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Report of the Select Committee of the House of Commons on the Land Values Taxation (Scotland) Bill, 1906.

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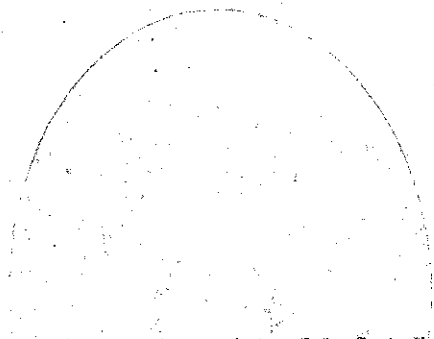

SPECIAL REPORT from the SELECT COMMITTEE

ON THE

Land Values Taxation, etc. (Scotland) Bill.

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THE SELECT COMMITTEE to whom the LAND VALUES TAXATION, ETC. (SCOTLAND) BILL, 1906, was referred; —HAVE taken evidence upon the subject, and have agreed to the following SPECIAL REPORT.

The Bill referred to your Committee was read a second time on the 23rd March, 1906, by a majority of 258 in a House of 380. Your Committee was appointed on the 24th April, 1906, and has taken evidence on nineteen separate days. Thirty-four witnesses were examined before your Committee and twenty-two memoranda were given in by gentlemen who were not called to give evidence. The witnesses were mainly expert valuators, solicitors, and officials engaged in the administration of the Valuation Acts in Scotland. But, in addition, a number of non-professional gentlemen, representing, for the most part, large municipalities in Scotland, were examined. Your Committee have also taken into consideration the final Reports of the Select Committee of this House on Town Holdings and of the Royal Commission on Local Taxation, respectively presented in 1892 and 1901. Your Committee had the further advantage of being placed in possession of the experience gained in New Zealand, New South Wales, and South Australia relative to the taxation of land as embodied in the recently issued Blue-Book (Cd. 3191, 1906).

The Present System of Valuation.

In order accurately to appreciate the nature of the Bill and the character and extent of the change proposed to be effected by it, it is essential to understand the system of valuation at present in operation in Scotland. Upwards of half a century ago there was

established a uniform valuation of lands and heritages according to which all public rating leviable according to rent might be assessed. That valuation is subject to annual revision. Now the statutory definition at present in force, of the yearly value of lands and heritages is simply this—the rent at which, one year with another, the land might, in its actual state, be reasonably expected to let. If the land is *bonâ fide* let for a rent fixed as the fair annual value that rent is taken to represent the true yearly value, but only if the land is let for a period short of twenty-one years. If it be let for a longer period, then the true yearly value is to be determined regardless of the rent fixed in the lease. Where land is built upon, no separate valuation of the land apart from the buildings upon it is entered in the valuation roll. It is the yearly value of the composite subject which is taken. The Assessor is the officer charged with the duty of making up the roll; and a code of procedure is provided to enable the Assessor to discharge this duty, and the ratepayer to challenge the Assessor's decision. Only in a few minor details was the system of valuation (apart from the standard of rating) thus set up, and in operation, subjected to adverse criticism before your Committee.

The standard by which the contribution to be made by each ratepayer to the yearly expenditure in burgh is measured is thus the yearly value of the land which he owns or occupies. And that yearly value is taken to be the rent at which the land, with the buildings upon it, might in its actual state be reasonably expected to let. If the land and buildings are not let at all, then an estimate of the rent they would fetch, if let, requires to be made, whether the particular premises are dwelling-houses, factories, workshops, or industrial concerns of any kind. The difficulty of forming such an estimate, at first considerable, has gradually disappeared. The yearly revision insures the rapid correction of error.

Contribution to the rates in the burghs of Scotland is made partly by owners and partly by occupiers, the standard for both being the yearly value of lands, including buildings. But the burden of burgh assessments is not laid equally upon owners and occupiers. The occupiers bear by far the larger share. According to the Local Taxation returns (Scotland) 1903–4 the total amount of the assessments collected in the burghs was £2,613,735. Of that large sum £696,336 was collected in respect of ownership and £1,917,399 in respect of occupancy. In other words, the percentage of assessment falling on ownership was 26·6, and on occupancy 73·4. In the five large towns of Scotland which have special Police Acts a similar disparity is found. Thus in Glasgow for the year 1906–7 the total of rates for municipal purposes was 3*s.* 6*d.* in the £, of

which about 10½*d.* was assessed on owners and about 2*s.* 7½*d.* on occupiers. In Edinburgh, for the same year, the burgh assessment comes to 2*s.* 8*d.* in the £; on the owner is laid 10½*d.* and on the occupier 1*s.* 9½*d.* in the £. In both cities, for general police purposes, the whole rate is levied on occupiers alone. The rental of the composite subject—land with the erections upon it—is selected as the standard of rating applicable alike to owners and occupiers. No attempt is made to separate the yearly value of buildings from the yearly value of the site on which they rest. No rates are at present levied in the burghs in respect of the value of land apart from buildings. If the land be let the owner is rated in respect of its actual rental; and if not let in respect of its presumed rental. Owners of feu-duties and ground annuals and vacant land escape rating altogether. The Valuation Roll is the basis for assessment of all local rates.

