Council has decided to levy a double rate on owners who leave their properties empty — while they are unavoidably detained as Her Majesty's guests. People on the outside, and living in the London borough, will pay £194.99. People on the "inside", and not living in the borough, will pay £389.98. A spokesman for the Prison Reform Trust said:

"It is outrageous. Prisoners from Westminster are going to be expected to find £7.50 a week out of their earnings, which may be as low as £1.60 a week."

- Mr and Mrs Sydney Poole died within days of each other in January, 1989. Their bungalow in a picturesque Devon village was not sold. So their family has been ordered to pay the £700 poll tax for which the elderly couple would have been liable, if they had remained alive. here was no argument about whether 40 people in a

small community in South Wales were liable for the Poll Tax. They lived in a teepee village, and were deemed to be exempt from the charge under a section of the law intended to cover down-and-outs. But there's a catch: the teepee dwellers have now been told to move along.

- Lionel Eavis has the most expensive shed in the land. The property tax on the dilapidated structure, which he built 30 years ago, used to be £28.77. He stores his digging tools in it, and grows vegetables on a third of an acre plot. His council in Dorset has decided that the shed is a business premise, on which the property tax is still payable (now called the Uniform Business Rate, because central government now sets one tax rate for all businesses). His tax has more than trebled, to £104.

- A historic justification for a locally-levied property tax is that an independent fiscal base is essential for local democracy. In the Central Region of Scotland, for example, the property tax raised 51.1% of the money spent in 1988/89. In the last fiscal year, however, the Poll Tax raised 19.7% — increasing the dependence upon funds from central government.

accede to such a proposal without a fight.

The long knives will emerge and scapegoats sought. The first question that will be asked is this: Whose idea was it, anyway? Answer: right-wing theoretician Douglas Mason, a Scottish politician associated with the Adam Smith Institute. He is reported as stating:

It was ludicrous that services were paid for on the basis of the size of the house you lived in and where it was situated."

So he floated the idea of the "community charge" — a subtle version of the Poll Tax invented by Richard II. The original invention led to heads rolling into baskets.

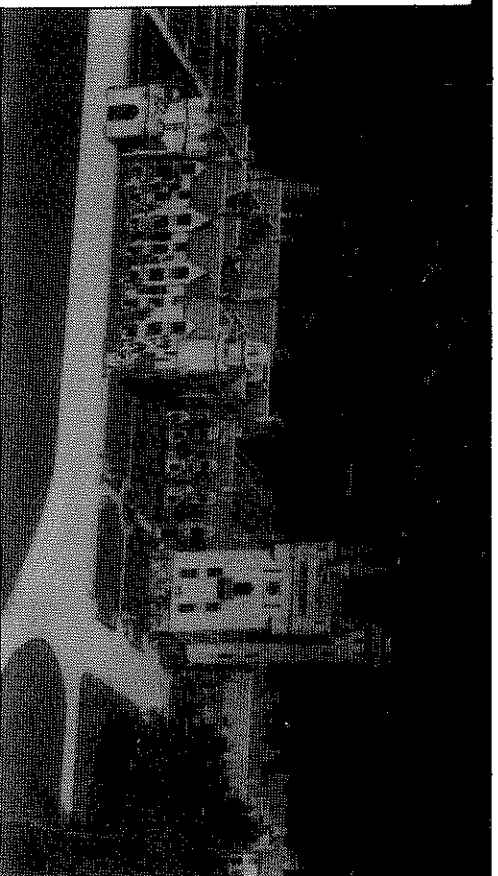
Labour MPs are wondering whose head will roll now. One of them, Mildred Gordon, says she will refuse to pay the Poll Tax and suffer the consequences — a popular stand among the voters.

In the run up to the next election, a major debate will ensue over alternatives. Opinion polls suggest that almost 40% of voters favour a return to the old property tax, which was levied on the notional rental value of a house.

The Labour Party, which is now running well ahead of the Conservatives in public popularity, has yet to formulate an alternative. It says it may relate a new tax to the capital value of people's homes, but modify the levy on the basis of incomes.

Receiving more attention in the media, these days, is an alternative strategy: a tax that falls exclusively on the value of land, which is part of the policies of the Liberal Democrats.

Writing in *The Financial Times* (March 30), Frederic Jones, a professor at the University of Wales, pointed out that "I see no reason why, when full site-value rating is operative, part of the



• Balmoral: Poll Tax charges made the Queen £5,700 better off

ROYAL SAVINGS

THE WORLD'S wealthiest woman, Queen Elizabeth, is richer because of the Poll Tax.

Under the British constitution, she is exempt from this tax. And by abolishing the property tax on her homes, she has enjoyed a major saving.

• Last year she saved £5,698 on her 50,000 acre Balmoral estate in Scotland.

• This year she will save over £12,000 on her Sandringham estate in Norfolk.

• In all, the Queen and the rest of the royal family will save over £50,000 a year.

So for the first time in history the Queen will be exempt from taxation. Explained a Whitehall spokesman: "As it is a personal tax, the Queen does not have to pay the Community Charge."

The anomalous nature of the new local tax is indicated by the fact that other members of



• The Queen

the rich royal family are now going to pay less than their employees.

Take the case of Prince Charles. His butler, Harold Brown, will pay £15 more than the prince. This is because he lives at Kensington Palace and will pay the charge of £278 to Kensington and Chelsea council.

The prince has decided to make Highgrove his official residence for poll tax purposes.

poses. He will pay £263 a year to Stroud Council. For constitutional reasons, the Queen is not allowed to express her views on fiscal policy. But some idea of her attitude emerges from the revelation that she has agreed to pay higher wages to cover the Poll Taxes of her staff. However, Buckingham Palace employees will not benefit: for their wages are paid by the government out of the Civil List.

Nor is the government getting any help from royal warrant holders who are hampered by the new Uniform Business Rate. Harrod's the Queen's favourite store in Knightsbridge, paid a property tax of £1m last year.

