LAND VALUES—IN FACT AND LAW.

EVIDENCE

GIVEN BY

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BEFORE

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ON

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I. PRECIS OF EVIDENCE.

I approve of the principle of the Bill, and hope that principle may be extended so as to apply alike to Rural and Urban Rating. I understand the principle of the Bill to consist in the separation of the value of the land from the value of buildings or other improvements placed in or on the land; and the placing of a rate on the value of the land to the relief, *pro tanto*, of the rates levied under the present system, by which rates are laid on owners and occupiers, according to the annual value of the property in its present condition, land and improvements taken as one subject.

The present system leaves unrated land which is unused, and rates land in use according to the use it is actually put to; the better the use the greater the rate. Sir E. W. Hamilton, K.C.B., in his Memorandum on the Incidence of Local Taxation (C. 9528, 1899, p. 37), says:—

> "But it must be remembered that, generally speaking, the Inhabited House Duty and Rates are neither of them levied in respect of the *ownership* of property, but in respect of its occupation. A dwelling-house which is uninhabited is not assessed to the Inhabited House Duty at all. Similarly, a piece of land which is vacant, or which brings in no return, evades the demands of the rate collector altogether."

This system allows, indeed encourages, the owner to keep land out of use, thus forcing up, artificially, the price of land which he allows to be put to use. As long as he keeps the land idle he pays no rate on it. Meanwhile, the value of his land is rising year by year owing to growth of population, and the expenditure of the rates to which others are contributing whilst he benefits, but contributes nothing.

The injustice and inexpediency of this feature of the present rating system have been borne in upon previous Royal Commissions. Notably the Royal Commission on Housing of the Working Classes in 1885 (1885, C. 4402, p. 69), which reported in favour of placing a special rate upon unused land in and around towns, in order to encourage the provision of sites for houses. In recent years this view of the question has been prominently before the public and Parliament.

But there is an even greater injustice in the present system, and one which is very generally felt though by no means generally recognised. Between two pieces of land, of equal value in themselves, that pays most rates which is put to the best use. That is, the better the house, or the better the factory, or the better the steading fences and drains, the bigger the rate. This necessarily restricts industry. To enable the builder to throw back the rate upon the occupier, the number of houses must be restricted, so that the price paid for houses may be forced up to cover both the cost of the house and the owner's rate; *i.e.*, the rent must cover both. The same applies to agricultural or other improvements. The landlord must get a rent from the tenant large enough to pay both for the improvement and the owner's rates. We want more houses, more farms, more allotments, and generally better use of the land of the country; we leave the owner who keeps his land unused unrated, and rate the owner who uses his land more the better the use he allows it to be put to.

The Bill attempts, in a small way, to apply a remedy, by placing a rate on the value of land apart from improvement on the owners of all land, whether used or not. The justice of this is apparent when we consider that the value of land depends on the presence and communal activity of the population around it. A new public improvement, a better road, improves the value of unused land as much as that of the occupied land in its neighbourhood. Under the present system only the latter pays rates for the improvement. A tramway; better service of trains, and similarly all the municipal functions which have been in operation for years, at their institution, and as they were improved, added to the value of land. Police, cleaning, lighting, education, all did for the individual, "wholesale instead of retail," what otherwise he should have had to do for himself; made it easier to live in that particular place, than if the occupier had all these functions to perform for himself. They therefore enabled the occupier to pay a higher rent for the land. (Adam Smith's Defn. of rent).

> "Rent considered as the price paid for the use of land is naturally the highest which the tenant can afford to pay in the actual circumstances of the land." ("W. of N." Bk. I. chap. xi.).

A tax on this rent of land would be merely the taking for communal purposes a part of a fund created by the communal activity. Adam Smith further says:—

> "The rent of a house may be distinguished into two parts, of which the one may very properly be called the building rent; the other is commonly called ground rent. The building rent is the interest or profit of the capital expended in building the house. In order to put the trade of a builder upon a level with other trades it is necessary that this rent should be sufficient, first, to pay him the same interest which he would have got for his capital if he had lent it upon good security; and secondly, to keep the house in constant repair, or, what comes to the same thing, to replace within a certain term of years the capital which had been employed in building it. Whatever part of the whole rent of a house is over and above

what is sufficient for affording this reasonable profit, naturally goes to the ground rent." ("W. of N." Bk. V. chap. ii. pt. 2, art. 1).

Exactly the same consideration applies to the ordinary rents of factories, of farms, of quarries, of mines, or of other methods of using the land. One part of that rent is attributable to interest and sinking fund on capital expended on improvements, and may be called improvement-rent; the other is attributable to ground rent,—the special value of being allowed to enjoy the improvement in *that* particular position, with all the amenities of the surrounding roads, railways and other means of access to a market;—the neighbourhood of a market and facilities for producing and carrying the product to a market. The ground rent—or land value—is due to the presence and work of the community around, and may justly be called upon to contribute to the maintenance of the communal activities. A tax on land-value is asking a man to pay to the community part of what he has received from the community. A tax upon houses or other improvements is asking him to give to the community part of what is the result of his own labour. In the first case the community merely resumes what is justly its own, in the second it takes from a man part of the result of his labours, which ought to be his against all mortals.

A tax upon land-value is a tax upon a monopoly value, and would *not restrict industry*. By pressing land into use would encourage industry. It would also supply a fund in relief of the present rates and taxes upon industry, and would therefore remove restriction from industry. A tax upon a product of industry, upon food, or drink, or machinery, tends to restrict the amount of that product which can profitably be produced. The producer must restrict the amount of product so as to force up the price and enable him to pass on the tax to the consumer. A tax on houses stands in that position; it means fewer houses and worse houses for the given demand. Houses and improvements generally are "consumable commodities," and taxes on them fall in increased rent upon the occupiers, for these are the consumers. Taxation of Land Values is the carrying out of the doctrine of Free Trade. It aims at removing taxes off the product of labour. The tax would fall on the consumer of land-values; *i.e.*, it would fall on the owner of the land, and be a direct tax on him. His present right is that of levying a private tax upon industry, and Taxation of Land Values would, so far as carried into force, effect a transference of that right of taxation from the private to the public authority. It would thus restore to the State the rights of which it was deprived without compensation, by the abolition of the Military Tenures and the Hereditary Jurisdictions, the secularization of the monasteries, and the enclosure of the commons.

I regard the relief given to improvements, in the substitution of a land-value rate for part of the rates at present levied on buildings and all other improvements, as a benefit of greater importance even than the imposition of a tax on unoccupied land which is of value. It is the rate upon the building which is the main cause of "shoddy" building. The rate upon the improvement, which is one main

cause of badly equipped farms. Rates upon machinery are a heavy drag on our powers of production. To my mind the imposition of a rate, just and fair as between property and property, is of more importance than the question of the incidence of the rate as between owner and occupier. The land-value has been created by the presence and work of the community, it increases with the increase of the community and with the greater efficiency of its work, and it is just and right that the land-value should contribute proportionally to what it has thus received. The land-value is only maintained by the continued presence and work of the community. It is the day-to-day product of the sustained effort of the community. It should therefore contribute to the maintenance of the community and the cost of the communal activity. It is quite otherwise with the value of an improvement, house, machinery, drainage or other, that is caused by individual work and energy, and ought to belong to the individual. That value, apart from continued individual exertion, in repairs and upkeep, is gradually but surely deteriorating, in many cases the advance of the community makes the particular improvement valueless in that position, and it has then to be "scrapped" and replaced by some other.

As a general proposition the owner of the land, or more accurately, the owner of rights in the land, gets the benefit of the increase in land-value. Therefore, even admitting that all rates form a deduction from what the full rent of the property should be, it is quite just that the rate should so fall; and in raising public revenue directly from land-values, separate owners would be paying a just proportion *inter se*, for each would pay to the community according as he had received from the community; and one who used, or allowed others to use, his land to its full extent would not be penalized in an increased rate therefor as at present, in order to let off with little or no contribution to the community the owner who did not use or allow others to use the land owned by him, or who held it at a low state of use, where there was a demand that it be put to a better use.

The separation of the values of improvements from the value of the land on which the improvements stand as a basis for the imposition of rates has already been effected to some extent in this country.

(1) *The Manchester Corporation Act*, 1894 (57 & 58 Vic. c. CCIX), sec. 22, provides for a special improvement rate to be charged on the value of land apart from buildings in a certain area affected beneficially by the improvements authorized under the Act.

(2) The London County Council Tower Bridge Southern Approach Act, 1895 (58 & 59 Vict c. CXXX), sec. 36, and

(3) The London County Council (Improvements) Act, 1897 (60 & 61 Vic. c. CCXLII), sec. 42 contains similar provisions.

The following Statutes of British Colonies also differentiate between improvements and Land Value, and provide for Taxing or rating the latter:—

1. SOUTH AUSTRALIA.—Taxation Act No. 323, 1884.

2. QUEENSLAND.—Valuation and Rating Act No. 24, 1890.

3. NEW ZEALAND.—(1) Land and Income Assessment Act, No. 18, 1891; (2) Rating on Unimproved Value Act, No. 5, 1896, with Amending Acts, No. 18 of 1900, and No. 56 of 1902.

4. NEW SOUTH WALES.—Land and Income Assessments Acts, 1895, Nos. 15 and 16.

In the United States of America, the City of New York Charter was amended by Chapter 454 of the Laws of 1903, whereby the Assessors of the City are required to report "the sum for which, in their judgment, each separately assessed parcel of real estate under ordinary circumstances, would sell, if it were wholly unimproved; and separately stated, the sum for which, under ordinary circumstances the same parcel of real estate would sell with the improvements, if any, thereon."

This law came into force on 1st Sept. 1903, and the new Valuation Roll was made up and open for public inspection on 11th January 1904.

In Boston, U.S.A., under a similar provision of an earlier statute, separation of improvements from land value was made in 1901, for which year the values were assessed at

1. Land, 547,246,600 Dollars.
2. Buildings, 377,890,900 Dollars.

GERMANY—In Prussia the Communal Rating Act of 1893 gave to each Rating Authority the right to select the basis upon which local rates in its district should be assessed. In 1899 a departmental circular by the Prussian Minister of Finance recommended these Rating Authorities to consider the advisability of adopting the system of rating on the market value of the subject, land and improvement together. Over 80 Urban and 40 Rural Rating Authorities have made the change. These include Berlin, Aachen, Breslau, Charlottenburg, Cologne, Crefeld, Dortsmund, Düsseldorf, Elberfeld, Kiel Munster, Wiesbaden, &c.

Reports shew that the new system works much better than the old, or rental system. In Cologne under the old system, out of 21,292 separate assessments in one year, there were 2703 Appeals; while out of 30,000 assessments under the new system there were only 174 Appeals, and after the capital value of the subject is determined, it is matter of common knowledge that the valuation and deduction of the value of improvements is easily accomplished.

The SOUDAN GOVERNMENT is advertising in the daily papers in this country, offering leases of land in Khartoum on 80 years' leases, perpetually renewable at the end of each period, at a rent to be fixed by arbitration or agreement as the then annual value of the land, and "the value of buildings erected by lessees will not be regarded as a ground for increase of rent." If the value of the buildings can be separated from the value of the land for the purpose of fixing the rent of the latter, the same can be done for the purpose of taxation.

In KIAO CHOU the German Administration there has imposed a Transfer Tax of two per cent on the value of the 'Grund und boden,' land and soil, apart from buildings, on all sales of land. There is also on the same basis an annual land tax of six per cent on the value calculated on the same basis. The valuation is made up every three years. There are no other taxes, and Kiao Chou is said to pay its way, which no other German Colony does.

But the separation of the value of the bare land from the value of improvements is carried out in every day practice, as in arbitrations under the Lands Clauses Acts, where parties very frequently are able to agree as to the value of the land to be taken, but the main difficulty turns upon the value of the improvements *in situ*.

Most of the difficulties suggested by opponents of the Bill are founded on the mistaken conception that valuation of a subject can be reduced to an exact science: that a precise figure must be capable of being named as the value of the subject at a particular time. The most that any system of valuation can offer is to give a reasonably approximate figure as the value. The present system of rental valuation is notoriously subject to this qualification. Among unlet and especially unlettable subjects the qualification is peculiarly true. *E.g.*, in 1902 Valuation Roll the Assessor placed the Edinburgh Royal Infirmary at £7,040; on application or appeal that was reduced to £5,500: and so with endless similar public institutions and works. Even among subjects actually leased, the *bona fide* rent may vary from 5 to 20 per cent. where the landlord has either screwed up one tenant, or, for special reason, reduced another. This is especially noticeable in shops, where a tenant may be allowed a reduced rent at entry, but soon finds this increased as he makes a connection and his business increases. Part of his goodwill is absorbed by the landlord, and at present his rates increase accordingly, although the value of the premises may have remained stationary.