The Land Values Taxation (Scotland) Bill, 1906.

The main object of the Bill referred to your Committee is to levy a new and additional rate on the owners of land in burghs. The new rate is to be fixed according to a new standard—the yearly value (calculated at 4 per cent. on the capital) of land in burghs apart from the buildings and erections upon it. And every owner upon whom the rate is levied is to have an indefeasible right to seek relief, from anyone to whom he pays feu-duty for the land, of a part of the rate proportional to the amount of the feu-duty. The proceeds of this new rate are to be added to the sum collected yearly in the burgh for police and municipal purposes. The new rate is to be levied on owners only, and it is to be levied according to the estimated yearly value of their land, irrespective of the sum it actually yields.

The method by which it is proposed to set up the new standard is as follows:—An additional column is to be inserted in the Valuation Roll of each burgh. In that column is to appear the extent in square yards and the annual value of each separate piece of ground in the burgh. This annual value is to be determined by taking 4 per cent. upon the capital sum which a willing buyer would pay to a willing seller for the particular piece of land. But this capital sum is to represent the price which would be given by the willing buyer, and taken by the willing seller, for the land alone, apart from the buildings, erections, or improvements of any kind made upon it. Each proprietor is to give in to the Assessor a statement showing the extent and the annual value of his property so determined. If difference of opinion relative to annual value arises, the question is to be settled by the machinery of the present

Valuation Acts. When the Valuation Roll is made up and finally adjusted, the rating authority is to lay a rate not exceeding 2*s.* in the £ on the proprietors of these lands. The proceeds of the rate are to be devoted to the purposes for which police and municipal assessments are levied. If any feu-duty or ground annual is payable in respect of the particular piece of ground, the owner of that feu-duty or ground annual is to bear a share of the rate proportional to the amount of the feu-duty or ground annual drawn by him. A clause of exemptions expressed in familiar terms is found in the Bill.

The Bill not to be proceeded with in its present form.

It will be observed from the foregoing description of the proposals of the Bill that land values are not taken as the sole basis of burgh rating. The rating of occupiers is to proceed upon the present basis—the annual value of land and buildings taken together as a composite subject. The rating of owners is to proceed partly on the present basis and partly on the basis of land value alone. The amount of the new rate is fixed, *ab ante*, at 10 per cent. on the new standard, regardless of all other considerations. The Bill does not, therefore, give complete effect to the new rating standard which it sets up. It is confined in its operation to burghs. It leaves owners as well as occupiers of land and buildings still rated on the present basis, the rental of the whole composite subject. It leaves them so rated in the same proportions as they are rated at present. And it proposes to levy on owners alone an additional rate, fixed, no doubt, on a basis assumed to be sound, but absolutely arbitrary in amount. Your Committee consider these proposals to be indefensible. No evidence was adduced in support of them. No one justified the choice of 10 per cent. It was apparently arrived at by haphazard without any calculation or estimate of what its effect would be. The objections entertained by your Committee to the proposals of the Bill were such as to compel them to come to the conclusion that it ought not to be proceeded with in its present form. But as a large amount of evidence was laid before your Committee bearing upon the principle which underlies legislation of the class to which this Bill belongs, your Committee deem it to be their duty to express their views upon the main topics to which that evidence was directed.

Land Value to be the Standard of Rating—Separate Valuation of Land and Improvements.

The main principle which, in the opinion of your Committee, underlies proposals to tax Land Values, is—the setting up of a

standard of rating whereby the ratepayer's contribution to the rates is determined by the yearly value of the land, which he owns or occupies, apart from the buildings and improvements upon it, the object being to measure the ratepayers' contributions, not by the value of the improvements on the land to any extent, but solely by the yearly value of the land itself. The justification given for the adoption of the new standard is that land owes the creation and maintenance of its value to the presence, enterprise, and expenditure of the surrounding community. The value of the land is not created or maintained by the expenditure or exertion of its owner, except in so far as he is a member of the community. It is well, therefore, to select a standard of rating which will not have the effect of placing a burden upon industry. Hence the proposal to exclude from the standard the value of buildings and erections of all kinds, and fixed machinery. To include these in the standard tends to discourage industry and enterprise. To exclude them has the opposite effect. If, then, the value of bare land, apart from improvements, be chosen as the measure by which to fix contributions to local expenditure, the ratepayer will, it is alleged, be merely restoring to the exchequer of the local authority part of that which he has derived from it. Of this principle, and of the reasoning on which it rests, your Committee approve.