This year, it will pay a "monstrous" £8.3m — the fault, principally, of the failure of previous governments to regularly revalue property for tax purposes.

impost should not be returned to central government to alleviate income tax, from which we would all benefit."

Ironically, that policy ought to

have attracted strong sympathy from Margaret Thatcher. But she has turned down the idea, and says she will stick with the Poll Tax.



• On the way out: High rent victim Danny McGivern outside his hardware store in northern Manhattan

CHURNED TO DESPAIR

A JUDGE has decided that begging is not a legally sanctioned right on the underground trains. Beggars abound; if it wasn't for the skyscrapers, you could be forgiven for thinking you had stepped through a timewarp into Calcutta.

Some of the beggars who accost you were probably customers of Thomas Mickens, who made his millions from selling cocaine.

Unemployable because of their habit, the addicts have to beg to get the money they need for their next fix. Mr Mickens was happy to take the dollars collected in the tin cans, money which he laundered through legitimate businesses in the Big Apple.

The cops caught up with the 26-year-old dealer with a weakness for flashy cars. He has just been sentenced to 35 years in a Federal penitentiary. But the merchants and real estate agents who "wash" drug money won't go out of business; there is always another Thomas Mickens around the corner. Which makes Danny McGivern mad.

He's a rough diamond. At 16 he was a heroin junkie who fed his habit by burglary. He learned his lesson when they locked him behind bars, and has been going straight ever since.

THE sociological impact of the property tax on New York was assessed by FRED HARRISON in our last issue. Here, he looks at the way the rent-fixing process affects neighbourhood communities.

For 15 years he has successfully operated a retail shop selling hardware goods and cutting key rings.

Danny is now a victim of "churning". The *Village Voice* defined that concept in these terms: "As businesses are churned - bumped out for their inability to pay huge increases (in rents) - speculators have relied on the flow of immigrant entrepreneurs to keep prices rising."

The politicians are not unhappy with the squeeze on the tenants. Explained the *Voice*: "For city government, this speculative trend is manna from heaven. As property values soar, so do real estate tax payments, and the city increases revenues without having to impose new taxes. But the result is yet another regressive tax. Landlords don't pay it, tenants do."

Danny fought the steep rents, and has lost. He's being forced to quit his shop in a mixed Irish-Jewish area off Dyckman Street, at the north end of Manhattan, another statistic in the accelerat-

ing trend of a process that is eating away at the social structure of residential communities. The beneficiaries, he told *Land and Liberty*, are the crooks who hawk death-dealing drugs on the street corners.

"If a person can't raise the income to pay the rent, he has to look to the illegal way," says Danny. "Our neighbourhood stores are going to be deserted, or infested with drug dealers."

Rent controls, he says, are the answer: "We don't want the landlord not to have an income, but the rent should go up in line with inflation."

With new waves of immigrants, the demand for commercial premises is intense. But that is no way to create social stability, warns Danny: "When the landlord says he can get a 'market rent' that is more than you can pay, he means he's found a sucker who will offer to pay a higher rent - but with no consideration given to the fact that the sucker won't be able to keep his business going for five years."

The small businessman is being driven out, which is why New York now has another name: *FIRE* City - Finance, Insurance and Real Estate. But residential neighbourhoods need the jobs and services that these

businesses provide. What they do not need is racketeers like Thomas Mikkens.

The churning process, however, has thrown together the likes of Mikkens and local businessmen. And that suits the crooks looking for uncomplicated ways to launder dirty money, rather than going through Swiss bank accounts. This is how it works, explains Danny McGivern:

"If you were into drug trafficking or numbers, making \$500,000 a year, wouldn't it be nice to come to a small guy like me and say, 'Why don't you run a store for me?' I know people all over the city who own laundromats where they do this. The drug pushers keep a shop for one year, to clean their money. Then the shop closes.

"Or they go to a legit shopkeeper who is struggling with his rent, who agrees to put money through his books and pay it into a bank account on behalf of the drug pusher. The taxman would soon see what was going on, if he looked at the books, but everybody is making money so they look the other way."

Danny knows the crooks are exploiting the shopkeepers in his way, because "two years ago I used to sell two safes a week, but now I don't sell any. Why? Because the drugs pushers have found ways to launder the money. Two years ago there was nowhere to put the money. Now, after it has been laundered, it is sent to Santo Domingo to buy real estate".

THE New York real estate market is beginning to enter a phase of crisis. But while capital values may be weakening, rents continue to rise as landlords try to match the expectations created by speculators.

If a recession hits the city, Danny has no doubts what the result will be. In past recessions,

he says, "small businesses could stay afloat, because rents were moderate. But now, they will disappear. The stores will be empty, because the drugs pushers will be gone."

The social fabric of the residential neighbourhoods suffers in the process. What Danny calls rent "gouging" is forcing the small family businesses like butchers and bakers to give way to the glitzy boutiques which are not making money legitimately: a transient commerce which adds to the decay.



• Danny McGivern: Harsh words

Meanwhile, Danny points out, the kids are learning that the alternative to working for \$3.50 an hour from McDonald's is to make \$2m in a couple of years from drugs, then get out - if you're smart.

Russell Baker, writing in the *Voice* (October 17, 1989) concluded: "New York City has become one giant, mean Monopoly game. Small and medium-sized businesses, health professionals, arts organisations, and others are falling prey to the virulent greed of real estate speculators and the complicity of elected officials."

The "For Rent" signs are going up everywhere, as the dynamism of a proud city starts to ebb away down the Hudson River. The economists do not fully recognise the implications of this "gouging" for the wealth-creating base of the city, nor do

the sociologists acknowledge that the rent-determining mechanism can have a causal impact on the quality of life of the citizens.

Real estate is sacred: awkward questions are not asked, least of all of the politicians whose electoral war chests are filled with cash provided by realtors.

No one person is to blame, of course. It's the system. The law not only condones, but encourages, speculation in land. The public is kept ignorant, because the scholars who ought to be analysing the underlying dynamics of the rent process turn blind eyes. It's only an innocent game, called Monopoly.

