Land Value Taxation in Britain for the Benefit of the Community: History, Achievements and Prospects

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Abstract

This report examines the economic and social rationales and century-old experience in Britain for taxing *land* (as distinct from land and buildings in combination) for the benefit of the community. In practice the experience shows attempts under two distinct kinds of legislation. The first relates to proposals for revenue raising, mainly for local government purposes; and the second to recoupment of community betterment and infrastructure funding as part of development and planning policy.

Part I deals with the first theme of land value taxation. Following an introduction relating to the principles of general taxation comes a statement on the current rating and taxation system in Britain relating to landed property. Then follows an exploration of economic theory and principles of land taxation as such, supported by Appendix (I.2) to which is added the distinctive theory of Henry George on the single tax, and his personal impact in Britain. Then follows a history of attempts in land value taxation in Britain, which is supported by Appendix (I.1), concluding with an evaluation of past proposals.

Part II deals with the second theme. It first introduces the town and country planning system in Britain, since the major efforts of recouping community betterment were made in relation to statutes linked with the town and country planning systems. Then comes an account of the legislation introduced by successive Labour Governments to this end, and of the unscrambling of those efforts by succeeding Conservative Governments.

Independently from the exactions in the legislation just described, there have been moves to ensure that funding of infrastructure, itself necessary to create development value, is placed upon the development industry as opposed to local government.

Then follows a summary of the existing situation on betterment, embracing both of the kinds just described. This Part ends with an evaluation of the past proposals that have been described.

On the whole, while the two distinct themes described in Parts I and II are both aimed at taxing the land for the benefit of the community, in past efforts at their introduction the two have had distinctive treatments. But they are clearly interacting. And while land taxation to Henry George did not have to deal, in the latter part of the 19th century, with the 20th century practice of town planning, that can no longer be the case. Accordingly Part III brings out the conflict between planning and land value taxation in practice and again goes on to describe how they will need to be made compatible if land value taxation is to be introduced.

The Report finally looks in Part IV at the political prospects for the introduction of both themes into Britain at the present time. It does so by reference to the programmes of the three political parties, leading to the conclusion that a window of opportunity is envisaged in 1997, following the return of Labour to power, for bringing new proposals forward for parliamentary consideration of an age-old problem which Britain in the 20th century has struggled to introduce, but with only modest enduring success.

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INTRODUCTION

Scope of Terms of Reference

This research was commissioned by the Lincoln Institute of Land Policy as part of its Henry George program. Its frame of reference was:

> "to develop a report on efforts in the United Kingdom to use land value taxation as a vehicle for raising local government revenues and as a process for recoupment of development value as a positive implementation of land policy. This report will place these efforts in historical perspective and provide a critical assessment of their achievements."

As our Report records, Henry George visited Britain five times during the 1880s and his views made a considerable impact, particularly amongst the Fabians. This influence persisted into the next century amongst the Liberal Party, which in 1910 promoted the short-lived Finance (1909-10) Act 1910, and also with a subsequent Labour Government who promoted the equally abortive Finance Act in 1931.

From these seeds, and also the teaching of distinguished classical economists, a mighty tree grew up during the whole of the 20th century. This resulted in a large number of study commissions, government and private members Bills and some statutes in Parliament, efforts of local authorities to influence Parliament to adopt land value taxation, and other programmes aimed at securing benefit to the community from rising land values.

In placing these efforts in 1997 in their historical perspective, we are conscious that the context for land value taxation and recoupment of development value has moved on since the days of Henry George, when it was focused simply on land taxation and its repercussions, at a time when land use planning did not exist. The scene has now moved towards **land policy** (as evidenced by the name of the Lincoln Institute) within which is included traditional land value taxation. This wider context, which runs through our research and this Report.

PART I - LAND VALUE TAXATION

This part of the Report is focused on revenue raising in Britain from the taxation of land in its widest context. Starting with principles of taxation the Report then looks at the current system of rating/taxation of landed property and how it evolved. It then reviews the contributions to economic theory relating to land rent, the attempts to introduce land value taxation into Britain and finally evaluates their outcomes with a critical analysis.