The new system does not offer absolute accuracy of result. But the result will be much more accurate than the present, and much more in consonance with justice. The basis of the valuation will be the statement by the owner of the price he puts upon it, a subject if put up for sale between a willing seller and willing purchaser. The owner is best able to fix the value if he *will*. There are two lines of pressure both tending to induce him willingly to state the true value. If he puts it too high he will have to pay unnecessarily high rates. On the other side, he is not likely, publicly, to cry down his own property. There may be an honest difference of opinion as to value, but there is small chance that, in such circumstances, any owner will, intentionally, grossly misstate the value of his property. Then both as a deterrent against misstatements by the proprietor and as a means of checking the value, assessors have what is not very applicable under the present system, recorded in the public records, the price or consideration which has passed on each sale of heritable property. In Scotland, under the Stamp Act

1891, every conveyance must set forth the consideration for which it was granted (54 and 55 Vict. c. 39. Sec. 5 provides :—

> "All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, are to be fully and truly set forth in the instrument,"

and this provision is fenced with a penalty of £10.

This provision has existed since the Stamp Act of 1808, and its provisions are further very effectually fenced by the rule of Scots Law requiring the registration of all titles to heritable property for publication in the Register of Sasines. There they may be examined by any one on payment of a fee of one shilling. Recently a change in the method of making up the Index and Search Sheets, copies of which are transmitted to each sheriff clerk, enables the price paid, or amount lent on bond, to be discovered from these without having to refer to the Record itself. There can be but little difficulty in way of the Assessor availing himself of the information contained in these Indexes. This puts at his disposal the prices paid, and amounts lent on bond, in all transactions whether at public sale or by private negotiation.

Where the subject is at present being used to its market use, the method of arriving at the land value by capitalizing the rental, and deducting the present value of the improvements, will, no doubt, be adopted by assessors. But they can still further check that result by comparison with the sale price at which the subject or similar subjects in the neighbourhood have been actually sold. This latter check is specially applicable to land which is not being put to its fair market use. By applying it to the instances given by Dr Murray (*Ans.* 1412), we find that Nobels Explosives property, which he works out on a rental basis at £11.5 per square yard, was in fact sold in 1900 to the present proprietors for £22,500 which gives a figure of from £26 to £35 as the value per square yard of the site, according to the value placed upon the building. Dr Murray takes that at £5,000, but it falls to be remarked that that is its cost when erected 80 years ago. He himself, in evidence, states that the building owner must reckon on receiving a rent allowing for a sinking fund to replace buildings in 60 years. The building here had therefore been fully paid for 20 years ago. Yet Dr Murray would again allow its owner the full cost price. From the price given in 1900, one would judge that the building was waiting to be pulled down. By adopting in each case the reasonable method of valuation, such violent discrepancies in value for neighbouring properties as brought out by applying a single method without considering its applicability to the circumstances, will not occur.

The objection that the introduction of the new system would cause enormous and disproportionate expense seems exaggerated. The only definite ground stated seems to rest on the alleged difficulty of making an accurate return of the number of square yards. This is fully met when it is considered that

here too absolute accuracy is of minor importance, and that almost invariably a description by measurement, which would be quite sufficient for the purposes of this Bill, is inserted in all modern title-deeds. But as I state when dealing with the drafting of the Bill, I do not consider that the measurement in square yards is necessary for the purpose of valuation, and need not be required in the statutory return. It may however be for consideration whether in special cases where required, the Assessor might not have power to call for this as well as other information which he may require.

The ordinary fee to an architect and surveyor for marking out a site for building is about £2, 2s., and the operation, if it were required, of measuring that site for the purposes of the Bill would surely not cost more. But as I have said, it does not appear at all necessary that more accurate description should be given to the assessor than is ordinarily given in the title deeds to a purchaser.

The further expense of experts to assist the assessor in maintaining his valuation if appealed against, seems also unduly exaggerated. In the ordinary case the value will be agreed on as between assessor and owner. Practically any special expert assistance will only be required in the cases of appeals. Referring to what I have already said as to the real tests available, I consider that there will be far fewer appeals under the new system. I consider this opinion justified by the experience both in the Colonies and in Prussia.

ON THE DRAFTING OF THE BILL.

Title.

This is not borne out by the Bill, which contains no provisions for Compulsory Acquisition of Land.

Section 1. Land Value.

What we really have to deal with is not the *corpus* of the land so much as the value of *rights in land*, whether these are of the nature of Superiorities, teinds, casualties, feu-duties, ground-annuals, servitudes, real burdens or leases, and the like. It is the person holding such rights in land who should be called upon to put a value on them and enter them in the Valuation Roll. The sum of the values of these rights constitutes the "Land Value." The old Scots Act of Convention of 1667, imposing the Land Tax, says:—"That all persons having real estates of lands, teinds, annual-rents, due by infeftments, feu-duties, tack-duties and others of that nature are and shall be liable for the said supply." (Also Statute 1690, chap. 12).

Clause 8 of the Bill says it is to be read as part of the Lands Valuation (Scotland) Act 1854. Now that Act defines the expression "Lands *and* Heritages," but the expression "Lands *or* Heritages" used in section 1, does not meet the requirements of the case. This would be better met by saying "the proprietor or reputed proprietor of any heritable property," or of any "rights in land," either of these

would cover all that is wanted, and avoid the ambiguity of "Proprietor of any lands," as the rights in any piece of land may be distributed between several holders—in the shape of Superiority, feu-duty, restrictions (which may be held partly by the Superior, partly by proprietors of neighbouring lands), minerals, free teinds and the like. The sum of the values of these goes to form the whole land-value. Land Value is the value of the rights exercisable in or on any piece of land. Thus the right to prevent building on the south side of Princes Street is held by the feuars holding the feus on the north side of that street, while the right to possess the *solum* remains in the Corporation of Edinburgh.

Section 1-a—Area in Square Yards.

Taking the above view of the question, it seems difficult to approve of the demand in subsection (a) that the proprietor shall state the area of the ground. No such demand is made in the existing Valuation Act, in which it would appear more appropriately. The mere number of square yards in a piece of ground has not much relevancy in determining the price. An oblong of a given area will have a very different value according as it has its narrow end or its broad side to an important public thoroughfare—say Princes Street.

Or again, what area can be given as composing the land of a property consisting of a half-flat, three stairs up a tenement block, with joint right to common back-green and a separate coal cellar in front area? The rights in land are valuable, and in each case capable of valuation; but the area of land affected is not easily defined or measured.

It may be that in special cases the exact area of the land may be needed to check the value, and to meet such cases I think a general power might be given to the Assessor to call for what additional information may be necessary.

Section 1-b.

Here, too, in place of "value of such piece of ground," it would be more accurate to say "*value of such right in land.*"

The inclusion of "other heritable subjects" among the deductions is also inaccurate—what is required is, "or other improvements whether in or on the land."

In my opinion the direction given in this sub-clause, that the value is to be the price between a willing seller and willing buyer, is sufficient direction both for the owner and the assessor. The Valuation Act of 1854, presently in force, contains no special provisions as to what rules are to be followed in fixing the rental value. The Finance Act of 1894 (57 and 58 Vic. c. 30) in placing the Death Duties on the capital value of the estate, provides in sec. 5 (5):—

"The principal value of any property shall be estimated to be the price which, in the opinion of the

Commissioners, such property would fetch if sold in the open market at the time of the death of the deceased."

Yet no special methods of ascertaining that value are prescribed. The only case where an indication is given of some rule is in the case of certain agricultural lands, which are dealt with as follows :—

"Provided that in the case of any agricultural property, *where no part of the principal value is due to the expectation of an increased income* from such property, the principal value shall not exceed twenty-five times the annual value as assessed under Schedule A of the Income Tax Acts, after making such deductions as have not been allowed in that assessment, but are allowed, under the Succession Duty Act 1853, and making a deduction for expenses of management not exceeding 5 per cent. of the annual value so assessed."

I do not find any special directions as to *methods* of arriving at the value in any of the colonial Acts and to me it seems much safer to leave *practice* to formulate rules as necessity occurs. Each new situation may require a new method to check the capital value, just as the growth of new industries has required new methods of ascertaining the rental valuation.

If the suggestion I make above as to the subject matter of valuation being described not as "land" but as "rights in land" be adopted, the question of how the assessor should deal with land burdened by restrictions does not arise. Each owner of rights in land would send in the value he puts upon what he has as property to sell. Thus the owner of a site which was restricted to villa building, would value the site as thus restricted; while the owner of the restriction, the superior or neighbouring feuars, or all of them, would include in the value of their property the value of the right of restriction which they hold. Each owner would be called upon to put a value upon that which he owns.

The definition of the word "owner" of the Lands Valuation Act of 1854 covers the case of limited owners, such as liferenters and the like, who may not have actual power of sale.

Section 2.—Land Value.

I see no special virtue in taking a percentage of the capital value, and calling it the annual value. The same result would be reached by taking the capital value, and dividing the rate proposed by 25; thus 24/25 of a penny in the pound of capital value is the equivalent of 2s. in the pound of Annual Land Value as here defined as 4 per cent. on the Capital Value.

Section 5.—Land Value Assessment.

The Assessment here proposed is in substitution of part of the existing Assessment on Rental Value.

As between properties, the provision would relieve properties used at present above the average

proportion of use to Land Value; and that by increasing the pressure on properties where the present use was below that average.

That seems to me to be in itself very expedient, as economically diminishing the present burden upon improvement; and increasing the pressure against holding land idle or badly used.

Both owners and occupiers of the better-used properties would benefit by the reduction of the present assessment. Although the Bill proposes that the substituted rate shall fall on owners only, yet the amount of rate proposed is less than that proposed by Professor Marshall of Cambridge in his Memorandum for the Royal Commission on Local Taxation. [C. 9528, 1899, pp. 124-5.] He proposes a general levy of a penny in the pound of the capital value of the land *per se*. And of this he says:—"I regard this as practically public income preserved to the State rather than as a tax."

Compared with the increase in value of land in our populous centres, the proposed tax of 2s. in the £ is very slight. Thus since 1855-6 the rateable value of the north side of Princes Street, Edinburgh, has increased by 200 per cent., or an increase of 4 per cent. per annum. Taking it that one third of this increase is due to structural improvement, we have an annual unearned increment of 2½ per cent. In other words the proposed rate, laid on in 1907, would merely mean that owners in Princes Street would then be asked to stand as they did in 1903. And this would make no allowance for the relief they would receive on their existing structural improvements.

The rateable value of Princes Street, leaving out of account the small portion on the south side of the street at the east end, is stated in the Valuation Roll as follows:—

Year.	Rental Value.	Periodic Increase or Decrease. + —
1855-56	£33,600	———
1860-61	29,700	− 3,900
1870-71	48,500	+ 18,800
1880-81	67,800	+ 19,300
1890-91	82,700	+ 14,900
1900-01	83,500	+ 800
1905-06	102,600	+ 18,100

Building on Princes Street was commenced about 1770, and the increase in value of sites there, sufficiently appears from the history of a block at the corner of St. Andrew Street, which recently came into the market and has been pulled down for reconstruction on the steel frame principle. It is described in its titles as a plot of ground "80 feet east and west along Princes Street, and 60 feet in depth," bounded by St. Andrew Street on the east, Princes Street on the south, and on the west by the

lot of ground feued to Robert Donaldson, Writer, Edinburgh—a description which contains practically everything necessary for valuation purposes. It was feued in June 1772. The feuar paid a sum in cash of £153, 6s. 8d., to cover the expenses of constructing the proportion of street, sewers, &c., and legal expenses incurred by the superior—the City of Edinburgh. The feu duty was fixed at £4, 13s. 4d. with a duplicand on the entry of heirs or singular successors, equal at 30 years' purchase to say £140, or a total price in 1772 of less than £300. The sum paid in May of this year was £100,000, for the whole property as a site.

While Princes Street rents have increased to threefold what they were half a century ago, a large increase in land-value has occurred in working class and lower middle class areas in the city. One-roomed houses then fetched rather less than a shilling a week. Now, the same room is rented from 1s. 6d. to 2s. 6d., yet there has been no capital spent in permanent improvements. Then, one- and two-roomed houses stood at from under £2 to £6 and £7. Now, very few houses can be had under £4, and these are yearly decreasing in number. It is not uncommon to see a single-roomed house advertised to let as high as £7 a year. Since the recent extension of the city boundaries, the number of houses under £10 rental has shown a steady tendency to decrease. This is partly accounted for by the Burgh improvement schemes under which the lower class tenements are pulled down and are not replaced by houses at the same rental. In the Greenside district two-storey blocks of one- and two-roomed houses have been pulled down, and replaced by three-storey blocks of one- and two-roomed houses, and at higher rentals. The Burgh Engineer in his report (1899) says that "the question of re-housing of evicted slum-dwellers is scarcely answered." That "£40 *per* acre is the maximum permissible for this class of housing." And land is being held unused in Edinburgh until a clear feu-duty of over £160 *per* acre can be obtained. In the outskirts of the city, from two to three miles from the General Post Office, £80 an acre is demanded for working class tenements. Some 2000 acres within the city are still held vacant merely because no one can at present pay the price demanded. It is the high price demanded for the land that forces the building of tenement houses—a form of dwelling essentially unhealthy. If this land were brought more rapidly to market, and the taxes on building remitted, we could afford to build cottages and cottage-villas for our working-classes, and also mark out vacant spaces for pleasure and garden grounds, as was done when Princes Street and all the new town was laid out. Building was then started on what would now be considered unripe land. The first feuars received the land not only rent free, but also tax free.