The direct effect of the adoption of the principle enunciated in the preceding paragraph will apparently be to effect a complete re-distribution of the burden of rating. Owners *inter se* and occupiers *inter se* will pay the new rate in very different proportions from those according to which they now pay. Owners of valuable land either unoccupied or occupied by buildings unsuitable to the site will pay more; owners of highly utilised land will pay less; and owners of land put to ordinary average use will pay the same proportions as at present. The indirect effect of the adoption of the new standard will be to stimulate building and improvements, to bring more building land into the market, to lower rents, and to diminish overcrowding. To what extent the burden of rating would be redistributed by the adoption of the new standard must, it is apparent, be matter of conjecture, inasmuch as no reliable *data* exist from which to form a just estimate of the value of land in Scotland, apart from the buildings and improvements upon it. It seems to your Committee, therefore, to be absolutely essential, before the proposed new standard is adopted, that such a valuation be made. The question which has engaged the anxious attention of your Committee, and to which prominent attention was directed in the evidence, was—whether to make such a valuation is reasonably practicable.

Are Site Values Already Taxed?

It may be convenient at the outset and before considering the practicability of setting up the new standard to deal with the objection, urged with frequent reiteration, that site values are already taxed, and hence that the proposal contained in the Bill involves double taxation of the same thing. This objection rests on the obvious fallacy that things are taxed and not individuals. According to the present system, rental, as has been pointed out, is adopted as the basis of rating. That is to say, the standard by which the ratepayer's contribution to local charges is fixed is the yearly value of his heritage. And in estimating the yearly value of land with buildings upon it, no attempt is made to sever the yearly value of the land from the yearly value of the buildings upon it. The yearly value of the composite subject is taken. Necessarily this includes the value of the site. To apply, therefore, as the law at present does, a standard of rating arrived at by taking the yearly value of land and buildings together necessarily means that site values are included. In this sense they may be said to be taxed already. In this sense, indeed, they are, under the present law, taxed twice, because they are included in the standard taken by which to rate occupiers of the heritage, and they are included again in the standard by which owners are at present rated, and where a man is both owner and occupier he is at present rated twice on the same interest. The proposal of the supporters of the principle contained in the present Bill, as has been already indicated, is to take site values by themselves, apart from the buildings (if any) which rest upon the site, and use them as a standard by which to rate those who do receive or may receive the yearly value of the site in money. This will mean that some who receive, or may receive, the yearly value of the site and contribute at present nothing to the rates will be called upon to contribute. It will mean that some who receive, or may receive, the yearly value of the site and at present do make some contribution to the rates will be asked to contribute more. In brief, the object of the Bill is neither to find a new source of taxation nor to re-tax an existing source, but merely to increase the number of ratepayers in a burgh and to re-allocate their burdens.

Practicability of Land Value Valuations.

Your Committee will now proceed to consider whether it is reasonably practicable to arrive at the yearly value of the site as distinguished from the erections upon it. It is obvious that the fate of any measure relating to the taxation of land values must depend upon the answer to this question. If it be impracticable to

fix the yearly value of land apart from the erections placed upon it, then plainly no measure of the kind can be proceeded with. Upon this subject much valuable evidence was given. As was naturally to be expected, much divergence of opinion was expressed by the witnesses qualified to speak. But on two topics all seemed to be agreed:—First, that valuation of land sites was from the very nature of the case purely matter of opinion; that absolute accuracy was, necessarily, unattainable, and that everything in valuation depended on the skill, experience, and impartiality of the valuator. Second, that under the existing rating system in Scotland, which has been in operation for more than half a century, a problem similar to that presented by the Bill confronts and is solved by the Assessor in the ordinary discharge of his everyday duties. The yearly value of houses and business premises in the occupancy of their owners, and of undertakings of all kinds carried on in premises which are never let, is determined by Assessors as a matter of course in carrying out the provisions of the Valuation Acts now in force. When closely scrutinised, it will be found that the evidence of the experienced witnesses who say that a valuation of sites alone is impracticable really means that accuracy and uniformity are less easily attainable when a valuation of land apart from buildings is undertaken than when the rental of the composite subject is to be arrived at. This is true, because the test of actual rental is generally more easily found and applied than a test derived from the price of building sites. But it is not more difficult to reach the yearly value of building sites than it is to fix the yearly value of premises which are never under any circumstances let, and in which industrial concerns of all kinds are carried on by the owners of the premises. Yet the rental, never asked and never paid, of all these premises is entered yearly in the Valuation roll. In short, the quest for the hypothetical tenant is as baffling as the quest for the hypothetical buyer. Your Committee, therefore, come to the conclusion that the valuation of building sites is practicable, and is not substantially more difficult or uncertain than is the valuation of many other subjects which fall under the definition of "lands and heritages" as used in the present Valuation Acts. Nor is it to be forgotten that the duty of fixing the value of the site is, in the first instance, laid on the owner himself. His estimate will probably be very near the mark. Unwillingness to decry the value of his own property will prevent exaggeration in a downward direction, as the dislike to pay more rate than he can avoid will check exaggeration in an upward direction. The resultant of these two conflicting forces may be expected to yield a just result.