I.1. PRINCIPLES OF GENERAL TAXATION

In the examination of any tax-raising proposal it is almost traditional to re-visit the precepts of one of the early instigators of taxation principles.

Adam Smith (1776) first systematised the rules that should govern a rational system of taxation. Taxes should be based on the individual's ability to pay in that there must be **equality of sacrifice** - as instanced by progressive taxes, **certainty** with knowledge of how much tax, when and how it must be paid and not be subject to arbitrary demands, **convenience** in collection as to form and timing, and **economy** in that costs of collection should be small in relation to the total revenue (Stanlake, 1989: 433).

Smith describes these maxims as having "evident justice and utility". So they may have, but the fact was insufficiently appreciated in Smith's time (Raphael, 1985: 83).

However the ability to pay was viewed by Smith as conditional on income **actually being received** *("revenue which they respectively enjoy")*, rather than potential income that could be imputed to the possession of a revenue-yielding resource (Harrison, 1983: 28). This point has later important implications in deriving a workable methodology for land value taxation.

But moving on from the initial precepts of Adam Smith it is pertinent to this review that modern criteria of tax systems also include revenue productivity and considerations of social justice. A tax system should provide adequate revenues to cover government expenditures and should be capable of producing more on short notice when circumstances require. Conceptions of social justice may require in addition that taxes be more or less progressively re-distributive of income or wealth or both. Furthermore, as governments have come to play a larger part in controlling their national economies, taxes have been used to moderate cyclical economic fluctuations, to promote a higher level of economic activity, and to affect the application of economic resources (Encyclopaedia Britannica, Micropaedia 15th Ed., 1997: Vol. 11, p. 584).

I.2. CURRENT RATING AND TAXATION SYSTEM IN BRITAIN RELATING TO LANDED PROPERTY

I.2.1. Overview

Historically rates are local taxes raised for local government revenues which are levied on the occupiers of landed property. The basis of assessment is the annual value of the land and buildings in occupation, apart from the more recent Council Tax assessments which are derived from the capital values of domestic properties **(see I.2.5)**.

I.2.2. Definition

Although a rate is a tax its distinguishing feature lies in the approach of the rating authority to the problem of raising revenue. With taxation by rates the amount of revenue required is first decided and this total liability is then distributed among the taxpayers, or ratepayers as they are called, according to some definite standard. The amount of rate was traditionally found by dividing the sum to be raised by the aggregate rateable value of the area. Thus the basis of assessment is the rateable value of land and buildings and with some exceptions, each property in a rating area has a rateable value which is derived from its yearly letting value.

Various kinds of rates have been levied on "special assessments" (e.g. water rate, sea defence rate, garden rate etc.), but historically it is the general rate which was meant by the term "rate" (prior to the introduction of the Uniform Business Rate **(UBR)** - **(see I.2.5)** and it was primarily a tax on the occupation of real property.

I.2.3. History of Rating

The history of rating goes back several centuries. The **Poor Relief Act 1601,** commonly known as the **Statute of Elizabeth**, is generally regarded as the foundation of the present rating system by which the "overseers" (the predecessors of the "rating authority"), were given directions to set the poor to work, and also:

> "to raise weekly or otherwise by taxation of every inhabitant parson vicar or other, and of every occupier of lands, houses, tithes impropriate or propriation of tithes, coal mines or saleable underwoods in the said parish, in such competent sums of money as they shall think fit, a convenient stock of flax, hemp, wool, thread, iron and other necessary ware and stuff; and also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind, and such others among them, being poor and not able to work, and also for the putting out of such children to be apprentices, to be gathered out of the same parish, according to the ability of the same parish." **(43 Eliz.1, c.2)**

The Act provided for the rating of every inhabitant and of every occupier of lands, houses, tithes, coal mines, and saleable underwoods. Although inhabitants were required to be rated

on their real and personal estate *(Sir Anthony Earby's Case 1633)* it became the practice to disregard personal property owing to the difficulty of ascertaining its value and was evidently greatly ignored by the rating authorities. By the time the **Parochial Assessments Act 1836** was passed, the language used in the Act, and the form of rate prescribed by the Schedule, were made applicable only to the rating of corporeal hereditaments and personal property was clearly excluded from assessment.