The incidence of the Assessments leviable in a burgh is fixed by Part V. of the Burgh Police (Scotland) Act, 1892 (55 and 56 Vict., c. 55). Edinburgh, Glasgow, Aberdeen, Dundee, and Greenock, however, have private Acts on the subject, but may adopt the provisions of the Police Act, 1892.

The rates leviable and their incidence is fixed by the Act as follows:—

Rate.	Section of Act.	Incidence.	
1. Burgh General Assessment . .	340	Occupiers.	...
2. General Improvement Rate . .	154, 315, 359	½ Occupiers.	½ Owners.
3. Special Riot Assessment . . .	341	½ Occupiers.	½ Owners.
4. General Sewer Rate	361	...	Owners.
5. Special Sewer Rate	362	...	Owners.
6. Private Improvement Rate . .	365	Occupier or	Owner.

Section 340 of the Act provides that Burgh General Assessment shall be levied on occupiers according to the rental appearing in the Valuation Roll, except as provided in section 347, and shall not exceed 4s. in the pound where there is, or is about to be, a Municipal Water Supply, or 2s. in the pound where there is not such a supply. If there exists any statutory power in a burgh to classify rentals and impose a higher rate on high rentals than on low rentals, that may be continued.

Section 347 provides that for assessments under the Act the annual value of the following lands or premises shall be taken to be one-fourth of that entered in the Valuation Roll:—

1. All lands and premises used exclusively as a canal or basin of a canal, or towing path for the same, or as a railway or tramway, constructed under the powers of any Act of Parliament for public conveyance, excepting the stations, depôts, and buildings, which shall be assessable to the same extent as other lands and premises; and all bridges, pontages, and ferries, not being private property.

2. All underground gas and water-pipes, or underground works of any gas or water corporation.

3. Salmon fishings, and all woodland, arable, meadow or pasture ground, or other ground used for nurseries, market gardens, or for agricultural purposes.

And where the burgh has a water supply under the Act the annual value of all quarries and manufactories within the burgh shall, as regards the Burgh General Assessment, so far as applicable to water, be held to be one fourth of the annual value in the Valuation Roll. The same reduction in reference to water rate holds good for shops in terms of section 267.

The General Assessment is applicable to all the purposes provided in the Act (save those specially covered by the other five assessments). It covers, *e.g.*, Police, Officials' Salaries, Lighting, Cleansing, Fire Engines, Public Parks, Public Baths, and the like. The occupiers pay the whole of these. It may also be used to meet the cost and damages incurred in riots, and to meet any deficit in the Private Improvement Rate, if necessary. The only purpose for which the owner is wholly assessed is Sewers and Drains.

How all this works out is best shown in the summaries given in the Annual Local Taxation Returns (Scotland), 1903-4; [331, 1906.]

Table 3, p. 10, gives the following summary of the incidence of Local Rates, and it is well to give the whole Table :—

Local Authorities.	Total Amount of Assessments Collected.	In respect of Ownership.	In respect of Occupancy.
Burgh	£2,613,735	£696,336	£1,917,399
County Councils	921,377	581,345	340,032
District Fishery Boards	13,061	13,061	...
Parish Councils (including School Rate)	2,191,410	1,157,047	1,034,363
Heritors, for Ecclesiastical Purposes	49,664	49,664	...
Harbours and Ports	1,541	1,115	426
Total	£5,790,788	£2,498,568	£3,292,220

From the above we get as the proportionate incidence of assessments by the three main classes of rating bodies the following :—

Local Authority.	Percentage of Assessment falling on Ownership.	on Occupancy.
Burgh	26.6	73.4
County	63.	37.
Parish	52.	48.
General Average	43.1	56.9

Excerpting from the General Returns the Burgh Assessments of the five large towns, which have their own private Acts regulating the incidence between owner and occupier, we have this table :—

Town.	Owners. s.	Owners. d.	Occupiers. s.	Occupiers. d.	Percentage. Owners.	Occupiers.
Edinburgh	0	$10\frac{3}{4}a$	2	$3\frac{1}{4}a$	21.4	78.6
Glasgow	0	$11\frac{17}{32}b$	3	$1\frac{15}{32}b$	23.5	76.5
Dundee	0	$1\frac{23}{32}$	3	$4\frac{9}{32}$	4.5	95.5
Aberdeen	1	$2\frac{1}{2}$	2	$10\frac{1}{2}$	27.4	62.6
Greenock	0	$6\frac{1}{4}$	3	1	14.4	85.6

(*a*) Includes rate levied by Edinburgh and District Water Trust.

(*b*) Includes Glasgow and District Water Rate of 1d. on Owners and 5d. on Occupiers. Occupiers under £10 were assessed at $7\frac{15}{16}$d. less than appears here.

Even if it were true, as is often said, that the owner ultimately pays all rates, as deduction from rent, yet it is evident that increase of rates must largely remain on the tenant, and the above tables show that there is a very great initial preponderance in the position of the owner, which the provisions in this section (5) would go a small way to remedy. On the footing that the rate ultimately falls on the owner, it will be better for economy of collection that it should be placed on him directly, to a much greater proportion than at present. The "shifting" of an indirect tax is always apt to be accompanied by additional costs which unnecessarily increase the burden.

Many of the opponents of the Bill indicate the opinion that 2s. in the pound on the annual value would be nugatory, and its result trifling. While not of that opinion, I do think a better form of limitation of the amount of the tax would, in the first instance, be a limit founded on some fraction of the total amount required to be raised on assessment. I think, in this view, the limit suggested by Provost Keith (sec. 2283), of from a third to a half, is a very sound proposal. A stereotyped limit of 2s. in the pound of Land Value might be disproportionate in some places to the local requirements.

S. 6.—Exemptions.

I approve generally of this clause as it stands.

Rating Authorities may, under the existing law, grant exemption from burgh rates on the ground of poverty or inability to pay. Section 343 of the Burgh Police (Scotland) Act 1892 (55 and 56 Vict. cap. 55) provides :—"The Commissioners may, on the ground of the poverty or inability of any person liable to the Burgh General Assessment under this Act, remit, in whole or in part, payment of the said assessment by such person in such manner as the Commissioners shall, in their discretion, think just and reasonable, but upon no other account whatsoever." The Burgh Police (Scotland) Act, 1903 (3 Edw. VII. cap. 33), sec. 46, enacts *inter alia* that the above section "shall, notwithstanding any enactment to the contrary, be applicable to all assessments by the Town Council under statutory authority." Parish and County Rating Authorities have similiar powers of remission on the ground of poverty or inability [8 and 9 Vict. cap. 33, sec. 42 ; 52 and 53 Vict. cap. 50, sec. 62 (4)].

The following general exemptions have also been granted by statute, under various qualifications :—

(1) By 37 and 38 Vict. cap. 20. All churches, chapels, meeting houses, and premises exclusively appropriated to public religious worship, also all cemeteries.

(2) By 60 and 61 Vic. cap. 62, sec. 3. Voluntary schoolrooms, offices and playgrounds.

(3) By 6 and 7 Vict. cap. 36, sec. 1. Societies established exclusively for the purposes of science, literature, or the fine arts are not liable either as occupiers or owners.

(4) By 32 and 33 Vict. cap. 40, sec. 1. Sunday and Ragged Schools may be exempted from occupiers' rates by the rating authority.

(5) By 17 and 18 Vict. cap. 91, sec. 42. Mines and quarries are not to be assessed unless worked during some part of the year to which the assessment applies.

(6) By 55, and 56 Vict. cap. 55 sec. 373 (3). A Town Council may wholly or partially exempt any portion of the burgh for a definite period, from any of the Police Act assessments, on the ground of such portion "being newly included within the boundaries, or its not being built upon, or upon any other ground."

(7) Under 17 and 18 Vict. cap. 106, sec. 36 ; 26 and 27 Vict. cap. 65, secs. 133, 134 and 136, Lighthouses, and volunteer and militia storehouses, are exempt. Lands and heritages occupied for the

purposes of the Crown are not subject to rates, on the ground that the Crown is not mentioned in the Rating Statutes. Contributions in lieu of rates on such property are made out of a special Parliamentary Vote. The exemption is also held to extend to property occupied by the Police and administration of justice.

In the Final Report for Scotland of the Royal Commission on Local Taxation, the majority report [ch. 1067, 1902, p. 25].—"We are strongly opposed to any extension of the system of exempting certain classes of property from liability to local rates, but, as a general rule we are not prepared to suggest the withdrawal of such exemptions as have already been granted." From this, they except the case of cemeteries which are revenue producing, and suggest a withdrawal of this exemption.

Generally, clause 6 of the Bill seems to me to include the already existing exemptions so far as applicable.

It has been said that the form of the clause would force the owners to build up garden ground and back greens, private gardens like Heriot Row Gardens. It is not so. This error arose from a mistaken reading of the exemption in favour of "parks or open spaces held and enjoyed by the public under any Act of Parliament, &c." The preceding exemptions all follow the usual exemption clause in favour of religious or charitable purposes. The parks or open spaces here exempted, required exemption because they would probably be held in fee simple without any valid restriction to prevent their owner building on them; and sec. 44 of the Burgh Police (Scotland) Act, 1903, gives powers to the Town Council to improve the ground and build pavilions and the like, on any public park, open space, or pleasure-ground. It is quite otherwise with Heriot Row and similar gardens. No person, if this Bill were passed, could build on them who could not build on them before. Such open spaces are fenced by restrictions in the titles which would be as valid after as before the Act passed. If the Assessor decided to call for a return under section 1 from the owner, he would first find that the *solum* of the gardens was vested in the Superior, Heriot's Trustees. If he asked them for a return of the value of the ground, they would reply that all their rights in the land, other than their right of superiority, had been transferred to the feuars around the gardens. Each of these in his turn would answer that he had returned a higher selling value for his rights in his feu because these included his rights in the gardens —these rights being the right to prevent building and the right to use the gardens as garden and recreation ground which he enjoyed along with his co-feuars. Any one wishing to build on these gardens at present can only do so by buying up all these surrounding feus and also the superiority. That was done in one case in Glasgow. The protection of such gardens is in the fact that their present use is the best use. If Princes Street gardens were to be built up the value of building land on the north side of that street would fall by probably more than a half.

Section 7.—Feu Duties and Ground Annuals.

I approve of this clause as it stands, and consider it a fair and just application of the principle of the

Bill to the classes of property dealt with. These are in the general case part of the land value, and the intention of this clause is to tax that value in the hands of the party owning that part of the land value.

It is objected:—1. That superiors are not owners of land values; and 2, that the clause is a breach of private contract, and partakes of the nature of retrospective legislation. In my opinion none of these propositions is tenable.

1. *The Superior is an owner of an estate in land.*—It is of the essence of the feudal contract that the granter of a feu shall retain a fee in the land he feus. The measure of this retained estate in land will be the value of the feu-duty or annual rent, with the casualties and other obligations special to the individual contract. This is quite distinctly laid down by Stair (II. 3, 6, p. 201), where, dealing with "the Essentials of Feus," he says:—

> "First, there must remain a right in the superior, which is called *dominium directum*; and withal a right in the vassal, called *dominium utile*: the reason of this distinction and terms thereof is, because it can hardly be determined that the right of property is either in the superior or vassal alone, so that the other should have only a servitude upon it; though some have thought superiority but a servitude, the property being in the vassal, and others have thought the fee itself to be but a servitude, to wit, the perpetual use and fruit, yet the reconciliation and satisfaction of both have been well found in this distinction, whereby neither's interest is called a servitude; but by the resemblance of the distinction in law, betwixt *jura et actiones directæ*, and those which, for resemblance, were reductive thereto, and therefore called *utiles*, the superior's right is called *dominium directum*, and the vassal's *dominium utile*, and without these the right cannot exist. As there must be a right in the superior, and another in the vassal, so the vassal in his right must necessarily hold of and acknowledge the superior, as having the direct right in the fee, otherwise the two distinct rights, without this subordination, will make but two allodial rights."

Further on Stair says of Feu holding (II. 3, 33, p. 221):—

> "Infeftments feu are like to the emphyteusis in the civil law, which was a kind of location, having in it a pension, as the hire, with a condition of planting and policy, for such were commonly of barren grounds; and, therefore, it retains still that name also, and is accounted and called an assedation or location in our law; but because such cannot be hereditary and perpetual, all rentals and tacks necessarily requiring an ish, therefore these feu holdings partake both of infeftments, as passing by seisin to heirs for ever, and of locations, as having a pension or rent for their *reddendo*, and are allowed to be perpetual for the increase of planting and policy."