Baker's perception is out of step with the popular vision of deal-making in real estate. Angriily, he wrote that the process began when a "new breed of hustlers came in, and speculating like crazy, began buying into buildings with the sole intent of increasing their property value quickly and selling for a huge profit.

"A growing number of rent gougers, their public visibility usually confined to mentions in the society columns that highlight their charitable activities, are busy from nine to five doing irreparable damage, through their so-called 'investing', to the fabric of neighbourhoods and the lives of New Yorkers.

"Nobody was safe any more. Even many fair, longtime landlords changed; caught up in the feeding frenzy, they became speculators, too. This explains why more than 800 viable, small and medium-sized New York City businesses have been shutting down every month, according to merchant association surveys."

The beggars do not realise it, but their plight is not unconnected with this sordid process that eats away at society's fabric.

A judgment to

GRAND Central was opened in 1913, in the heart of Manhattan, the centre of a complex network of road and rail transport systems. Around the terminal flourished a large slice of the commerce of what was to become one of the major urban conurbations in the world.

Who owns the income inherent in the business that is transacted daily on that site? Society, as well as Penn Central Transportation Co., according to Judge Breitel of the New York Appeals Court. His judgment introduces a sophisticated theory of value and ownership rights which, although not fully elaborated in his verdict, nevertheless provides a new field of debate and litigation for those who believe that private property rights are misaligned with the social imperatives of the 20th century.

The dispute occurred because Penn Central wanted to build an office block above the terminal, which it was not free to do because New York City had designated the building a landmark site. Judge Breitel favoured the city's case, and argued that the property owner was not entitled to compensation; the reasons he gave present reformers with the possibility that the law, as well as politics, offers a fruitful way to change society.

He wrote: "Although government regulation is invalid if it denies a property owner all reasonable return, there is no constitutional imperative that the return embrace all attributes, incidental influences, or contributing external factors derived from the social complex in which the property rests.

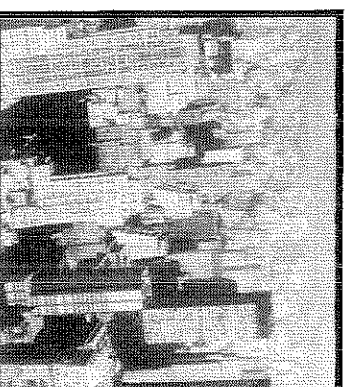
"So many of these attributes are not the result of private effort or investment but of opportunities for the utilization or exploitation which an organized society offers to any private enterprise, especially to a public utility, favored by government and the public. These, too, constitute a background of massive social and governmental investment in the organized community without which the private enterprise could neither exist nor prosper.

"It is enough, for the limited purposes of a landmarking statute, albeit it is also essential, that the privately created ingredient of property receive a reasonable return.

"It is that privately created and privately managed ingredient which is the property on which the reasonable return is to be based. All else is society's contribution by the sweat of its brow and the expenditure of its funds. To that extent society is also entitled to its due."

IN THIS case, Penn Central had already transferred above-the-surface development rights to its neighbouring properties. Even so, Judge Breitel did not rely on the exploitation of this profit for his judgment.

He argued that it was merely necessary to show that the owner was able to enjoy a "reasonable return" on his property. The concept of a reasonable return was, he said, an "elusive concept," which had to be based on the value of the property, "and the value of the property necessarily depends on the return permitted or available." And that is how the judge elaborated what Gideon Kanner, a professor of law at Loyola Law School in Los Angeles, calls the "strange theory that



*Property rights are not particular, are far from exceptions about the mean series of articles on the s identifies the principles t Central Terminal in New

he unleashed." These are the by Breitel:

- No property has economic around it. "Society as an organ government, rather than as a created much of the value of

It did not matter which created the interaction of megalopolis of the western property so valuable. Neither fact the property's value; both, increase."

- Penn Central "may not in social objectives by complete regulation deprives them of a made not by private interest through their government. In establish that there was no return on the privately contributed value."

Breitell perceives that the court "To put the matter another way: public, governmental, and private the Grand Central terminal Breitell cites examples. Ground trains to converge on Grand Central's activities - it

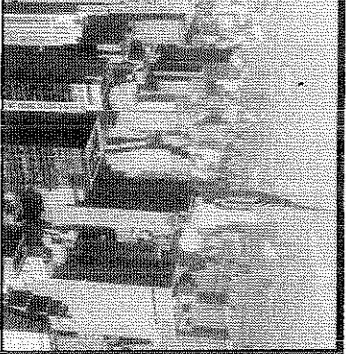
REFERENCES

¹ *Penn Central Transportation Co v. City of New York*, 392 U.S. 160 (1968), 324 F.2d 681 (2d Cir. 1964), cert. denied, 384 U.S. 959 (1966).

² Centenary edn. 1979, New York: Oxford University Press.

savour

PROPERTY RIGHTS: Part One



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mark principles enunciated

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Schalkenbach Foundation.

capitalise into the value of the terminal. On the other hand, neighbouring real estate, including hotels and office buildings, "would lose considerable value and deprive [Penn Central] of much income, were the terminal not in operation. Some of this income must, realistically, be imputed to the terminal."

JUDGE BREITEL, then, wants to extend the concept of rights to incorporate a social dimension to an individual's property and the income generated by that property.

For practical purposes, "It is exceedingly difficult but imperative, nevertheless, to sort out the merged ingredients and to assess the rights and responsibilities of owner and society. A fair return is to be accorded the owner, but society is to receive its due for its share in the making of a once great railroad."

He is emphatic in arguing that "a property owner is not absolutely entitled to receive a return on so much of the property's value as was created by social investment." But how do you separate out the two streams of income for accounting and fiscal purposes?

Breitel spells out a vision of a new partnership in property rights and the distribution of income, but he failed to explain how it was possible to separate private from social rights and income. For the purposes of the litigation before him, he did not need to do so to reach his verdict, which was subsequently upheld on appeal (but on different grounds).

As far as Breitel was concerned, Penn Central was receiving the income to which it was entitled; but how do we determine whether society was receiving its fair share? And how is the community's share to be claimed?