The system of valuing the land apart from the buildings and

improvements on it has already been in operation for some years for purposes of land value taxation, with excellent results, in New Zealand and in several of the Australian Colonies (Parliamentary Paper, Cd. 3191, 1906).

Your Committee would point out that to some extent the Legislature has already provided for the differentiation of land from the improvements on it. Thus, for instance, in Section 6 of the Crofters Holdings (Scotland) Act, 1886, it is stated that, in determining what is a fair rent for a crofter's holding, the Commission is to allow for the value of any unexhausted improvements made by him or his predecessors in the same family. The provisions for compensation for unexhausted improvements under that Act, under the Agricultural Holdings Act, and under various other measures involve the same principle. Nor has the application of it been limited to country districts. The valuation of urban land, apart from the buildings upon it, has been specially provided for in the "betterment" sections of the Manchester Corporation Act, 1894, the London County Council (Tower Bridge Southern Approach) Act, 1895, and the London County Council (Improvements) Act, 1897.

It is, in the opinion of your Committee, undeniable that a considerable expenditure of time and money will be incurred in making the valuation for the first time. This is inevitable. But while the ease with which the valuation can be made has probably been exaggerated by some witnesses, its difficulty has been greatly exaggerated by others. The circumstance that both assessors and land valuators are accustomed to value ground apart from buildings in the ordinary course of their calling seems to have been overlooked. And the lengthy investigation which often results, when a claimant, eager to secure the largest possible amount of compensation for his land, is confronted by a railway company just as eager to pay the smallest possible price, has misled some people into the belief that when it is only a question of the correct figure for a rating standard the same protracted investigation would result. Your Committee do not consider this would be so. The assessor and the ratepayer have not conflicting interests. And expert valuators, if on the same side, have a remarkable faculty for rapid agreement as to the selling price of land. It may be that at first appeals would be numerous; and it might be desirable to make certain changes on the appellate court. This, however, is a question on which no evidence was given, and regarding which, therefore, your Committee offer no opinion. That the assessors would, in many instances, require expert aid to enable them satisfactorily to deal with the ratepayers' returns seems certain. But

as the amount and character of the aid required would vary in different burghs, depending, not only on the number and character of the returns, but also on the skill and experience of the assessor, your Committee consider that the question of additional assistance ought to be left to the discretion of each local authority.

Your Committee has considered with much care the method of valuation which ought to be followed. The proposal contained in the Bill referred to your Committee was that the yearly value of of a site is to be arrived at by taking 4 per cent. upon the sum which the proprietor may fix as the price which a willing buyer would give to a willing seller of the site in the year when the valuation is made. This mode of valuation frankly recognises that the price of the site is a matter of opinion. It offers no rules for the guidance of the valuator, although it states with perfect accuracy, and in the usual terms, the test to be applied—what would a man who was willing to buy give to a man who was ready to sell? Now it was said by some witnesses that specific rules must necessarily be laid down to secure justice and uniformity in result. No specific rules or directions were suggested in the evidence, which was mainly confined (on this head) to an elucidation of the inequitable, and, in some instances, absurd consequences which would flow from following any one method uniformly and rigidly. Thus to adopt in all instances the method, useful enough in some, of deducting from the total value the cost of the buildings and then taking the sum left as the value of the land it was shown might, and would, lead to very anomalous results. This cannot be doubted. For a dear and ornate building may not always yield so high a rental as a cheap and plain edifice. And the cost of a building is not always a reliable test of the rental it will fetch. The method in question must, it is plain, be applied with caution, and with a due regard to the suitability of the buildings for the particular site on which they rest, their age, condition and environment. All this is, however, familiar to the intelligent valuator; and on the whole your Committee come to the conclusion that to lay down specific rules for valuation which, of course, must be generally applicable if they are to be useful, would probably give rise to the very difficulties which it is most desirable to obviate. In coming to this conclusion, your Committee were much aided by the consideration that the present system works admirably although no definite guidance to valuation is afforded by the Statute. If there be no actual rent paid then the assessor has, in his own way, to determine at what rent the land and buildings might reasonably be expected to let. He must apply his judgment and experience to that question just as, under this Bill, he is to

consider and decide at what price the land might reasonably be expected to sell. In most instances it will probably be found that the one problem is as easy or as difficult as the other.