That the feu partakes of the nature of a lease, perpetual and hereditary, rather than of a sale, appears

from the words of style formerly used in the feu charter itself. Dealing with the "Tenour of Charters," Stair (II. 3, 15, p. 203) says the dispositive clause runs "if it be ward or blench, in burgage, or mortification, it bears, '*Damus concedimus et in perpetuum confirmamus*'; but if it be a feu charter, it bears, '*Arendamus, locamus, in emphyteusin dimittimus, et in perpetuum confirmamus.*'"

The nature of the contract is assimilated to that of a lease except that there is in feu holding no ish. There is an annual rent stipulated for, there is transference of possession of the lands of the grantee, under conditions of payment of annual rent; upon failure to observe the conditions there is eviction of the grantee, and the granter enters on possession on his still existing title to the land. On this footing feuars are referred to in the case of Feuars of Kinross (1693, Mor. 13,071) as "hereditary tenants." (And upon this footing I am unable to understand why feu holdings have not under the Valuation of Lands Act 1854, sec. 6, been dealt with as "lands let upon a lease, the stipulated duration of which is more than twenty-one years from the date of entry under the same.")

It may be replied that the words now used in the dispositive clause in a feu charter, "Do hereby sell and in feu farm (or 'blench farm') dispone to the said B, and his heirs and assignees whomsoever, heritably and irredeemably, all and whole the lands of, etc.," do import a sale to B, and may therefore be held to indicate an alteration in the fact of the contract importing an alteration of law. My reply is, that the feu charter must be read as a whole, and that the contract thereby constituted is not one of "sale," either as that term is popularly used or as it is known in law. The lands thereby disponed to the feuar are disponed under conditions and restrictions fenced with irritant clauses, and these still leave the granter vest in the lands. There is no alienation of the lands. *Ex facie* of his titles, the superior is absolute proprietor of the lands contained in them. Thus, if he possesses upon these titles the actual property or *dominium utile* for the prescriptive period, his possession will produce a prescriptive right to the whole, and consolidate the *dominium utile* with the superiority. This is true, even where the superior's title has been obtained by a purchase of feu-duties and other prestations and obligations contained in the feu duty, and has been made up on a conveyance disponing these to him without, as is more usual, disponing the lands under burden of the feuar's rights. (*Earl of Dunmore* v. *Middleton*, *Brown's Supplement*, V. 614; also 22nd December 1774, Morrison, 10,944.)

But quite apart from the technicalities of feudal conveyancing, the Courts have held that feuing is not selling or alienating the land, but merely an act of administration of an estate. This has been held in the case of charitable trusts where the trustees were directed to hold the lands in perpetuity, or where they were expressly forbidden to sell or alienate the lands. Thus, under Heriot's Trust, the trustees were directed to employ the funds left by Heriot "towards purchasing certain lands, in perpetuity to belong unto the said Hospital." Lands were accordingly purchased at various times, and the conveyances taken to the Governors as "feoffees in trust in perpetuity" for behoof of the Hospital. In 1759,

37 acres of these lands were feued at 5 bolls of barley per acre to the city of Edinburgh, to enable it to construct the North Bridge; the Merchant Company brought an action to have this feu-charter reduced as *ultra vires* of the Governors of Heriot's, and in breach of trust. Their action was *dismissed*, on the ground that there was no alienation of the lands (*Merchant Company of Edinburgh* v. *Heriot's*—1763, Morrison, 5,750). A similar rule was followed when the Magistrates of Elgin brought a Petition asking the Court to grant them power to feu some of the town lands (*Mags. of Elgin*—1882, 10 R. 343). In a later case (*Jamieson*—1884, 21 Scot. Law Rep. 541), where trustees of a charitable trust were forbidden in express terms by the trust deed to sell or alienate heritage belonging to the trust, it was held that the granting of feus, being an act not of alienation but of administration, the trustees had power at common law, and without applying for the special authority of the Court to feu the lands. Lord Kinnear, in giving judgment in that case, said:—

> "This Petition appears to me to be unnecessary, since the trustees of a charitable mortification have power at common law to feu out the lands of the mortification (*Mags. of Elgin; Merchant Company of Edinburgh, ut supra*). It is said that the present case is distinguishable, because the trustees are forbidden to alienate the heritable subjects belonging to the truster. But the ground of judgment in the cases cited was that the granting of feus was not an alienation of the trust estate, but an act of administration within the discretion of the trustees. If, however, the prohibition to alienate should be construed as a prohibition to feu, the Court would have no power under the Trusts Acts to authorise what, upon that hypothesis, the truster had directly forbidden."

In sale, the seller transfers his title to the purchaser. In feuing, it is not so. The feuar obtains a fee of property, but the fee of the superior remains, burdened by the fee of property—*dominium utile*—while that continues to exist in the feuar.

A further, and essential difference between feu and sale is, that in feuing no price is fixed. The rule of sale is—"No price, no sale" (Bell's Prin., sec. 85, 92; Bell's Com. III., i. 3 (sec. i. 461); Stair, Inst. I. 14, i. (p. 130-1) On Sale; Erskine, Prin. III. iv. 2, p. 329), and Moir's Note). In the contract of feu there is no price fixed, or the amount of which can be ascertained by reference to any fixed standard, or the payment of which will relieve the purchaser of all obligation to the buyer. In the contract of sale, any conditions adjected can only form obligations personal against the individual purchaser. The object of the feu is to create obligations which shall be effectual, not only against the grantee, but against the lands and any one deriving title from him.

In the same way a feu differs essentially from a sale of the lands under a bond for the price. In that case the sum in the bond would be fixed or capable of ascertainment, and the grantee could clear himself of the obligation by payment of that sum. There is also this practical answer to those who take

up this position, which they state thus :—"Here is a piece of land which I am willing to sell for £100; you, the builder, cannot find £100, therefore I, the landowner, will let you have a loan of the £100 at 5 per cent., and create a £5 feu-duty." The builder builds, and then the superior sells this £5 at from 27 to 32 years' purchase, say £150. In other words, as soon as the house is there, money might be had on first bond at about 3 per cent., but the superior continues to lend it at five per cent. I have never been able to see how this "assisted the builder." A temporary loan at 5 per cent. pending construction might assist, but to make it permanent is simply to reduce, by the difference between the £100 and the £150 the price the builder, in the then condition of the market, can get for his building. Hence the need to limit the construction of buildings, so as to restrict the supply in the market, and force the price up, to allow for this additional profit to the landowner.

All that can be said in fact or in law to be "sold" to the feuar is the rights in the land other than the rights in land reserved to the superior. Both these sets of rights are fees, or estates in land.

This distinction of the estates in land held by superior and feuar has been recognised by the Legislature, which, in dealing with ownership franchises, requires feu-duties payable by the feuar to be deducted from rental in calculating whether he is qualified to be put on the roll as an owner of a £5 rental in counties or a £10 rental in burghs. For this purpose all feu-duties and ground-annuals payable by the owner appear in a special column of the Valuation Roll.

That both the estates of the superior and of the vassal are included in the term "land" is recognised in the Conveyancing (Scotland) Act 1874 (37 and 38 Vict., cap. 94), where, by the interpretation clause (3), "*land*" or "*lands*" in that Statute includes "all subjects of heritable property which are or may be held of a superior according to feudal tenure, or which, prior to the commencement of this Act, have been, or might have been, held by burgage tenure, or by tenure of booking;" while "*Estate in Land*" means "any interest in land, whether in fee, liferent, or security, and whether beneficial or in trust, or any real burden on land, and shall include an estate of superiority;" under the same clause "*Superior*" includes "the Crown, the Prince and Steward of Scotland, and all subject superiors." . . .

2. *Alleged interference with Private Contract.*—Apart from private contract a superior is liable, *pro rata*, with his vassal for rates laid upon owners of land, and the alleged interference by the present Bill with private contract turns upon the history and import of the Clause of Relief inserted in charters and other conveyances. This clause has, or sometimes has, two branches. The first, which alone is sanctioned in the Titles to Land Consolidation (Scotland) Act 1868 (31 and 32 Vict., c. 101, Sch. B. 1), repeating the clause given in the earlier Transference of Lands Act 1847 (10 and 11 Vict. c. 48, Sch. A.) is in the form—"And I [*the superior or disponer*] bind myself to free and relieve the said [*disponee*] and his foresaids of all feu-duties casualties, and public burdens." The statute of 1868, section 8, enacts that the above clause "shall, unless specially qualified, be held to import an

obligation to relieve of all feu-duties or other duties or services or casualties payable or prestable to the superior, and of all public, parochial, and local burdens due from and on account of the lands conveyed *prior to the date of entry*." This statutory clause, then, only deals with payment by the granter of the deed of all burdens due on account of the lands prior to the entry of the feuar. It raises no question, and is probably invariably found in every conveyance.

As regards burdens falling due from the lands subsequent to the date of entry, there are three cases. I. Where no further stipulation is made in the charter, these burdens fall at common law to be paid in the first instance by the feuar, but with right of relief *pro rata* against the superior (Duff's Feudal Conveyancing (1838), p. 95, and cases there—*Feuars of Kinross*, 1693 Mor. 13,071; *Mags. of Edinburgh*, 1696 Mor. 4,188). II. Where it was desired that the superior should pay all, and not merely his *pro rata* share of burdens falling on the land, this was the subject of express stipulation, as in *Dunbar's Trustees* (1878, 5 R. (H. L.) 221). This was a very frequent form of relief clause in the end of the 18th and beginning of the 19th centuries; the city of Edinburgh in particular came under this obligation in several of its charters. III. We have the more modern case of where the superior desires to saddle the feuar with payment of all burdens affecting owners of lands; in this case there is added a clause in the form—"the said [*disponee*] and his foresaids being bound to relieve me and my foresaids of the same in all time thereafter."

Thus Duff on Deeds (*ut supra*), when dealing with the clauses of a feu-charter, gives the clause of Relief in these terms:—

> "*Obligation in regard to public burdens.*—And further, I hereby bind and oblige myself and my foresaids to free and relieve the said B. and his foresaids of all cess, minister's stipend, and other public and parochial burdens exigible furth of the said lands, and others preceding the said term of Whitsunday [*or* Martinmas], the said B. and his foresaids being bound to free and relieve me and my foresaids of the same in all time thereafter."

On this clause Duff makes the following comment:—

(1) "This clause binds the superior to free the lands of all cess, minister's stipend, and other burdens due prior to the period of the vassal's entry. The general term, *public and parochial burdens*, includes poor rates, repairs of manses and school-houses, and schoolmaster's salary, as well as cess or land tax; but not stipend or teind-duty, which is a burden inherent in the right of property, and not imposed by any particular statute [*M'Ritchie's Trustees*, 26th Feb. 1836, 14 S. 578]. Statute labour has been held as personal to the actual possessor of the lands; but the circumstances of the case were in some respects special [*Johnston*, 13th June 1800, M. App. *v.* Public Burdens, 1.] As burdens properly public affect the lands and their rents, they are payable by the person who is actual proprietor of the *dominium utile* at the

time they become due. For example, if the vassal's entry be at Whitsunday, he is liable in payment of the cess or land-tax for the year which commenced on the 25th of March preceding that term, as being current at the time of his entry. It is thus necessary to insert an express clause of relief in the charter, where the intention is that the superior shall continue liable, in whole or in part, for future burdens, *beyond the proportion effeiring to the amount of the feu-duty*; and as a general clause of relief may, in certain circumstances, be interpreted according to the practice of the estate or the district [*Bruce Carstairs*, 23rd Jan. 1773, M. 2333, B.S. 5, 561, Hailes, 524, *aff. on appeal*], it is advisable to express those particular burdens, of which it is agreed that the vassal shall be relieved. It has been explained that warrandice against payment of stipend does not necessarily include augmentations (sec. 57, 3).

(2) The vassal is usually taken bound to relieve the superior of public burdens falling due subsequent to the period of his entry. When this obligation is omitted, the superior seems to be liable in a share of these burdens, in the proportion which the feu-duty bears to the rents of the lands.

[Cases of *Feuars of Kinross*, and *Treas. of Edinburgh, as above*]."

These cases are decided upon the footing that the superior being in beneficial enjoyment of part of the rents and profits of lands, is liable at common law for the proportion of the rates falling upon owners of lands, *quoad* the amount of the feu-duty. The ratio of these decisions seems equally applicable to the case of rates assessed upon owners as defined in the Lands Valuation (Scotland) Act, 1854, where "proprietor" is defined [sec. 42] as applying to "persons who shall be in the actual receipt of the rents and profits of lands and heritages."

It is true Professor Menzies in his Lectures on Conveyancing (p. 532), after giving the full double clause in much the same terms as Duff, says:—

"There is no reason why this form should not be used now, but it is generally shortened somewhat, thus—'And I oblige myself to free and relieve the said B [*the feuar*] and his foresaids of all public burdens exigible from the said date of entry.'"