The answer, in the end, can be found in the forensic examination of the rights of the individual and society in the works of Henry George, a 19th century American social reformer. His first major treatise, *Progress and Poverty* (1879),² confronted and solved this question. George demonstrated that the rights of the individual were exclusively related to the income generated by his labour or capital. Society's contribution to a particular enterprise, noted George, was precisely measured by the rent of land.

We will not seek to explain the reasons marshalled by George to arrive at his conclusion. In future articles, we will show that countries like the United States and Britain are moving tentatively in this direction. Here, we conclude by noting the implications for the problem confronting Judge Breitel.

What would be the "fair return" on Penn Central's investment? The short answer is this: a stream of income that was sufficient, in a competitive economy, to keep the depreciated value of the building and equipment in its existing use as a railway terminal.

Additional revenue is the measure of the rental value of the land beneath the building; value which Penn Central, by itself, did not create, but which was the product of the concentration of the millions of people in Manhattan.

An accountant would have little difficulty in giving the judge a precise answer to his question!

WANTED: LEGAL PEARLS OF WISDOM

ARE Louisiana's oyster beds worth an annual \$2 an acre? That's the rent the state charges for the tracts it leases out on a first come, first served basis.

But the rental value of those seabeds is worth more than that according to Baton Rouge lawyer Mary Olive Pierson. She has

filed suit challenging the method of awarding and charging for oyster leases.

The present approach, she claims, is a giveaway, and she wants all leases reallocated at public auction, and to prove her point, she cites rents bid at a recent auction held in New Orleans to allo-

cate leases on tracts for which the leaseholders have failed to make their payments.

When oystermen default, their beds are allocated by auction to the highest bidders. Last year, the auction brought in an average of over \$6 an acre. This year, 25 people showed up and the successful

bidders paid an average of \$4.71 per acre for one-year rights. As from next year, their rents drop to \$2 an acre.

Additional testimony that \$2 is too cheap: the demand is greater than the supply. Three hundred people are on the waiting list for their own oyster beds.

Airwaves worries

THE Department of Commerce has invited comments on how to allocate the radio frequency spectrum in the United States. Its National Telecommunications and Information Administration (NTIA) identifies property rights as at the heart of the debate.

Prime Minister Margaret Thatcher's government in Britain believed it had solved the problem: she intended to charge TV companies the full market rent for the right to broadcast their programmes. A last-minute change to the Broadcasting Bill, however, has compromised that principle.

The market approach to pricing the airwaves has begun to find favour in a number of countries. New Zealand plans to implement a free market system of auctioning spectrum. Australia recently auctioned - in a closed tender limited to existing AM broadcasters - the use of 2 FM broadcast stations in four cities, and intends to auction additional FM stations.

The failure to charge the full market rent for the right to use a scarce natural resource has serious economic consequences. At the very least, it constitutes a hidden subsidy which distorts competition and the allocation of capital resources.

IN THE U.S., the under-pricing of the spectrum is illustrated by the market in non-federal licenses.

Legally, the licensee has no recognised property right in its assigned spectrum, and may not buy or sell the spectrum rights. In fact, because of the under-pricing of access to the spectrum, a "secondary market" exists in which licenses are traded at private auctions.

This market exists because the licenses are

INSITE reviews plans to raise revenues by tapping the rental value of the airwaves.

transferable. Reports the NTIA: "The price paid by the acquiring firms in such cases suggest that often the economic value of the spectrum assignment represents a substantial part of the value of the overall transaction."*

Asks the NTIA: does this situation create "quasi-property rights" in the spectrum, "because the value of spectrum is captured by private parties receiving a 'windfall' in receiving a license, and not by the public?"

Public comment is now invited on this situation. A strong lobby on behalf of the US broadcasting industry is expected, because the stakes are high. According to one estimate, over half the value of a mass media property is attributable to its license, as opposed to physical assets.

But if the market price is to be paid by users, how is that value to be established? The NTIA lists, among its options, the use of leases, the acquisition of which would be on payment of a fee. "The process would be akin to common Federal Government leases of various economic rights to resources, such as rights to oil, minerals, grazing land, timber, or water."

The serious danger with this approach is that the Federal Government will demur to the landowning lobby and once again under-price the natural resource - which is what it is now doing with oil, grazing land, timber and water rights!

One formula which NTIA does not list has been identified by Nicolaus Tideman, a professor of

economics at Virginia Tech, Blacksburg, Virginia. In his submission, he states: "The most practical way to assess the value of spectrum use is to create an options market in spectrum use rights.

"If every user were required to pay the amount that some other would be willing to pay for the use of a similar resource, that would achieve simultaneously the public appropriation of the value of the frequency spectrum, the efficiency of continuity in assignments, and private retention of the component of the value of frequency allocations that arises from the labour and capital that have been invested in particular applications.

"The required options market could be created in the following way. Once a year or so the NTIA would solicit bids for spectrum use from anyone who wished to participate. These 'spectrum assessors' would be required to make offers on a wide range of frequencies, perhaps as many as would typically be allocated to several dozen users. To avoid appropriating the value resulting from the labour and capital of users, assessors would be required to provide assessments that did not take sudden jumps at particular frequencies, and that varied geographically according to reasonable factors such as population density and income.

"Each assessor would post a bond, guaranteeing that if a frequency allocation became available, someone could be found who would be willing to pay the assessed rent. If no-one wished to pay the assessed rent, the frequency would be assigned to the person who bid the highest rent, and the assessor's bond would be docked for the shortfall. For his services, an assessor would be given something like 1% of the rent collected from those allocations for which he was the assessor who stated the highest value."

MRS THATCHER, while pursuing her policy of privatisation, favoured a direct auction among prospective TV companies to establish the market rent of the spectrum.

But this economic principle has been compromised. In April, Home Office minister David Mellor announced that a new clause was to be inserted into the Broadcasting Bill which required



• David Mellor: New clause under attack

the new Independent Television Commission to allocate franchises by also taking into account the quality of programmes. This clause, incorporated after pressure from existing franchise holders, rests on the logic that some entrepreneurs would out-bid others by offering low-cost/poor quality programmes.