It appeared, however, in the course of the evidence, that a very wide difference of opinion existed upon an important question of principle relative to land valuation. Land in burghs is not infrequently held subject to restrictions of various kinds expressed in the titles. And the question at once emerges ought regard to be had to these restrictions in making the valuations, or ought the ground to be valued as if it were unrestricted? Your Committee consider that, in making the valuation, regard must be paid to every restriction validly imposed on the ground and legally binding at the date of the valuation. It is not to be forgotten that the restrictions usually found in the title-deeds of property in Scotland are such that, although they may sometimes diminish its selling value, nevertheless they materially conduce to the amenity of the district and the health of the community. Such restrictions seldom benefit the owner *qua* owner, although they may enhance the value of neighbouring land, the valuation of which will be accordingly increased, and the rating correspondingly heightened. Your Committee, therefore, reject the view that restrictions validly imposed on land, even if they tend to diminish its selling value, should either be disregarded, or separately valued and a rate imposed in respect of this value, on the person maintaining the restriction. If, therefore, a valuation such as your Committee recommend be made, regard should be paid to restrictions validly imposed upon the land.

But, further, it has been brought under the notice of your Committee that in some instances exceptional and substantial expenditure has been incurred in preparing a site for building. As it originally stood the site was, on account of unevenness of surface, slope, or it may be the character of the soil, unfit for building operations. But judicious expenditure has rendered it suitable. In such a case if the owner can satisfactorily prove the amount of the expenditure your Committee consider that allowance ought to be made for it, at all events, if it has been incurred within, say, twenty years of the date of the valuation. To make such an allowance would, in the opinion of your Committee, be in strict conformity with the principles of the Bill, which aims at relieving all owners of rating based on industrial expenditure. These observations apply with exceptional force to land which has been reclaimed from the sea.

Exemptions.

A clause of exemptions such as is contained in the Bill your Committee consider sufficiently comprehensive. The objection urged that pleasure-grounds, gardens, and open spaces in burghs would be valued as tenement ground in some cases is met by the recommendation that valid restrictions imposed on the land be regarded in making the valuation, but that discretionary powers should be given to the local authorities to exempt totally or partially from local rating any gardens or open spaces in private hands which in their opinion are beneficial to the community. And so, probably, is the claim that railways, canals, piers, docks, and harbours should be excluded. But if this be doubtful, your Committee are of opinion that the special basis on which these undertakings are now valued for rating purposes ought not to be disturbed. The land occupied by them is in truth *extra commercium*.

Feu-Duties (Ground Rents) to Contribute.

The question whether, if the yearly value of land without buildings is chosen as the standard of rating, superiors or owners of existing feu-duties ought to contribute to the rates in respect of their share of that yearly value has been the subject of the keenest controversy. There can be no doubt that when the Bill received a second reading, it was expressly stated by a Member of the Government that existing contracts would be untouched, and that Clause 7 would be struck out in Committee. It is impossible for your Committee to say to what extent votes were affected by this declaration. As your Committee have come to the conclusion that the Bill ought not to be further proceeded with, it becomes immaterial what view is taken upon this subject; but as the inclusion or exclusion of owners of feu-duties from such a measure as this is a matter of the highest importance, and as much valuable evidence was given upon it, your Committee think it desirable to express the conclusions at which they have arrived thereon. The exclusion of those who draw feu-duties from the category of ratepayers is maintained on various grounds. It is said that they are simply out and out sellers of the land who have lent the purchase price to the buyer and continue to draw interest upon it in the form of feu-duty. They are thus mere creditors of the owner, and are not themselves owners. It is said, further, that the owners of feu-duties, whether the original granters of the feu, or purchasers at a full price of the right to the feu-duties, have made a contract under which they are absolutely entitled to payment of a fixed yearly sum, subject to no diminution, and that they have bargained with the feuar that he shall not only pay that fixed sum but shall

also bear the burden of all rates that may be imposed in respect of the yearly value of the property. Exemption from rating under the proposed new standard is, therefore, sought, first, on the ground that the superior is not an owner but merely a creditor of the owner; and, second, on the ground that he has made a firm contract by which he has secured release from all local burdens.