But he quotes no authority, nor does he say whether it will have the same effect.

So, too, Professor A. Montgomery Bell, in his Lectures, p. 642, when dealing with the clauses in an original charter, says:—

"In reference to future burdens, such as cess, poor-rates, erection and preparation of parochial buildings, schoolmasters' salaries, and local assessments, *nothing requires to be said* in order to throw the liability upon the *purchaser of the lands*, nor to throw on him the burden of the

minister's stipend, if he has bought the teinds. They affect him and his purchase by law and as matter of course."

But he, too, quotes no authority, and his statement, though true if very literally interpreted as dealing with a "*purchaser of lands*," has no real bearing on the question of the relations between superior and vassal, with which he purports to be dealing. Neither Menzies nor Bell makes a direct statement in contradiction to the law as laid down by Duff; neither of them give any authority for the indirect statement they make, whereas Duff's statement seems supported by a uniform series of decisions, the rationale of which seem to me as applicable to-day as ever. The superior, *quoad* the feu-duty, is in beneficial enjoyment of rents and profits of land.

But, granted that the majority of feuars have come under the obligation to free and relieve the superior of public burdens, that obligation must be assumed to have been entered into in the sense in which it has been interpreted by the Courts in the series of decisions culminating in the case of *Dunbar's Trustees* (*as above*), namely, that the obligation only applies to burdens affecting the lands under the laws existing at the date of the contract. It would appear that a tax on land value was even less in contemplation of the parties, than the change from the old schoolmaster's salary to the education rate under the Education Act 1872 (*Steuart* v. *Seafield*, 1876, 3 R. 518). It would, to my mind, be an innovation of the contract, if the legislature, in enacting that owners of land value should pay a tax in proportion to that value, should provide that feuars should pay the tax on the land value owned by their superiors. Such a payment in relief certainly never was in contemplation of parties when they entered into the exising contract, and the feuar has a right to be heard when he says that under the contract he undertook no such obligation. The superior's real complaint is, not that he has no relief from his vassal, but that the tax is imposed at all. In this he is precisely in the position of the man who has retained the lands in his own possession.

Objectors to the Bill talk vaguely of Parliament having given legislative sanction to the notion that feu-duties should not be subjected to special taxation. They never give any reference, and I can find no such sanction. The legislature has repeatedly intervened to regulate some exuberance in the feudal tenures. The abolition of ward holding in 1746 by The Land Tenures Act (20 Geo. II. c. 50), and the redemption of varying casualties under the Conveyancing (Scotland) Act 1874 (37 and 38 Vict. c. 94) are examples. Parliament has subjected feu-duties to income tax and the death duties, and I find no suggestion that Parliament has given any guarantee that it will not again intervene to lay what conditions and what taxes it sees fit upon feu-duties; if necessary, it might well intervene to readjust the burden of rates, even where the kind, though not the amount, of rate may have been in contemplation of parties.

It is said that some such obligation can be read out of the fact that the Trusts Acts make it permissible for trustees to invest trust funds in feu-duties and ground annuals. The purpose of the enact-

ment clearly was, as the title of the 1867 Act (30 and 31 Vict. c. 97) puts it, "To facilitate the administration of Trusts." Decisions of the Law Courts had so strictly circumscribed the powers of trustees in regard to investing the trust funds, that some relaxation was necessary. The Acts, therefore, in widening the trustees' powers, included among a large number of investments which trustees might make without incurring personal responsibility—feu-duties and ground annuals (sec. 3 of the Trusts Act 1884, 47 and 48 Vict. c. 63). Since that date Parliament has reduced the interest on Consols., which are also among the investments authorised.

Further, it is asserted that because trust estates have invested largely in feu-duties, these should be exempted from this new tax. To my mind a trust estate has no more sanctity than the property of an individual. If the object of the trust is one of public benefit, the proper way to meet its claim seems rather a donation of public money, accompanied by suitable public control, than an exemption from rates or taxes. Special exemption of such trusts is merely an indirect method of granting public money without securing public control.

In no proper sense is the clause retrospective. As above explained, it seems to me the natural and true outcome of the principle of the Bill, that owners of land value shall pay the tax. It merely states specifically what seems to be the present law of the contract between superior and feuar; it merely declares what seems to be the finding which, on the lines of past decisions, the Law Courts would be bound to come to if the Act should impose a rate on the owners of land values and say nothing about relief. It interferes in no way with the special bargain entered into between superior and vassal even in the second branch of the clause of relief as that has hitherto been interpreted by a uniform series of decisions, confirmed by the House of Lords in *Dunbar's Trustees* (*ut supra*). The tax would be imposed by supervenient legislation, and would therefore be outwith the contract altogether. The insertion of the clause merely obviates what might be ground for litigation. I am of opinion that the wording of the section would have the effect thus intended.

ADDENDUM—Feu Contracts under existing System.

I desire to amplify the reference to Section 6 of the Lands Valuation (Scotland) Act 1854, made parenthetically on page 20 of my Precis.

That Act is the ruling statute under which the present Valuation Roll in Scotland is made up.

Section 1 requires that a Valuation Roll be made up in each county or burgh, shewing the yearly rent or value of the whole "Lands and Heritages" within such county or burgh. The Roll must specify

the nature in each case of the lands and heritages, and must give the names and designations of the "Proprietor," and, where there are any, of the tenants or occupiers.

The interpretation clause, Section 42, defines "Proprietor" as the person "who shall be in the actual receipt of the rents and profits of Lands and Heritages." "Lands and Heritages" in turn extends to and includes, *inter alia*, all "lands."

Now, taking the results of the authorities and decisions dealt with in the Precis, we find that a Superior is a person in receipt of rent of lands. Therefore, in terms of Section 1 of the Act, the Superior ought to be entered in the Roll as a "Proprietor" of "Lands and Heritages."

But, again following the authorities quoted, which affirm that a "feu" is a hereditary or perpetual lease, a lease without an ish, the provisions of Section 6 of the Valuation Act are brought into play.

Section 6 provides, that where Lands and Heritages are let upon lease for a longer period than 21 years, the leaseholder shall be taken to be the "Proprietor" of such Lands and Heritages in the sense of the Act, and shall be entered as such on the Roll. At the same time the rent agreed on in such long lease is not to be entered on the Roll as the yearly rent or value required by the Act, but such yearly rent or value is to be arrived at *aliunde* under the Act. But the leaseholder, when paying the rent due under his lease, is to be entitled to deduct from that rent the proportion of owner's rates effeiring to that rent as portion of the statutory annual rent or value.

Thus it comes, that where land is feued, the feuar as holding land under a lease which is of a duration longer than 21 years, is entered on the Valuation Roll as "Proprietor" for the purposes of the Act, under Section 6; but that Section also gives him a re-affirmation of his common-law right of deducting from his feu-duty the proportion of owner's rates effeiring thereto.

Under Section 6, as a lease-holder, and in no other way, is a feuar entered on the Roll as "Proprietor" of the lands and heritages of which his feu forms really only a part, and he is so entered for the purposes and under the limitations of the Statute.

Apart altogether from questions of legal interpretation or technical distinctions, there is the practical argument on the facts of the case. Section 6 applies to a 999 years lease, and allows deduction of rates from the rent. Upon what footing can such right of deduction be refused to the holder of a feu?

The deduction provision of Section 6 was merely the re-affirmation of the common-law rule, and is a direct legislative precedent for the similar provision of Section 7 of the present Bill, which merely restates that position with the modifications necessary to confine the deduction to the portion of the feu-duty which shall represent "Land Value."

Both clauses re-affirm the common-law.

I should just like to add that it is extremely doubtful whether such contracts to relieve the superior of rates are valid in view of the provisions of Section 23 of the Conveyancing Act of 1874, which nullifies all future contracts for payments by the feuar to the superior which are indefinite in amount.

EDWIN ADAM.

II. POINTS FROM CROSS-EXAMINATION.

1. NEW ROLL VALUATION.

Chairman. If you are going to alter the standard by which you rate the owner, do you think we should, as in the Bill, retain a double standard or would you substitute for the present standard by which the owner is rated the land value?—My own view is that it would be better to do as they have done in the colonies and as we did in 1854 adopt a new basis for arriving at the ratio of rates, that we should simply abolish the present Roll (it would be for consideration as to what proportion of rates would fall upon the occupier and owner), but that the one ratio should be adopted for all purposes.

Do you suggest that the standard by which occupiers are at present rated should be altered? That is to say, do you think that the occupier, like the owner, should be rated by a standard of land value rather than by a standard of rental which embraces both the return on land and the return on building?—I do; I think both the owner and the occupier should be encouraged to improve by getting the rate taken off the improvement.

And assessed exclusively upon the Land-Value?—That is so.

2. LAND MONOPOLY IN EDINBURGH.

Mr Younger. I do not know the facts about Edinburgh as well as you do, naturally, but the older feus in Edinburgh were not very high?—The feus 125 years old in Edinburgh are low.

About when was the addition made?—About 1820, a very substantial increase took place.

And since then they have been gradually rising?—Not altogether; in some places they have had to fall. No. 11 Hillside Crescent was built in 1824; Nos. 2, 3, 4 and 5 were built, I understand, before 1840. These houses were built at a feu duty of £1 a foot of frontage, which works out at something like £330 per acre per annum. As to the value of that site to-day,—No 11 was built in 1824, and there was not a house built to the east of that in the crescent for sixty years; then building was only rendered possible by reducing the weight and burden of the building restrictions; Heriot's had to allow tenement houses to be built and had to halve the feu duty. Yet from 1854 onwards the letting value of the existing self-contained houses in the crescent has steadily risen. That is a picture of what monopoly price means; the feu duty exacted in 1824 was a price the land had not reached at that date; it was a prospective value that has not yet been reached, under the restrictions insisted on, in that part of Edinburgh.

So that the feuars at that time made a mistake in paying that money for those sites?—The superior also made a mistake in asking it.

He is getting it still all the same, though?—On those particular sites that he feued, but he has land left on his hands he cannot feu because it is so burdened and restricted.

In the proximity of Hillside Crescent?—Next door to No. 11 on the west there are two sites unbuilt upon.

There are building restrictions on certain of that property?—Yes, and those are part of the land value.

That would be fully met in his case by the large feu duty he received for the rest, would it not?—It might or might not; he is standing out of pocket for all the rest.

If he was getting this very enormous feu no doubt he considered at the time it would pay him very well for keeping the rest vacant?—That was his business, but the public of Edinburgh have suffered by all that part of Edinburgh having been unbuilt upon for fifty or sixty years within half a mile of the Post Office in Princes Street; and this is a tract of Edinburgh lying between Edinburgh and the port of Leith that lay vacant during the whole of that time. When the Edinburgh and Leith Railway was made in 1864 or 1865, they broke Heriot's part of the feuing plan; they did not break Allan's, and the result is that Allan was left with his white elephant on his hands, but Heriot's have feued parts of their land and are getting from £170 to £200 an acre for ordinary sites, and for frontage to Leith Walk they are taking a rate that represents something like £400 per acre per annum. The feuing plan of Hillside shows that in 1818 the west side of Leith Walk was partially built; it stands to-day in the same partially built condition although it is the main artery between Edinburgh and Leith. There have been one or two houses built within the last ten years on that side of Leith Walk, and the rest remains with temporary buildings, shops and workshops, not fully used, and when you get further to the west there is a whole tract of about a half a mile square that is not yet used for anything except nursery grounds and gardens.

Is that because of the restrictions?– Because of the enormous feu duty that Heriot's are asking for it. I believe there is no restriction upon that further west ground.

That is the same reason why the temporary buildings still exist on the west side of Leith Walk, is it?—I believe so.

3. RATING UNDER CROFTERS ACTS.

Mr Younger. Of course there is no precedent for rating of this kind?—For rating upon land value? Yes.

Where?—Under the Crofters Act the crofter's rent is fixed at the value of the land apart from the improvements and that valued rent is the rent entered on the Valuation Roll, so that you have in the Highlands all crofts under the Crofters Act entered at the land value apart from improvements.

That is a very special case?—And a very beneficial case.

4. LAND VALUES IN NEW ZEALAND.

Mr Dewar. So far as you have gone through this official paper on the working of taxation on the unimproved value of land in New Zealand, New South Wales, and South Australia, does it confirm you in the view you have had for a long time about taxation of land value?—It more than confirms it; it shows very satisfactory results of a very partial use of the system, and it shows that the less the system is used the less will be the beneficial results, but the beneficial results are always there practically in proportion as the system is put into force.

You also notice it has reduced rents in New Zealand?—Yes; as regards reducing rents I would like to answer in the words of Cobden when he was asked if the taking off of the corn tax would reduce the price of bread; he said in one of his speeches: "I cannot say it will reduce the price of bread, but it will make you better able to pay it."