This special pleading is attacked by Prof. Tideman. He suggests that the British government should stick to its original plan, and allocate franchises to the bidders of the highest rents. Then, it would be possible to negotiate subsidies for programmes on the basis of whatever the government believed to be in the public interest.

The debate over the rent of the airwaves is not an academic one. Because of the underpricing of a natural resource, over the decades taxpayers have been denied billions of dollars which legitimately belonged to the public coffers. The economic consequences have been serious. One is that the burden of taxation on wages and profits have been higher than they need have been - for the sake of providing windfall gains for the corporations that are given cheap access to the radio spectrum

Economists have yet to trace the knock-on effects of this failure of public policy on jobs, the level of prices and competition. But the consequences have been enormous; because hundreds of billions of dollars have been diverted into the pockets of the broadcasters in rents that they would have gladly paid to the Treasuries of the world for the right to use a public resource!

* Federal Register, Vol. 54, No. 235, Dec. 8, 1989, p. 50702.

Ranchland grazing gives food for thought

THE scale of underpricing publicly-owned ranchland in the US is indicated by the fact that, last year, the Bureau of Land Management spent about \$43m on management and improvements but received only \$17.8m in grazing fees. Taxpayers make up the difference.

The policy of under-renting the grazing land — 174m acres under the

direct control of the BLM — began with President Ronald Reagan. Efforts to raise the rents and lower the over-grazing have been thwarted by politically well-connected ranchers.

A Democrat Representative, George "Buddy" Darden, introduced a Bill to raise BLM fees closer to the price that a rancher would pay a private landowner

for grazing rights. Washington observers say that the Bill will not make it out of the House Interior Committee, which is stacked with politicians representing the western cattle states.

Syndicated columnist Jack Anderson has a description for this official largesse: "It is nothing more than living on the public dole."

Crown glory



• Richard Clarke

HONG KONG's prosperity relies heavily on the property sector. A new study sponsored by Britain's Royal Institution of Chartered Surveyors reveals, for the first time, that property and construction is more important to the colony's economy than had previously been realised. The property sector is roughly equal to each of the other two major sectors manufacturing, and the catch-all category of wholesale, retail, import, export trades, restaurants and hotels.

This indicates the scale of the catastrophe if the professionals involved in property take flight once China assumes authority over the island. This threat is no idle one: 85% of local surveyors plan to emigrate before 1997. The right of abode in Britain, however, would slow the exodus. In this article, RICHARD CLARKE, a former Director of Land and Survey in Hong Kong, explains why the land and construction sector has played a pivotal role in the creation of a dynamic world economy.



Hong Kong was founded on a grab for land - a base for trade into China. But unlike most other territories where land was handed out in bulk to favoured individuals or seized by a few, in Hong Kong it was held by the Crown and only distributed in small leasehold parcels by public competition and on conditions which required development.

This control of the land has had a major impact on the ability of the territory to respond rapidly to change, particularly during times of instability in China. It appears that the importance of this policy is well understood by China and will continue after 1997 - the Anglo-Chinese Agreement set up a Joint Land Commission which is already playing an active role in preparing for the future.

To accommodate an eightfold post-war rise in population to 6m today, to overcome political instability and United Nations trade embargoes and to increase significantly the quality of life for the great majority of its citizens, all in the space of 40 years in a land of only 1,000 square kilometres, required a

vast increase in physical infrastructure. Rapid access to land was vital. Crown land met this need. The Hong Kong Government was able to make land available for specific uses and to ensure that it was brought into such use forthwith.

Unlike England, say, where the land for a major project - e.g. the Birmingham inner ring road - usually costs many times the cost of the works and often takes twice as long to obtain as the works to build, public infrastructure in Hong Kong is built without delay, generally at the cost of the works alone.

The Hong Kong Metro was financed in part by the sale of development rights related to the various stations. The development of new towns largely on Crown land has opened up land for both community needs and for the private sector; generally the sale on lease of the latter more than paid for all the public works, highway infrastructure and other facilities required for the new towns.

LAND for private development is made available on lease, normally by public auction or tender, subject to conditions as to use and extent of building. Town