Your Committee has given the most anxious consideration to the case thus presented, for the exemption of superiors and owners of feu-duties. It is impossible, in the opinion of your Committee, to accede to the claim. The legal relation between superior and vassal, and their relative rights in the land are familiar and well ascertained in the law of Scotland. When a superior feus land he is not truly divested of the lands contained in the grant. His right in the land continues unimpaired, except in so far as the grant conveys what is called the *dominium utile* or property to the feuar. The effect of the feu contract is to disintegrate the right or *jus dominii* and to partition it so that part remains with the superior, and part goes to the grantee. In all questions with third parties the granter's infeftment, as it is called, still subsists, notwithstanding the grant made to the feuar, and his heir is entitled to be vested not in the superiority merely but in the lands themselves. And whether the vassal interferes or not the superior is entitled to challenge encroachments on the feu. In short, after granting the feu the superior can exercise all acts of proprietorship against everybody except the vassal and those deriving right from him. In every definition or description given by the institutional writers in the law of Scotland of the term "feu," it is carefully stated that, after the grant of lands has been made, the radical right in the land still remains to the granter of the feu. The estate in the land, which was undivided before the grant, becomes a joint estate after the grant. And this is still an inherent principle in the Scots system of land rights. A prohibition against the alienation of land is not in the law of Scotland violated by a grant of feu. Your Committee find it impossible, therefore, to accept the view that the superior is not an owner of land, but is a mere creditor of the owner, with a security over the land. He is, in fact, the owner of an interest in the land, and his title, which is, indeed, a title *ex facie* to the land itself, is such as to enable him to prescribe, by the requisite possession, the full right of complete ownership.

It is, in the opinion of your Committee, equally clearly established that the feu-duty, which is the annual return from the vassal to the superior, is truly a rent for the land. And the superior's right to the feu-duty is preferable to the vassal's right to the lands. In the words of a well-known writer of authority in this branch of

the law of Scotland, "the superior, having a real legal estate in the lands, having, in fact, the right to the lands and to eject the vassal if he does not fulfil the condition by paying the feu-duty, the feu-duty is a real and preferable burden on the lands—a *debitum fundi*. It is part of the reserved estate in which the superior stands infeft; and the superior's claim for payment of the feu-duty is ranked as a burden on the feu, in preference to the claim of any third party upon the feu made through the vassal" (Bell's "Lectures on Conveyancing," page 634). If this be sound law, as your Committee believe it to be, then it is impossible to regard the feu-duty in any other sense than as the rent of land just as the superior must be regarded as the owner of land.

In the evidence given before your Committee it was, however, strenuously maintained that to compel those drawing feu-duties to make a contribution to rates in respect of the amount so drawn was to violate existing contracts. And although no witness was able to explain what, in the present connection, he meant by that phrase, your Committee understand that it was intended to convey that feuars had become expressly bound to pay all public burdens present and future which might be laid upon the lands. It would be contrary to this bargain, is the suggestion, to permit a feuar to pass part of his own burden on to the shoulders of the superior. Now it may or it may not be true that, by the Common Law of Scotland, the superior is bound to bear his share of public burdens imposed on the feuar in the proportion which the feu-duty bears to the yearly value of the land and buildings. Your Committee offer no opinion upon this question. But this, at all events, is certain—that a clause by which the feuar binds himself to relieve the superior of public burdens present and future is not of unlimited application. It is in law confined to burdens the same in nature and in incidence as those in existence at the date of the contract, and which are, therefore, held to have been in contemplation of the parties at the date of the feu contract. Such a clause affords no relief from burdens created for the first time by supervenient laws. Novelty sufficient to take a public burden out of a clause of relief may arise in either of two ways.—"There may be a burden existing at the date of the contract; and subsequently the incidence of that burden may be so altered that, although the burden *in specie* remains the same, the same in name and the same in application, still a change subsequently made by law in the incidence of the burden may be such that it becomes, with reference to a contract of this kind, a new burden, and is no long covered by the contract. Or, on the other hand, the incidence of the burden may remain the same, and yet the application of the burden may be so entirely different that the burden will become,