Mr Remnant. Who did he mean by "you"?—The working men, the users of bread, and that is what I would say, that it might not actually reduce the cash value of the rents, but it would make the user of the house in a better position to pay the rent.

You agree with that?—I agree with that; that is to say, that the impetus given to the building and other trades would so increase the earning-power of the working classes that they would be in a better position to provide themselves with decent houses and homes than they are at present.

Mr Dewar. You notice also that the opinion is in New Zealand that it has, owing to the taxation of land values, become unprofitable to continue to hold land unimproved?—Yes, the same expression of opinion

was given by Mr Reid, when Premier of New South Wales, as regards the result of a tax of a penny in the £ on the value of the land put on there.

And that the tendency also is to discourage land speculation?—That is so.

Are these the benefits which the promoters of this Bill hope to gain in this country from the passing of the Taxation of Land Values Act?—That is so.

And in your opinion, the principle having been in operation in New Zealand for a number of years, they are now in a position to give us a reliable opinion upon what the result will be?—I think so.

One more question and I have done; in principle do you think there is any difference between land in New Zealand and land here, so far as taxation is concerned?—I think the same economic law applies in both cases.

5. EXISTING RATING SYSTEM.

Mr Mitchell Thomson. Is it not the fact that a higher rate is put on a property which is better used, for the reason that the better use gives the presumption of a larger income from the property?—I do not follow the presumption at all; I do not believe in that presumption. The higher the rent a man pays for a house does not mean his income is larger; that is a very fallacious method of arriving at a man's income.

I am asking you this; is not the presumption which underlies the present system that because a bit of land is being better used than another piece of land therefore it is producing a larger profit?—That, I believe, is so; it is producing a larger profit to somebody.

And therefore it is rated higher?—I do not see why it should *therefore* be rated higher; if that person is producing that higher rental value by his own exertion I see no reason why he should be taxed on the result of his own exertion.

Is not the whole foundation of our present system of taxation and rating on the presumed amount which a certain thing produces?—I am here to say I disapprove of the present system, and that the people who think with me think that the present system is deleterious to the prosperity and good living of the community, and it is exactly that presumption that we are here to redargue.

You say you object to that system, the present system, entirely on principle?—On principle.

You object to taxation on profits?—Well, there are two kinds of profits—there are profits from land rent, and profits from industry; I object to a tax upon profits that are drawn from industry.

Supposing a man puts a certain amount of money into a business of his own, and he makes a profit at the end of the year of £1,000; another man puts a similar sum of money into a similar business, and makes a profit of £5,000; do you think it unjust that the second man should be rated higher than the first one?—Certainly; if he is occupying the same land value.

I am not talking about land value, but I am talking about making incomes?—You must first of all tell me that the one is occupying an equal opportunity; that is to say, that the site of his work or the site of his business is equally good to the site of the other man's business.

Let us take an author; supposing one author is making £100 a year and another author is making a £1,000 a year, do you think it is unjust that the one who makes £1,000 should pay more income-tax than the one who makes £100?—I do think it is unjust that income-tax should be laid upon them according to their industry.

That is something to have got. What about the case of shares?—All shares represent a holding in a company; that company's assets are divisible into land value or opportunity, and the improvement value or machinery by which they are using and occupying that land value.

Supposing it has nothing to do with the land?—It must have something to do with the land.

What about the White Star Line?—They have got all their docks and quay dues and all that sort of thing.

Do you not know there are plenty of steamship owners who do not own docks?—They pay for them.

They pay dues?—If they have paid their dues they should not be taxed or rated on their profits.

You are more revolutionary in your doctrines than I thought?—We do not, even now, rate the ships of a steamship company.

But there are rates on the profits?—And that is wrong; if their profits are merely the result of their own

industry I say they are not benefited by the expenditure of the rates, and these profits, which are the result of their own industry, should go to themselves.

You are pretty consistent, but it takes you a pretty long way?—No, it is exactly my whole proposition, that the profits are all divisible into land rent or monopoly value and improvement rent.

You do not stop at applying that system to land values; you would not stop at applying that system to land values, but you would apply it to all kinds of profit from industry?—All profit that comes from industry I would relieve from rates, but all the part of a man's annual income that comes from land values or monopoly I would rate, and I would get at that through the company he owns property in, because he would get his income from the company under deduction of his rates upon the land value.

How would you do in the case of a man who puts £1,000 in Consols?—Consols are the National Debt, and the King's property is not rated.

Do you think it is fair that a man who puts £1,000 in Consols should pay less rates, so to speak, or less taxes rather, than a man who puts £1,000 into Coats's?—I think so, because Coats is occupying a land value and should pay rates on this land value, and the shareholders should therefore, through Coats, pay their share of rates on the land value.

6. NATIONAL TAX ON LAND VALUES.

Would you like to see a higher rate imposed on land in this country than the rate which might be required for the time being by the particular municipality?—Certainly not by that municipality. You are referring to a rate as distinguished from a public tax for Imperial purposes?

Yes?—I would like to see the public tax put on too, just as in New Zealand.

Would you have any other taxes?—I would have taxes on all public monopolies and land value.

Public monopolies?—Like licences.

UNEARNED DECREMENT.

When you say the value depends, I suppose the value may increase or diminish, may it not?—Surely.

You can have worsement as well as betterment?—Yes, and it would go in at the lower rate next year. That I think is one of the benefits of the Bill, because at present a man sticks to his rental value, which is very unfair in many cases.

7. WHO PAYS A LAND VALUE TAX.

You say: "The tax would fall on the consumer of land values." Who is the consumer of land values?—The owner of the land value. The rent represents to him the land value, and he consumes that rent.

In the case of a feu, do you mean the superior, the vassal, or the tenant?—I mean the superior.

Who is the owner of the land?—I have gone fully into that when on the law. There is a very good schedule in the Australian Report which shows how the first so-called owner and then his lessee and the sub-lessee all come in as owning bits of the land value according as they have got beneficial leases, that is leases at rents lower than the land value.

8. RECLAIMED LAND.

How would you deal with reclaimed land then? Would you not say that "reclaimed land" was a product of industry?—There are two values in reclaimed land; there is the present value of the improvement, and there is the value of the right to put that improvement there. That is precisely what the Crofters Commission had to do when they were valuing the crofts in the north of Scotland.

Take the case of land reclaimed from the sea. Is not that an improvement of industry?—There are two values there; the value of the embankment or dock, or whatever it is put up to reclaim the land from the sea; and there is the value of the right to put that embankment there. In the Grangemouth case the railway company had to pay a very large sum to the proprietor of the foreshore for liberty to put their docks there.

9. ABOLITION OF THE MILITARY TENURES.

How was the State deprived of rights by the abolition of military tenures?—The ward tenures, under which all Scotland was practically held, contained the liability on the superior, as holder of the land, to turn out with a certain force to enable the Crown to carry on its wars. He had also the burden put upon him of doing all the policing and judicatory of his barony, or whatever it was. These obligations were swept aside, the public taxpayers have to pay for these now, and he got his charter renewed to him upon a new footing as a blench charter with payment of a penny Scots if asked only. When it came to the case between him and his sub-vassal they were not just abolished, as they were between him and the Crown, but between him and his sub-vassal there was inserted a money payment in place of the ward duties. That is what I mean by depriving the Crown of the right of revenue from these lands.

I suppose, as a matter of fact, the obligation to render military service very frequently led to some of these gentlemen taking up arms against the State?—Surely; it was very inadvisable as a method of raising the revenue of the land, but the proper way to have abolished it was to have done exactly the same between them and the Crown, as was done between them and their sub-vassals, and made a money payment necessary.

If these gentlemen were frequently fighting against the State, you can hardly say that the State lost any valuable rights by the abolition of the system which allowed them to do so?—Certainly, you may possess a very valuable right, although somebody persistently impugns your right, and acts against it.

Do you seriously suggest that the right which was abolished was of much practical value to the State?—I certainly do; it meant the whole of the defences, military and naval, of the country.

10. ABOLITION OF THE HEREDITARY JURISDICTIONS.

What right did the State lose when hereditary jurisdictions were taken away?—One of the duties of the land owner or baron of the district was to hold his baron's court and exercise justice. That was abolished, and he got a payment for getting it abolished.

How did the State lose any rights? It was the baron who lost his rights?—The State lost the right of making him give his time as judge and maintainer of the King's Peace, and it has had to pay for that function ever since.

11. LAND RECENTLY PURCHASED.

You know that all the property on the North Bridge was bought some years ago by the City?—Yes.

Do you know what became of it afterwards?—The one side was bought for the *Scotsman* and the other side was bought in three lots.

It was bought at public auction?—Yes, after its price had been cried down in the *Scotsman*.

And the City was the seller?—Yes.

Do you think it is a fair thing that the seller of a piece of property, having sold it to a buyer by public auction and therefore presumably being a willing seller and a willing buyer should then come forward and ask 10 per cent. more than the purchase price?—He would not get it.

Is not the City taking 10 per cent. more than the purchase price under this Bill?—The City already rates the land upon its use value, land and buildings together. If that use value is its full market use value the Bill would proportionally relieve it of taxation.

12. WORKING-CLASS HOUSES.

You say that the rental of one and two-roomed houses has increased?—Yes.

I suppose you do not say that that is all profit for the landlord.—I mean the increased standard of comfort which is exacted by the municipality, and the various improvements in houses in structural conditions which the municipality insists upon?—I do not think so; I have given Mr Remnant a schedule showing certain houses where practically there has been no change structurally. I refer, for instance, to West Richmond

Street, where there is one tenement which was built before 1855, and, in 1855, this tenement contained ten houses at a rental of £57, 5s. That same tenement, with the same ten houses in it, is now rented, according to the valuation roll, at £103, 15s.

Have there not been any improvements made on the houses?—I understand not.

Mr Henderson. We have had evidence from Edinburgh, from Glasgow, and Aberdeen, that there is a large quantity of unlet property in each of these towns. How can you reconcile that, with the statement you make, that landlords in these towns are holding up the property?—The reason is that what are wanted are houses at rents that the working classes can afford to pay. Our burgh engineer tells us, in a very able report he gave to the Town Council, that he cannot build, even with the benefit of municipal loans, houses at a rent that the working classes with their wages can afford to pay, unless he gets the land at a maximum sum of £40 per acre per annum. Now Heriot's are holding land that would be available for working-class houses, and are demanding from £160 to £200 per acre for it, and on special sites as high as about £400. The result of this is that our sanitary inspector in his report to the Town Council, for the year 1905, says:—"The sub-division of houses during the past year shows a considerable increase over the number already reported on as having been so treated during the previous five years. There is a noticeable tendency on the part of some owners of properties to sub-divide them, in order to form small houses consisting of one and two apartments. While the inducement of an increased rental in most cases explains such a re-arrangement, there can be no doubt that the effect is highly unsatisfactory from the sanitary point of view. The effect of such procedure is obviously in time the creation of over-populated and slum areas." That is my answer to the suggestion that there are still unoccupied houses in Edinburgh; they are unoccupied because the rent is too high, just the same as we have many unsold boots in Edinburgh, and yet a large part of the population going about bootless because they cannot afford to pay the price demanded for the boots.

Mr Mitchell Thomson. When you say the rents are too high, what is the limit which you suggest as the limit which a workman can reasonably afford to pay?—The burgh engineer, in his report for 1899, says:—"A regular payment of 2s. per week in the way of house rent cannot, however, be considered as at all reliable," that is to say, you must make it less than that.

Mr Henderson. Less than £5 a year?—Yes.

Chairman. Is that for one-roomed houses?—Yes, for the poorer population.

Mr Henderson. I suggest to you and to the burgh engineer that if you got the land for nothing you could not build houses for that?—He is an expert.

Can you build a workman's cottage for less than £150?—I believe that would be a three, four, or five-roomed cottage at £150, according to the style.

Five per cent. on £150 is £7, 10s.?—Yes, but that would be for three, four, or five rooms; and at present he does not get one room for that.

Mr Mitchell Thomson. Do you know any part of Edinburgh where a workman gets accommodation of the kind you describe for £5 a year?—The number of houses under £5 a year is gradually diminishing, as I have said. Even that is for one and two-roomed slum properties, and these rentals under £5 are gradually disappearing. I think the Committee might have this from the Sanitary Inspector's Report, 1905. (A ticketed house in Edinburgh means a house under 2,000 cubic feet of capacity.) "The total number of ticketed houses now amounts to 7,367. Of those 7,367 houses, 5,422 consist of one apartment, and 1,945 of two apartments. Cases of overcrowding occur much less frequently now than was the case in former years, but during the term under report 182 overcrowded houses have been discovered. . . . In a one-roomed ticketed house, in St Giles Ward, there was found a family consisting of three adults and one child, together with two adult lodgers. The available space for each of these was 175 cubic feet, instead of the minimum necessary space of 400 cubic feet."

These are houses under £5, you say?—No, under a capacity of 2,000 cubic feet.