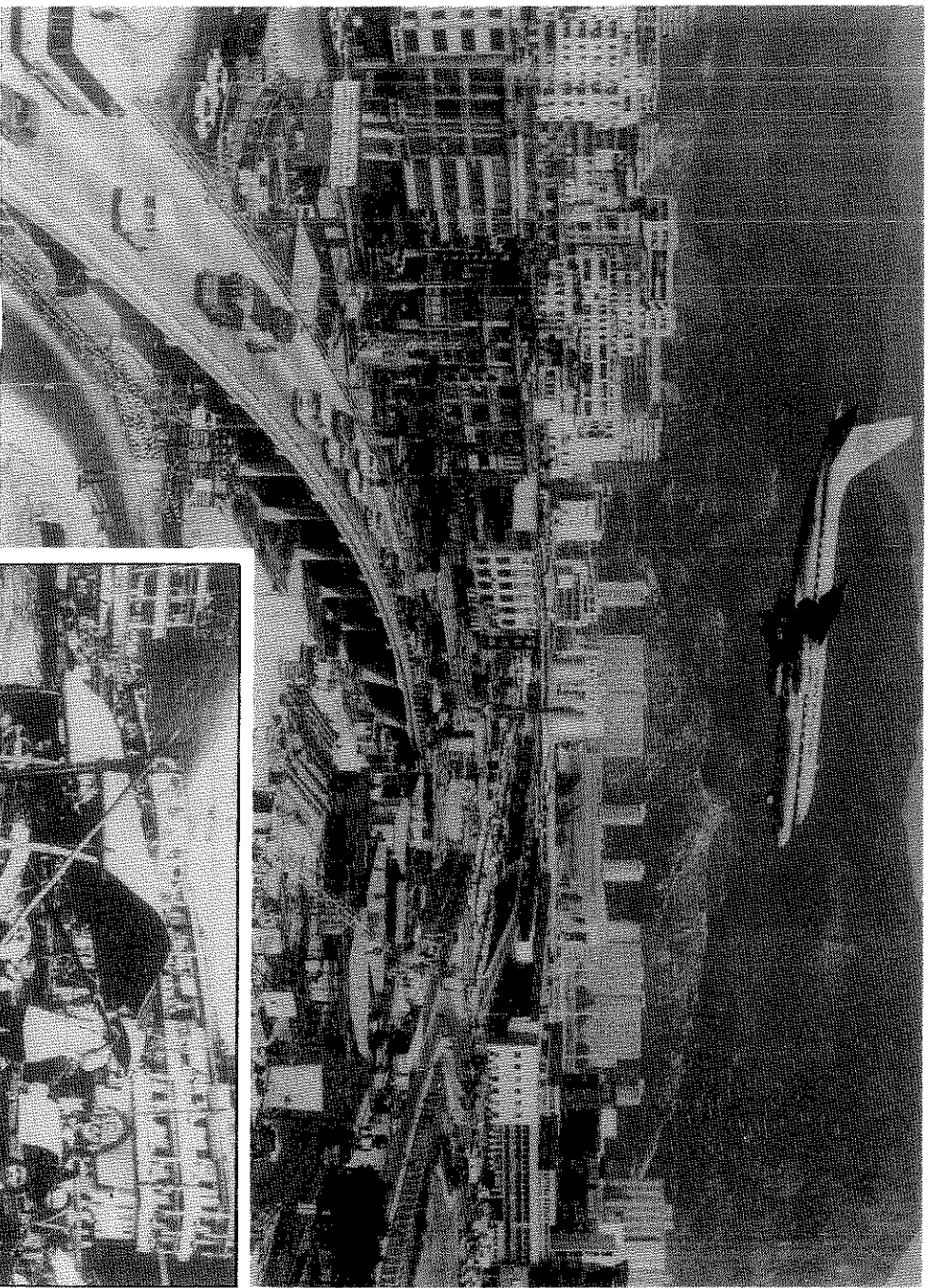
HONG KONG makes the news when disaster threatens. The tragic events in Peking in June 1989 combined with the Anglo-Chinese Agreement to return the territory to Chinese sovereignty on expiry of the New Territory's lease in 1997 and the international problem of the Vietnamese Boat People are the current issues. Yet in his annual address to the Hong Kong Legislative Council last October the Governor devoted the larger part of his statement to "Building for the Future Political, Social and Physical Infrastructure."

The basis for this confidence in times of stress is well documented in a new book by Jan Morris (*Hong Kong - Epilogue to an Empire*, Penguin Books 1990).

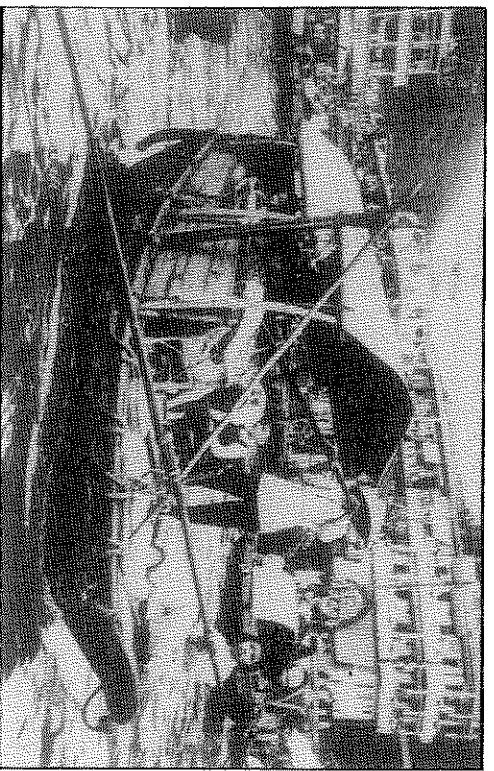
This is very well researched and provides a comprehensive and discerning account of the Colony's troubles and tribulations over its 150 years' existence since 1841.

Regrettably, it fails to consider one major factor in its history: the way it manages its land - which perhaps provides the foundation for the Governor's vision of the future.

Like all imperial expansion,



• The two phases of Hong Kong: a glimpse into the past (right), as the economic base is developed on a dynamic land use policy and a look into the future (above). Will China sustain the principles of communal rights to land with the individual's freedom to work and invest?



planning requirements which are generally broadly framed are enforced through lease conditions.

When circumstances change, plans are adjusted and lease conditions varied to permit revised development appropriate to the new environment. Such lease changes normally result in an increase in value of the site which is usually divided equally between the government and the leaseholder.

In this way, land policy has had a major impact on the ability of Hong Kong to meet the aspirations of its citizens. A few examples may be of interest.

First, the New Territories, the largely rural area granted on 99 years lease which expires in 1997. When acquired, this largely

mountainous region became Crown land. The occupied portions (a small part of the whole) were granted to occupiers on leases which recognised the existing use. Thus the farmed land (the greater part of that occupied) was restricted to agricultural use. When, in recent times, new towns were required to provide for the growing population, it was possible to establish these at relatively little cost for access to the land.

Where leased land was affected the system was to grant 2 sq ft of building land in the new town for each 5 sq ft (later 10 sq ft) of agricultural land held plus a cash payment of the difference in value. Such arrangements, together with large reclamation and formation works, enabled

new towns with much improved social and physical infrastructure to be built rapidly without the new population being held to ransom by the old.

Secondly, central districts of Hong Kong Island and Kowloon: these are the main business areas. In the early days large sections were appropriated for military use for barracks, and a major naval dockyard. These proved their value in the early post-war period. Subsequently, as international circumstances changed and pressure for expansion increased, these areas became of less military significance and in some cases, e.g. the Naval Dock-

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Alternative medicine with a lasting cure

OXFORD philosopher Alan Ryan's biography of Bertrand Russell* offers what was not intended to be an epitaph for communism, but it admirably serves that purpose. In his writings, Russell indicted Marx on a number of counts, points out Ryan, who summarises:

"The theory of surplus value will not do, since it rests on the labour theory of value which will not do; failure to distinguish between owners and managers had made it harder for socialists to attract just the managerial stratum they most need to attract if socialism is to work; moreover, this is but one aspect of a stress on class war which encourages the working class to be hostile to all forms of

by IAN BARRON

intellectual work and all forms of authority, and which therefore bodes ill for socialism."