although the same in name, yet a different burden *in specie*, and no longer be covered by the contract" (Lord Chancellor Cairns in Dunbar's Trs., 3 Ap. cases, 1305). A burden, imposed by a supervening law, raised on a different subject, and on a different principle from any sanctioned by law at the date of the contract, falls outside the ordinary clause of relief. If, then, a new burden be imposed, or if the incidence of an existing burden be altered, by laws enacted after the date of the obligation, the clause of relief is, in law, inoperative, so far as that burden is concerned. Now an assessment on the basis of the yearly value of land, apart from buildings, and levied from the owners of land, including the owners of feu-duties would, in the opinion of your Committee, be a new burden differing materially in its character and incidence from any existing burden on land just as an assessment for the support of roads in a county levied on real rent is a burden, different in character and incidence from an assessment to be devoted to the same purpose but levied on the valued rent. No contract now extant, so far as the evidence laid before your Committee goes, refers to such a burden or contemplates its imposition. Existing contracts would, therefore, be left untouched if the new standard of rating were applied in the case of owners of feu-duties created prior to the date when the enactment first takes effect. It is worthy of notice that in the Scotch Valuation Act provision is made for long leaseholders deducting from their rent the proportion of owner's rates applicable to the amount of the rent. If for "lessee" feuar be read, for "actual proprietor" superior, and for "rent" feu-duty, then the law at present in force, as contained in the Sixth Clause of the Scotch Valuation Act, is almost identical with the provisions contained in Clause 7 of the Bill.

The conclusion arrived at by your Committee, that a superior is the owner of lands, that feu-duty is truly the rent of land, and that the proposed burden is new in character and incidence, would be sufficient to warrant the inclusion of existing feu-duties in the new rating standard proposed to be set up. But on more general grounds the same result is reached. To the extent of the feu-duty the vassal is not himself in receipt of the full return from the lands. To the extent of the feu-duty the superior shares with the vassal the yearly return from the lands. If so, on what stateable ground can the feuar be asked to pay rates in respect of the full yearly return from the land—a return which he does not and cannot receive? As between a feuar after and a feuar before the measure comes into force, the result of excluding existing feu contracts would be most inequitable. The one would, and the other would not, be in a position to claim relief from the new rate in

respect of the amount of his feu-duty. No reasonable ground exists for such inequality of treatment. Nor has the proposal to rate a superior on a feu-duty which he may receive, but has not yet received, and to free him from rating on a feu-duty of which he is in actual receipt, anything at all to recommend it.

A considerable body of evidence was laid before your Committee directed to show that feu-duties were a trust investment much in favour in Scotland, and that testamentary and charitable trusts, insurance companies, and many public bodies held feu-duties to a large extent as an investment of their funds. It was pointed out, as is the fact, that the holders of these feu-duties did not to any extent participate in any rise of values in the land from which they were drawn. And on both grounds it was urged that the owners of feu-duties now existing ought not as such to be included in the list of ratepayers. Your Committee cannot accede to this view. If feu-duties are, as seems certain, rent of land, and their drawers owners of rights in land, as seems equally certain, there is no more reason why owners of feu-duties should be exempt than owners of the full right of property in the land. The maintenance of the security depends on the presence and expenditure of the community, and hence those who benefit ought to contribute to that expenditure. The hardship to people of slender income is mitigated by the circumstance that they will derive some benefit from the lightening of their rates as occupants; and in extreme cases total or partial remission of rates may be secured by application to the rating authority. After all it must not be forgotten that probably more widows and orphans own house property than those who own feu-duties, and it is not proposed to exempt them as such if the new rating standard is adopted.

Economic Advantages of the Reform.

Your Committee desires to place on record its strong opinion that, although the question discussed in the immediately preceding paragraphs is of great interest and importance, there is another aspect of the subject, the importance of which is not always adequately appreciated. The desirability of taking land as the basis of valuation does not depend solely upon the question of the allocation of the burden between parties. The most valuable economic advantages of this reform follow from the change of the basis of rating. We have already referred to the nature of these advantages, which may be thus summarised:—

First.—Houses and other improvements would be relieved

from the burden of rating. This would encourage building, and facilitate industrial developments.

Secondly.—As regards the large towns, it would enable land in the outskirts to become ripe for building sooner than at present, and would thus tend very materially to assist the solution of the Housing problem. It would also have a similar effect in regard to Housing in rural districts.

In our opinion these advantages depend upon the alteration of the basis of rating, and are not dependent upon the question as to what proportion ought to be contributed by the various persons interested in the property. Without seeking to minimise the importance of that question, we think it right to point out that the Taxation of Land Values is advocated equally strongly, by persons who take different views upon this aspect of the question.

The views which your Committee have expressed on the main proposals of the Bill render it unnecessary to deal with many topics dwelt upon in the evidence. It was, *e.g.*, predicted that the inclusion of existing feu-duties in the new rating standard would stop feuing. This seems very unlikely. For if feuing be, as your Committee were informed, the favourite method of giving out building land, then superiors will be compelled to feu under penalty of having their land which, your Committee were informed, was at present a drug on the market, left on their hands. If there came a material fall in rents, probably most of this unlet property would be in occupancy again, for no one denies the existence of overcrowding in all our great centres of population. The proved substantial rise in land values within comparatively recent years in certain parts both of Edinburgh, Glasgow, and Aberdeen, although accompanied by a substantial fall in other parts of these cities, does not seem to your Committee to affect in any way the principle and method of the Bill. The soundness of a standard of rating cannot depend on the mere rise or fall of the value of the standard.