Are those classes the houses you say are rapidly disappearing in Edinburgh?—No; unfortunately not; it is the rentals under £5 that are rapidly disappearing, but that does not necessarily refer to the size of the houses.

Do you suggest that if this new system were put into operation you could afford to build more cottages and cottage villas?—Undoubtedly.

I do not see it; perhaps you could explain. I suppose a cottage villa is not the best producing use which this land could be put to?—I think it is from the health point of view absolutely the best; I think the system would tend that way, because people would no longer willingly live in tenement houses if they could get land at a price they could afford to live in cottages with.

13. LAND VALUE TAX WOULD ENCOURAGE INDUSTRY.

Mr Henderson. Do you seriously say that the proposed tax is going to create a demand for goods?—The demand is there already for goods if the purchaser could pay for them, but at present he is kept out of work and has not got the wage to pay away.

Do you suggest that a tax in Glasgow of this kind would increase the orders for shipping?—I think it would; there would be more imports wanted and that would increase the shipping industry immensely.

How is this to come about?—By the abolition of the taxes on the houses and bringing land into the market at a lower rate you would increase the earning power of the community, with the result that they would want more to satisfy their wants, and that would mean a larger import and larger shipping.

How would you increase the prosperity of the working community unless you raised their wages?—It would raise their wages distinctly if you had, as they had in New Zealand, a larger demand for labour to build the houses.

Please do not bring in New Zealand?—You do not like New Zealand because it is an example of the thing in work.

I do not like it because I do not think the circumstances are at all comparable?—I will give it to you as my opinion that in Glasgow the laying of this tax upon the value of land apart from improvement and relieving *pro tanto* the taxes on improvement would so increase the opportunity of labour and the demand for labour that wages would rise.

How?—Because you would increase the demand for labour.

How?—By increasing the opportunity; land is the opportunity of labour.

Do you suggest houses should be built whether there was a demand for them or not?—There is a demand.

How can you say there is a demand when there are 7,000 empty houses?—4,000 in Edinburgh, not 7,000, and I explain that because the 4,000 empty houses are held at so high a rent. We have over 35,000 people crowded into houses not the size of a small railway guard's van. Do they not demand better accommodation? Do they live there for choice?

How is this tax going to give them what they want?—Because it would give the opportunity of building upon the land and getting the land into the market at its present value, not its value twenty, thirty, or forty years hence.

Everybody who has come here who knows the subject practically, that is to say who is not a theorist—surveyors and so forth—have told us that if you were to get the land for nothing these men could not afford from their wages to pay the rent?—I give you a practical man's opinion in our burgh engineer, who is doing that sort of work day in and day out throughout the year, and he says he could give better accommodation for the working classes if he could get the land at £40 an acre, and we cannot get it under about £200 in Edinburgh.

14. THE PRINCIPLE OF THE BILL.

We will say there are two plots exactly alike in size, but one has got a thirty years' old house on it, and the other one has just been completed, and there is a fine new house yielding very large rentals, what would you put the land value of the thirty years' old site next door, which was not half the rent, at?—The land value is not affected by the building upon it at all.

You would say it was the same land value as the big one?—Yes.

Although the land value might far exceed any revenue ever received?—Yes, because it is being badly used.

And you think that just?—Certainly, I think it very just and expedient.

What you say, in fact, to the man is, "My friend, pull down the house and put up a better one"?—No, I say, "Keep your house as it is, but pay your rates on the benefits you are getting from the municipality and from the public around you."

I want the Committee to very clearly understand you about that?—I have tried to make it very clear.

You have got a newly-built house and a house thirty years old, and the rental of the one is not half the rental of the other, but you say that both, if they are the same size in area and have the same natural opportunities, should be rated at the higher rate?—That is the proposition as clear as we can put it.

Then the only remedy the man would have would be to pull down his house, to scrap it?—What remedy has he under the present system when he builds a better house and is rated more than his neighbour, because the neighbour is using his ground badly?

The remedy is with the bigger house that he draws double the rents?—He has paid double the capital and more.

Chairman. Is the illustration Mr Henderson has given you a concrete instance of the principle which you support?—Yes, I think Mr Henderson has very fairly put the principle we support, and we say it would be for the benefit of the community that the two men, having equal land values, should pay equal rates and taxes, and not have rates and taxes decreased or increased according to the bad or good use made of the land.

Mr Henderson. If there were half a dozen sites like that in Buchanan Street, all equal to this new one as far as space is concerned, every one of these would have to pay on the land value the same as the very fine house the newest of the lot?—Yes, if that best house was the market use.

So that you might have this—that if a decently maintained house thirty years old was side by side with a house built on the new American plan with fifteen or sixteen storeys, the rent of the one would be more than the gross rental of the other houses in the same street?—At present the house would have a fictitiously high rental if it were the only American framed building in the street, but it would come down to its market value if that were the market use—that is to say, when the others made the market use of their sites.

15. THE NATIONAL ESTATE.

You say: "Since that date Parliament has reduced the interest on Consols"?—That was Goschen's reconstruction.

Why do you bring it in?—Because I say Parliament has treated them exceptionally; it has reduced the interest on them.

You know Government has always the power to redeem Consols, and you also know that there was a solatium paid when the change was made?—Precisely.

You do not say anything about that here?—I say, precisely, so Government has the right to go back on the abolition of the feudal tenures; it is the public estate.

III. RETURN AS TO WORKING-CLASS TENEMENTS.

Excerpted from the Valuation Roll of the City of Edinburgh, shewing comparative Rentals of Working-Class Houses in 1855 and 1905.

Tenement.		1855-56.		1905-06.		Classification of Houses of Tenement in 1904-5. A			Population 1904-5. B	Per Centage of Increase of Rentals.
No.	Street.	No. of Houses	Rentals.	No. of Houses.	Rentals.	1 Room	2 Rooms	3 Rooms and over		
7	India Place	4	£59 0 0	7	£78 16 0	—	3	4	28	+33·5
12	,,	8	52 2 0	9	85 16 0	—	8	1	36	+65.2
19	,,	8	43 15 0	9	58 15 0	5	4	—	31	+34.4
23	,,	22	76 9 0	22	101 4 0	19	3	1	73	+32.3
29	,,	18	85 10 0	16	105 8 0	10	10	—	70	+23.2
		60	£316 16 0	63	£430 0 0	34	28	6	238	+36
5	College St.	13	£203 4 0	32	£310 8 0	22	11	1	114	+50.4
10	,,	6	97 10 0	12	131 14 0	6	3	6	54	+35
15	,,	10	186 0 0	31	307 3 0	23	5	3	101	+63
		29	£486 14 0	75	£749 5 0	51	19	10	269	+54
9	Leith St. Ter.	28	£195 10 0	48	£262 8 0	46	1	—	142	+34.2
11	,,	17	203 12 0	28	214 14 0	19	5	3	105	+5
12	,,	10	219 5 0	27	195 15 0	18	9	2	98	−7
		55	£618 7 0	103	£672 17 0	83	15	5	345	+9
16, 18, 20	West Richmond Street	10	£57 5 0	10	£103 15 0	—	—	—	—	+81.
29, 31	Richmond Place	11	£109 10 0	16	£156 12 0	—	—	—	—	+43
	Grand Totals	165	£1588 12 0	267	£2112 9 0					+32

Note.—This Return was kindly made up in the City Assessor's Office, except columns A and B, which are taken from the Sanitary Officer's Report for 1905.

IV. NOTE OF CASES on Liability of Feu Duties to pay Local Rates.

1. Annual Rents Liable to Public Burdens.

"Annual rents were found liable to public burdens, proportionally with the superplus rent belonging to the fiar. 23rd June, 1675. *Bruce* v. *Bruce* (11,185). Yet this annual rent was not for security of a stock (but an irredeemable constitution of annual rent). The like was found of a liferent annual rent." 18th June, 1663, *Fleming* v. *Gillies* (8,273)."—Stair, II. 5, 13 (p. 281). Elchies, 208.

2. Annual Rents Liable to Public Burdens.

Fleming v. *Gilles* (Morrison, 8,273).

Margaret Fleming being infeft in an annual rent of 700 merks, out of houses in Edinburgh, in liferent, with absolute warrandice from all dangers, perils and inconveniences whatsomever, pursues declarator against the said James Gilles, as heritor, for declaring that her annual rent should be free of all public burden, since the rescinding of the Act of Parliament 1646, whereby liferenters were ordained to bear proportional part of their annual rents with the heritors. The defender *answered*, The libel was not relevant, for albeit the Act of Parliament was rescinded, the justice and equity thereof remained, that whatever burden was laid upon land, should lie proportionally upon every part thereof, and every profit forth of it.

Which defence the Lords found relevant, and assoilzied.

3. Act of Convention, 1667, Imposing Land Tax.—in M. 13,076.

"That all persons having real estates of lands, teinds, annual rents, due by infeftment, feu-duties, tack-duties, and others of that nature, are, and shall be, liable for the foresaid supply," *i.e.* the land tax. (The Commissioners are empowered to assess the inhabitants of counties and boroughs at certain rates for the proportional relief of the supply of the year.)

4.—Method of Assessment in Burghs.

John Wilson and Others, Heritors in Glasgow v. *The Magistrates of Glasgow* (M. 13,076).

The Lords found, That the heritors of lands, houses, and other heritable subjects within the City of Glasgow, so the other burgesses, in respect of their trade and manufactures within the same, are liable in the payment of the cess imposed by Act of Parliament upon the City of Glasgow; and that the Magistrates of Glasgow, the Commissioners for ordering, raising, and levying the said cess, and the stent-masters appointed by them, ought to rate the same upon the heritors and [the] other burgesses accordingly. . . .

Thereafter, the Magistrates having proportioned the cess for 1759, by laying three-fourths on the houses and one-fourth on the trade—

The Lords *observed*, That though some part of the cess must be paid by the trade, the precise proportion was not fixed by any statute. This must be left to the discretion of the Magistrates, and unless it can be made appear that they have been guilty of a gross abuse of power, the Court of Session cannot interpose.

5. Annual Rents liable to Public Burdens.

Lady Wamphray (*Douglas*) v. *Laird of Wamphray* (M. 13,066).

A wife being infeft in certain lands for an annuity of 2000 merks yearly, which sum the husband obliged himself to pay, infeft or not infeft, and to warrant the lands to be worth 2000 merks yearly, the annual rent was found liable for the public burdens.

6. A Surplus Feu-Duty is liable to Public Burdens.

Cruikshank v. *Morison* (M. 13,069.)

The Viscount of Frendraught having disponed, by wadset, to John Watt, the Kirk-town of Forgie, to be holden of himself feu for 20s. of feu-duty, and for payment of £80 of superplus rent yearly, whereupon infeftment followed, and whereunto Bognie hath now right; the Viscount disponed the £80 yearly to David Cruikshank, who thereupon pursues a poinding of the ground. The defender *alleged*: That he ought to have allowance of the public burdens effeiring to the £80, which is the third of the rent, seeing public burdens being *debita fundi*, must burden all that have interest proportionally. The pursuer *answered*: That by constant custom, feu-duties are free of all public burdens, and are understood to be given and accepted without all burden; and if it were otherwise, in all pursuits for feu-duties, this would be an obvious defence, which was never proponed nor sustained, and would hinder all payments of feu-duty till count and reckoning; neither were ever feu-duties contained in any valuation of the shires,

which is the only ground of public burdens by assessment, nor were they ever found to bear taxation. The defender *replied:* That all annual rents and pensions, though contained in no valuation, which is only of the lands, do suffer abatement according to their proportion with the rent; and though it hath not come to be controverted, the same reason holds for feu-duties, especially where they are considerable; *2do*, this £80 is no feu-duty, but an annual rent; for it is clear by the wadset-right, that the feu-duty is 20s., with an obligement to pay £80 as superplus rent, which being a part of the real right, may be a title for poinding of the ground, but not as a feu-duty.

The Lords *found:* That there being a several express feu-duty of 20s., that this £80 was not a feu-duty, but was liable to an abatement for public burdens.—Stair, v. 2, p. 591.

7. An Annual Rent liable to Deduction of Public Burdens.

The Lady Samford v. *The Tenants* (M. 13070).

A wife infeft in an annual rent of victual for her jointure is liable to pay assessments and public burdens as if it were money.

8. Liferent not liable in Public Burdens, if Tenants bound to relieve the Heritor.

The Lady Elsh-Sheels v. *The Laird of Elsh-Sheels.* (M. 13,070.)

In an action at the instance of the Lady Elsh-Sheels against the Laird, the Lords *found*: That the Lady's liferent annuity was not to be burdened with the public burdens, in case the Lady make it appear, that at the time of the contract of marriage, the tenants of the lands were obliged to relieve the heritor of the public burdens.—(Sir P. Home MS. v. 3).

9. Where the Feu-Duty payable to the Superior is truly part of the Rent of the Lands, the Public Burdens must be borne proportionally by the Superior and Vassal.