There was something of value in Marx's voluminous works, but it appears that his readers could have turned to an alternative source for what was important. Ryan notes, referring to Marx's contemporary social reformer in the United States: "Everything worth hav-

ing in Marx's theory of exploitation could be translated into Henry George's attacks on monopoly."

Marx got bogged down with solutions tailored to those bits of his theories that were not worth having. Time, maybe, to have a look at the policies of the author who got down to the heart of the matter - Henry George!

* *Bertrand Russell: A Political Life*, London: Penguin, £5.99.

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yard, an obstruction to civil development.

Fortunately these lands had been granted on the basis of occupation "for as long as required for military purposes". Thus it proved possible by agreement for Hong Kong to take over much of the Army and Navy land at little cost to the community. The gradual release of this land has, in particular, enabled the centre of the business district on the Island to be expanded to meet the changing demands of the times.

Perhaps of even greater significance from the economic point of view was the siting and development of the Hong Kong Container Port, now the world's largest in throughput tonnage. This development, at just the right time and by joint public and private enterprise, was on Crown foreshore with deep water frontage.

It not only produced a new port vital to the future of Hong Kong and South China but also released the land in the west of Kowloon occupied by the old

port. An appropriate change in lease conditions enabled that land to be redeveloped for hotels and tourist facilities.

QUALITY of life is not a term normally associated with Hong Kong; it is becoming a reality none the less. The policies adopted in the management of land provide sites in appropriate locations for purposes vital both to the economic success of Hong Kong and to the quality of life of its citizens — air and sea ports, electric power stations, sewage works, reservoirs, exhibition, cultural and civic centres, school hospitals, universities, urban and country parks — whilst the opening-up and sale of other Crown land to the private sector helps pay for their development.

This aspect is well illustrated by the redevelopment of the Kowloon railway terminal of the rail link to China. Ownership of the land enabled the Hong Kong Government to build a new terminal on a site and to a design suited to the needs of Hong Kong and South China for the foreseeable future. The removal of the old tracks consequent on

its change opened up new land for hotel and commercial development, with the much enhanced site values accruing to the community. Further, the old station land at Kowloon Point — a key location — was released for community facilities including the Hong Kong Cultural Centre, Space Museum and Museum of Art — a major contribution to the quality of life of young and old alike.

People in Hong Kong have always lived in compact communities. As long ago as 1849 reference was made to the "remarkable hoarding together of people". Today the overall density of population in built up areas of Kowloon is 500 persons per acre; in public housing estates where 40% of the population live it is considerably higher.

Such densities demand land allocations for community services and public utilities of an equally high order. Hong Kong has much experience of life in these conditions and has built on the advantages — and there are some — which flow from high density living.

China, with one quarter of the world's population may well wish

to draw on that experience as urbanisation proceeds in that country and the quality of life there becomes of higher priority.

THE POLICY has been to make land — other than that required for community use — available by open competition on conditions requiring its development within a set time. Private leased land could not be held out of use.

The territory is sufficiently compact to enable the policy to be administered at a level responsive to local needs within broad planning constraints. It may not be applicable where these circumstances do not pertain.

The process also retains for the community a part of the value of the land created by the efforts of the community. But only a part. Much land particularly in high value central areas is on long lease and the increase in land value arising from the success of the community as a whole, other than annual rates on land and buildings, accrues to the leaseholder alone.

The system, whilst of major

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Danish land value tax, which reveal great potential for increasing revenue from that source⁴.

In 1989 the UK's Centre for Incentive Taxation produced a land valuation of Great Britain for 1985⁵. This did not include the value of pollution rights, airwaves, flight paths, street parking and other nonproductive resources.

This suggested that pure site rent alone (that is, excluding £15 billion mineral rents) was £43 billion, or 17% of national income (a proportion which has since risen to about 26%⁶). Therefore, a 25% levy would have raised £11 billion, or about one-third of the revenue from income tax.

It is generally agreed that taxes sufficient to reduce petrol consumption and pollution would have been large additional revenue raisers. If the real energy tax increases needed by 1994, according to the Henley Centre for

Honky-tonk deal

THE FIGHT to redevelop 42nd Street is over. The battle to rehabilitate one of the famous showbiz districts of New York (see *Land and Liberty*, March-April 1990, p.23) came to an end in the State Supreme Court in Manhattan when Justice Stanley Parness signed a condemnation order in favour of the Urban Development Corporation.

The UDC now has title to two-thirds of the 13-acre site, and developers are about to launch

what officials describe as one of the largest public commercial urban-renewal projects ever planned in the state.

Demolition will drive out the pimps and drug pushers and create 20,000 permanent jobs.

Skyscrapers destined for the street, off Broadway, have been redesigned to reflect the honky-tonk atmosphere of the district. But critics condemned the property tax abatements granted to the developers as too generous.

significance to the success of Hong Kong, is thus not a substitute for an effective system of land value taxation,

JAN MORRIS in her final chapter on the future of Hong Kong writes after the tragedy in Tiananmen Square calls for one last imperial act by Britain — to give Hong Kong self-government so as to stand "as a model and an inspiration to its mother China ... even if it were to survive only a generation...."

The time for imperial acts has

Forecasting⁷, may be extrapolated backwards, then at least another £11 billion would have been raised in 1985.

Therefore, it seems entirely feasible that full land rent capture could support public spending if this was 25% to 30% of national income.

Robertson notes that a corollary of the new taxation is that government policy "shifts away from intervention and provision of services" so that required public revenue "will come down accordingly" (p. 103). Net public revenue, that is, after the provision of a universal basic income.