Examples from New York, Australia, and New Zealand.

Your Committee have had laid before them information regarding the valuation of land apart from improvements in New York, Australia, New Zealand; but this information has yielded no material aid in reaching the conclusions at which they have arrived. In 1903 a measure was passed by which land alone was directed to be valued in New York City. The statutory direction for this valuation was expressed thus: "The sum for which, in the judgment of the officer making the valuation, each separately assessed parcel of real estate under ordinary circumstances would sell if it were wholly

unimproved." It will be observed that this direction is expressed in terms at least as general as those contained in the Bill. Yet the valuation has been made without, apparently, any difficulty being experienced, due to the absence of more specific instructions. But, without a much more minute knowledge of the local conditions than your Committee possess, they consider that no reliable inference as regards the Scots burghs can be drawn from the New York experiment, although it certainly negatives the idea that a valuation of land apart from buildings is impracticable. In the City of New York the thing has been done. It must, however, be observed that no assessment has as yet been made there in respect of the yearly value of land apart from the improvements thereon In South Australia, since the year 1885, unimproved land has been valued, and an assessment made in respect of that value. But the tax, which has from time to time varied in amount, has been levied for State and not for municipal purposes. Since 1893 municipalities have been empowered to adopt the unimproved value of land as a basis for local rating; but no Corporation has yet availed itself of the power. The difficulties experienced at the outset in setting up the new standard are graphically described in the Tax Commissioner's Report of October 28th, 1885. The valuation of land apart from improvements on it has actually been made, and with no further direction to the valuator than to find out "the actual value of the land less the value of all improvements, if any, on such land," or, to put it shortly, the amount for which the land would sell without visible improvements. In New South Wales there has been for about ten years past a valuation of land apart from improvements, and this has been chosen as a standard for a State tax of 1*d.* in the £. But this valuation has not hitherto been availed of as a standard for municipal rating. By very recent legislation provision has been made for a municipal land tax on the basis of land values, but the effect of it will not for some time be known. In New Zealand since 1893 the value of land, excluding improvements, has been adopted as a standard for a State tax. And in 1896 municipalities were empowered to adopt this standard for local rating, if a majority of the ratepayers at a poll taken for the purpose favoured its adoption. During the ten years which followed the passing of the Act seventy-five polls were taken for the purpose of adopting the system of rating on the unimproved value. In sixty-three cases the proposal was carried. It was rejected in twelve. There are 113 burghs in New Zealand. Of these, forty-three rate on the "unimproved" value. Of the four chief cities in New Zealand, Auckland, Wellington, Christchurch, and Dunedin, two, Wellington and Christchurch, rate on unim-

proved value. In no instance where the system of rating on unimproved value has been carried have the ratepayers ever reverted to the former system; and the conclusion reached by the Commissioner of Taxes, as the result of personal observation and enquiry, is that the exemption of all improvements in fixing the rating standard has to a large extent contributed to the solid prosperity of the Colony. The valuation of ground, apart from buildings, has been made, and apparently without serious difficulty. Nor has any more specific guidance been given to the valuer than this—to fix to the best of his ability the price which the owner would get for his land, without improvement, "if offered for sale on such reasonable terms and conditions as a *bonâ fide* seller might be expected to require." So far, then, as the information relative to the adoption of this new rating standard in the Colonies goes it seems to show that to set up this standard is practicable; that no more specific directions for valuing are required than this Bill contains, and that wherever the new standard has been adopted, it has never proved unsatisfactory.

Your Committee will now proceed to summarise the conclusions at which they have arrived. They consider that the new standard of rating, based upon the yearly value of land, apart from the buildings and improvements upon it, is sound, and would prove advantageous, that to set it up, by estimating the value of land apart from buildings, is practicable; that in making the valuation regard must be had to all restrictions validly imposed on the land, and to recent expenditure in preparing it for use; that exemptions such as are proposed in Clause 6 of the Bill are proper, but that to these exemptions ought to be added railways, canals, docks, piers, and harbours; that, so far as both occupiers and owners are concerned, the new standard of rating should be substituted for the present standard, and that within the category of owners ought to be included owners of feu-duties whensoever created. Your Committee therefore agree to the following

Recommendations.

I. That the Bill referred to the Committee be not further proceeded with.

II. That a measure be introduced making provision for a valuation being made of land in the burghs and counties of Scotland apart from the buildings and improvements upon it, and that no assessment be determined upon until the amount of that valuation is known and considered.

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