Hary Young and other Feuars of Kinross, pursued Sir William Bruce (M. 13,071),

their superior, to hear and see it declared, *1mo*, That they ought not to pay the whole cess of their feus, seeing he got more than the half rent of the lands for his feu-duty, and so he ought to bear a proportional share of the public burdens effeiring to his share of the true rent of the lands for his feu-duty: The Lords *found*: That effeiring to their several proportions of the rent, the superior must pay a part of their cess, conform to the valuation of the lands, and that the feuars (who were little better than heritable tenants) could not pay the whole cess; for albeit the rents might be, if the lands were set, 600 merks by year, yet the vassals paid of this 3 or 400 merks yearly to Sir William, their superior.

10. A Wife's Annuity is subject to Public Burdens unless expressly declared Free.

Lumisden v. *Robertson* (M. 13,072).

11. Feu-Duty reserved by a Sovereign, in a Charter of Lands of his Property, not liable to Cess after Dissolution thereof from the Crown to a Subject.

James Duke of Montrose v. *Feuars of Kilpatrick* (M. 13,073).

Five chalder and two bolls of meal reserved by King Robert I. in the feu granted by him of the lordship of Kilpatrick, being in King James VI.'s time made payable to the castle of Dunbarton for the subsistence of the garrison, and called the watch-meal ;—in a process for payment thereof, at the Duke of Montrose's interest (who for onerous causes procured the said feu-duty or watch-meal to be dissolved from the crown in his favour) against the feuars of Kilpatrick, the Lords *found:* That the said watch-meal, being a feu-duty payable out of the Queen's property, was not liable to cess ; in respect ever since the Excise was annexed to the Crown, cess is never imposed but by a voluntary offer made by the subjects to the Crown.

12. Feu-duties—Liability to Rates.

Kirk Session of South Leith v. *Magistrates of Edinburgh.—Footnote to Bakers' Society of Paisley* v. *Stentmasters*, &c., Dec. 6, 1836, (15Sh. 200).

Rubric.—Held—(4) Feu-duties *not* a subject of assessment [to the Poors' Rate].

Lord Mackenzie (Ordinary) in his judgment *found*: That the feu-duties to which the defenders have right, for subjects situated within the said parish are not liable to be taxed for the relief of the said poor, in respect that the subjects themselves are liable to be, and are, taxed for the same fully, without deduction on account of the said feu-duties, Sustains the defences, Assolizies the defenders, and decerns.

Note —The above does not decide the question as to right of relief as between vassal and superior, but only liability to pay to rating authority which has already received rates on full annual value of the lands. E. A.

13. Clause of Relief—Interpretation.

The vassal in a feu-charter was bound "to pay the haill cess and public burdens due and payable furth of the said lands, of which they shall have allowance out of the first end of their money feu-duty,"—"and that for all other burden and exaction whatsoever."

Held that the superior was not bound to relieve the vassals of payments of stipend allocated on the lands, except *quoad* the teind duty stipulated in the charter.—*McRitchie's Trustees* v. *Hope*, 26th February 1836, 14 S. 578.

14. Clause of Relief—Interpretation.

The vassals in a feu-charter were "obliged to pay the whole cess and public burdens, they always having allowance thereof in the first end of the feu-duty yearly, at clearing;" and the superior was bound to relieve the vassals "of the ministers' stipend and reparation of manses that may be required furth of the said lands and teinds thereof in all time coming."

Held that the superior was bound to relieve the vassals of payments of stipend allocated on their lands.—*McRitchie's Trustees* v. *Hope*, 26th February 1836, 14 S. 578.

See also *Dundas* v. *Robertson*, 27th June 1837, 15 S. 1191. *Hope* v. *Speares*, 11th July 1837. 15 S. 1288, and *Ainslie* v. *Magistrates of Edinburgh*, 19th November 1839, 2 D. 64. (*Register House Case.*)

15. Clause of Relief—Interpretation.

A superior bound himself in a feu contract [1796], to relieve his vassal of "all cess, minister's stipend, augmentations thereof, and whole other public burdens whatsoever due and payable furth of or for the said two acres of land and teinds thereof, of all time bygone and in all time coming." The lands were occupied for many years as a market garden, but there was no restriction against building. The vassal built a cottage and byre of the annual value of £19. He paid poors-rates for several years, which were imposed on the owners of lands and houses. In an action at the vassal's instance against the superior, held that the obligation of relief applied, that the relief was not limited to the poor-rates effeiring to the feu-duty, and that it included the rates paid by the vassal as owner of the houses. *Question*—Had the poor-rates exceeded the whole feu-duty, would the relief extend beyond that amount, or must the relief be operated out of the feu-duty? *Dissentient*—Lord Deas.—Who holds relief limited to state of land at date of granting feu contract, and *doubts* whether *poors rate* is contemplated, as that fell only on means and substance prior to Poors' Act, which laid it on lands and heritages.—*Paterson's Trustees* v. *Hunter*, etc., 10th December 1863, 2 Macp. 234.

Per *Lord Curriehill* in above, p. 239—When nothing is stipulated in such a contract as to public burdens, the common law makes them fall upon the *dominium utile*; they are payable by the vassals. But it is competent for the parties to such contracts to reverse this legal order, and to make the public burdens remain a tax on the *dominium directum*, and to be payable by the superior. We know, from many cases which have come before us, that that has been *a very common arrangement* in Scotland

16. Clause of Relief.

Poors' Rate held within "Public burden," so far as assessed on "Owners."

Campbell's Trustees v. *Dingwall*, 17th November 1865, 4 Macp. 50.

Wilson v. *Magistrates of Musselburgh*, 22nd February, 1868, 6 Macp. 483.

17. Clause of Relief.

Poors' Rates on buildings as well as on ground included.

Nisbet v. *Lees*, 15th June, 1869, 7 Macp. 881.

18. Clause of Relief—Supervenient Legislation.

But not "burgh cess," to which the lands had been subjected by legislation subsequent to charter.

Preston v. *Magistrates of Edinburgh*, 4th February 1870, 8 Macp. 502.

Hope v. *Lumsdaine*, 22nd June 1871, 9 Macp. 865.

19. Clause of Relief.

Charter granted in 1814 contained the provision—"During the existence of the present feu-right, all public and parochial burdens or taxes imposed or to be imposed shall be paid by the superior and vassal as if the former was proprietor and landlord, and as if the latter was tenant under him."

Held that the superior was only bound to relieve the vassal of Poor Rates on the annual value of the feu-duty.—*Smith, Laing & Co.* v. *Maitland*, January, 7th 1876, 3 R. 281.

20. Clause of Relief—School Board Rate.

In a disposition *à me* the granter bound himself to free and relieve the disponee of, *inter alia*, "all *schoolmaster's salary* and *road money* payable for the lands," from henceforth and in all time coming.

1. *Held* (*diss. Lord Deas*) *not* to apply to School Rates under Education Act, 1872.

2. *Held—per* Lord Young, Ordinary—to apply to the General Assessment under Banffshire Roads Act, 1866.—*Steuart* v. *Seafield*, 1st March, 1876, 3 R. 518.

21. Supervenient Legislation.

"A superior by charter, dated 1823, undertook to free and relieve the said A.B. [*feuar*] of the whole cess or land tax, feu-duties, or other duties payable to his the said C.D.'s [*superior*] superiors of the said lands, ministers' stipends, shoolmasters' salaries, and other public burdens due and exigible out of the whole lands and subjects hereby feued, or that may become due and payable for or from the same in all time coming."

(1) Held, that "While such an obligation as that in question will give relief from all public burdens exigible or payable at its date, or that might thereafter at any time become exigible or payable by virtue of any *law or practice existing at its date*, it will not afford relief from public burdens created and imposed for the first time by supervenient laws—that is to say, by laws enacted after the date of the obligation."—*Dunbar's Trustees* v. *British Fisheries Society*, 19th December 1877, 5 R. 350. Affirmed 12th July 878, 5 R. (H.L.) 221, 6 App. Cas. 1297, per Lord Ormidale, p. 363. Approved by Lord Chancellor Cairns, p. 222.

Held (2) that the extent of relief is *not* limited to amount of feu-duty.—*Same Case.*

V. THE GLASGOW BILL.

A BILL to provide for the Taxation for Local Purposes of Land Values in Scotland, and for the Compulsory Acquisition of Land by Local Authorities in Scotland; and for other Purposes.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Every proprietor or reputed proprietor of any land or heritage in any burgh in Scotland shall, on or before the *fifteenth day of June* in each year, transmit to the assessor of the burgh in which such land or heritage is situated a written statement containing the following information :—

(*a*) The number of square yards of ground contained in each separate or discontiguous piece of ground of which he is proprietor or reputed proprietor :

(*b*) The annual value of each such piece of ground (hereinafter called "the land value"), calculated at the rate of *four per cent.* per annum upon the sum which such proprietor may fix as the price thereof as between a willing seller and a willing buyer, such land value being taken apart from the value of any buildings, erections, fixed machinery, or other heritable subjects, on or connected with such piece of ground.

2. The assessor shall make up the valuation roll for the burgh, with additional columns for the purpose of showing the extent of land contained in each separate piece of ground, with the annual value thereof at *four per cent.* on the selling price.

3. The assessor shall, after considering the land value supplied by each proprietor, enter in the valuation roll the amount of the land value so supplied by the proprietor, or such other amount as the assessor shall deem reasonable.

4. The provisions of the Lands Valuation (Scotland) Act, 1854, and the Acts amending the same, as to sending notice to each proprietor, the adjustment of such valuation, the hearing of the appeals against such valuation, and penalties in respect of failure to furnish a written statement of extent of ground and valuation, or for making any false valuation, shall be equally applicable to the land values provided for by this Act, and the returns made in connection therewith, as to the valuation of lands and heritages under the Act of 1854 and the returns made thereunder.

5. From and after the term of Whitsunday next occurring after the *passing of this Act*, the town council of

every burgh in Scotland shall levy an assessment, to be called "the land value assessment," upon the amount of the land values entered in the valuation roll for the burgh, subject to the following conditions :—

(*a*) The land value assessment shall be imposed and levied at a rate not exceeding *two shillings* in the pound :

(*b*) The net proceeds of such land value assessment shall be allocated pro rata to the several accounts in respect of which police and municipal assessments are levied within the burgh :

(*c*) The land value assessment shall be levied exclusively upon the owners of land values as appearing in the valuation roll, and shall be recovered in the same manner as any police assessment levied in the burgh.

6. The provisions of the Act shall not extend to, or render liable to assessment under the Act, or in any way alter, modify, or affect the liability to local assessments of police stations, gaols, and premises occupied in connection therewith, public infirmaries, hospitals, poorhouses, public schools, places of religious worship, chapels, drill halls, ragged schools, Sunday schools, scientific and literary societies, burial grounds, or parks or open spaces, held and enjoyed by the public under any Act of Parliament, or under or by the permission of any municipal or local authority.

7. Any person entitled to payment of any feu duty, ground annual or ground rent, lease or tack duty, under a lease of more than *thirty-one years'* duration (which feu duty, ground annual or ground rent, lease or tack duty, are herein referred to as ground burdens), shall be liable in payment of land value assessment, subject to the following provisions, viz. :—

(*a*) Every proprietor or reputed proprietor of any land in respect of which ground burdens are payable shall be entitled to deduct annually from those ground burdens such proportion of the land value assessment paid by him in respect of the land as shall correspond to the amount of the ground burdens payable by him on the land as compared with the amount of the land value of the land :

(*b*) Deductions of a proportion of land value assessment shall be made in the same way from all duplications and other increased payments of ground burdens and from the amount of all feudal casualties :

(*c*) Where in any year the amount of the ground burdens on any land is the same or greater than the amount of the land value thereof, the proprietor who has paid land value assessment shall be entitled to deduct the whole of such assessment from the ground burdens :

(*d*) Where there is more than one ground burden on the same piece of land, the deduction in respect of land value assessment shall be made proportionately from such ground burdens without regard to any priority or preference which one ground burden may have over another :

(*e*) Where ground burdens are unallocated and have been paid by a proprietor of a portion only of the land on which they are burdens, he shall, in recovering any proportion of such ground burdens from other proprietors liable therefor, deduct therefrom a proportionate amount of the land value assessment deducted by him when paying such ground burdens :

(*f*) Any provision or stipulation in any contract, deed, or writing which has been or may hereafter be entered into for the purpose, or having the effect, of relieving, in whole or in part, any person entitled to payment of any ground burdens from liability to bear a proportionate share of the payment of land value assessment, in accordance with this Act, shall have no force or effect whatever.

8. This Act shall be read as one with the Lands Valuation (Scotland) Act, 1854, and any Acts amending the same ; and in this Act the word "burgh" shall include every royal and parliamentary burgh and every burgh within the meaning of the Burgh Police (Scotland) Act, 1892.

9. This Act shall apply to Scotland only.

10. This Act may be cited as the Land Values Taxation (Scotland) Act, 1906.