But is the land rent tax political suicide? Well, yes - like all "green" taxes. Ultimately, however, voters may not be able to avoid them. If so, let us hope that they are guided in their choice of green futures by James Robertson's new tax philosophy.

DAVID RICHARDS

long gone; and Hong Kong is already an inspiration to China and has been self-governing in all but name for several decades. Its future wellbeing depends in no small degree on its ability to continue to provide those economic and social services which China so sorely lacks.⁸

Jan Morris recounts how Hong Kong has triumphed over adversity many times in its 150 years. During this time there have been many movements of population in and out and always younger generations anxious and able to replace those who leave. This is unlikely to change. What is required now is a continuation of the spirit of determination which has over the years enabled Hong Kong not only to survive against the odds but also to establish a quality of life which is the envy of the region.

The vision of the future set out in the Governor's Address to Legislative Council, based as it is on the solid foundation of the land backed by the provisions of the Anglo-Chinese Agreement and the work of the joint Land Commission, shows the way forward in truly practical terms. And not just 'for a generation', as Jan Morris postulates, but well into the 21st Century.

Green for Land Tax?

IT IS refreshing to find a prominent political thinker who is prepared to state unequivocally the need for a new philosophy of taxation. James Robertson, a British "Green" luminary, has just published *Future Wealth: A new Economics for the 21st Century*,¹ in which he proposes that the objectives of the tax system should be fundamentally shifted, with the practical result that the burden rests entirely on the rent of land.

Try to explain land rent taxation to anyone wedded to the current taxation orthodoxy of "ability to pay" (i.e., according to visible earnings) and "neutrality" (as between different investment assets) and you will probably be told that the idea is "politically suicide."

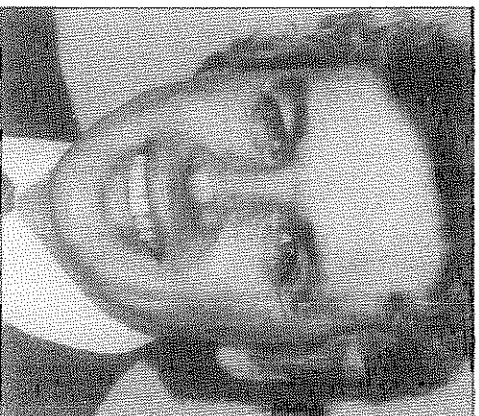
Any new tax on homeowners (any new tax, period - witness the local poll tax in the UK, and George Bush's electoral slogan in the US) or, similarly, any reduction of housing related tax relief or increase in home loan interest rates, is a vote loser.

Even the Labour Party in the UK, which is currently toying with the idea of replacing the poll tax with a new, improved local property tax, hedges the concept about with assurances that it will be related to ability to pay.

The Social and Liberal Democrats, whose political antecedents were committed to Site Value Rating for the best part of a century, now call for Local Income Tax (LIT). The Green party, which still has Community Ground Rent (CGR, identical to SVR) in its manifesto, prefers to talk about LIT.

The Green Party's latest male spokesperson, telegenic TV sports presenter Davidicke, has just brought out his own contribution to "green" literature. His book is called *It Doesn't Have to be Like This: Green Politics Explained*.² In it he explains what we have to do to improve access to land: ceilings have to be put on how much land, by value, people can own. That's it. No mention of the contribution that could be made by his party's policy of CGR.

In fact, the idea of ceilings on land-ownership comes from those party



• **David Icke**

members who actively oppose CGR. Nevertheless, Mr. Icke does mention CGR as a deterrent to ownership of empty houses and vacant urban sites. If you ask him, he will tell you that CGRs "an excellent idea, but it needs sharpening up."

So let us return to James Robertson, of the Green intellectual heavyweight division. He would have the tax system as a whole designed to enable people, organisations, communities and nations to be more self-reliant (more productive) and conserving (using resources efficiently). He would have it simple and non-discriminatory. To achieve these objectives he says:

The overriding priority is to secure widespread understanding and acceptance of the idea that the

REFERENCES

1. Cassell, London, 1990.
2. Green Print, London, 1990.
3. *Land & Liberty*. "Greens' Land Tax Gusto," July, August, 1987.

4. e.g., "Who Pays the Property Tax in Denmark?" and the role of the valuation system for equity and fairness," Lincoln Institute of Land Policy Symposium in Vienna, 1984.
5. Barks, R., ed. *Costing the Earth*, Shephard-Walwyn, London, 1989.
6. Richards, D.H., "The Land Value of Great Britain, 1985-1990" ESSRA Research Paper No. 1, London, 1993.
7. Hunt, J., "Pleas For Green Policies Fall On Stoney Ground," *Financial Times*, March 2, 1990.

burden of taxation must be shifted away from what people contribute to the rest of society and on to what they take from it ... When some people occupy land, or use and waste natural resources, or pollute the environment, they do so to the exclusion and detriment of others. As a working hypothesis, we should envisage the eventual removal of all taxes on income and value added, savings and financial capital... Taxes will much more nearly take the form of rents and charges reasonably paid in exchange for resources that would otherwise be available for other people, or for damage caused to other people. Taxation will thus come to be seen in a different way from how most people see it today (pp. 104-105).

Such a scenario must come as a surprise to the UK Green Party, committed as it was in the last General Election to substantially raising income tax, company tax and VATs (due mainly to its policy of universal basic income). Robertson stresses that "A key task for the early 1990s.. is to carry out feasibility studies on the scope for replacing existing taxes with:

- a combined national and local tax on the site value of land;
- a national tax on energy at source;
- pollution taxes;

and for introducing certain international taxes (p. 11). The latter mainly concern natural resources, and the former are entirely levied on land rents (pollution, after all, is the use of naturally provided garbage cans - land sites rivers, oceans and air).

Robertson calls for "properly researched answers" to the questions of the revenue-raising potential of these levies, their economic repercussions and their administrative feasibility.

Much of this work has already been done. For example, Anders Müller of the Inland Revenue Directorate, Copenhagen, has produced many papers on the administration of the

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