I.2.4. Historical Context

In summary, the historical position on rating is that the basis of liability is the beneficial occupation of real property, the measure of that liability being the annual rent at which the property in question might reasonably be expected to let in its existing condition. It follows in particular that:

(1) liability for rates rests on the occupier and not on the owner;

(2) since real property includes any buildings on the land as well as the land itself the basis of valuation is the whole property, land and buildings taken together;

(3) since the rent was to be estimated on the basis of a tenancy from year to year without any security of tenure, or compensation for improvements made by the tenant, the valuation must be of the property in its existing condition and without regard to the possibility of improving it further. This principle is known to lawyers as the doctrine of *rebus sic stantibus*;

(4) many hereditaments occupied by public bodies such as the nationalised industries were not assessed on annual value at all, but by reference to statutory formulae.

I.2.5. Change in the Historical Situation

The provisions of the original 1601 Act were subsequently amended and extended, and with minor exceptions all general rating Acts (as distinct from local rating Acts) were repealed and consolidated in the **General Rate Act 1967**, which in turn has now been superseded by the **Local Government Finance Act 1988**.

Although the 1967 Act was thus repealed, with effect from 1 April 1990, many aspects of the law of rating have been carried through into the new legislation and so many cases decided at law in the previous legislative context continued to be relevant. The broad scheme of the 1967 Act involved a division of responsibility between rating authorities (mainly District and Borough councils) who had a duty to make and levy rates - now superseded by later provisions for the Uniform Business Rate (UBR), and the Valuation Officers appointed by the Commissioners for Inland Revenue whose duty it was to prepare and maintain Valuation Lists for each area, (now known as Rating Lists) including the assessment of the rateable values. Disputes over alterations were determined by Local Valuation Courts (now known as Local

Valuations Tribunals) with an appeal on fact and law to the Lands Tribunal, and a further appeal on law only to the Court of Appeal and, by leave, to the House of Lords.

Liability still falls on the occupier, but it was supplemented by the rating of the owner in certain cases in order to facilitate the collection of the rate, and by provision for the levying of rates on unoccupied or unused property.

There were various exemptions and relief from rates. In particular, hereditaments occupied by the Crown were exempt because the Crown was not mentioned in the 1967 Act; but nevertheless the Crown makes *ex gratia* payments towards the rates.

The **Local Government Finance Act 1988** introduced a major recasting of local government finance, and the main purposes of the Act included:

(a) the abolition of the previous rating system in relation to domestic property;

(b) its replacement by the community charge (poll tax), which in turn was superseded by the Council Tax; and

(c) the abolition of the local authorities' role in setting the rate applicable to non-domestic property, and its replacement by a Uniform Business Rate (UBR) applicable at the same level throughout the country set by the Secretary of State.

Thus this Act created a completely new system for the administration of business and other non-domestic rates together with the introduction of the, subsequently abolished, community charge (poll tax) and the exclusion from rating of residential properties. It now rides in tandem with the Council Tax legislation in the **Local Government Finance Act 1992**.

As previously indicated, the unpopularity of the community charge (poll tax) led to its demise in the passing of the **1992 Act**, whereby it was replaced by the Council Tax with effect from 1 April 1993. Liability to the Council Tax arises out of residence of a dwelling, or, where there is no resident, it falls upon the non-resident owner or long leaseholder. Dwellings are categorised into eight bands according to their capital value. The amount of tax payable is calculated according to the band into which each dwelling falls and the tax rates are determined by the local authority in relation to its required expenditure (Roots, 1993: A1-A9).

I.2.6. Summary

Local government revenues are now collected from two main sources. With domestic properties the revenue is collected by the Council tax. With non-domestic properties the revenue is collected by means of the Uniform Business Rate (UBR). Historically rating was a local tax forging through fiscal connection a relationship between an occupier of business premises and the local authority levying the rate. It is still collected locally and many ratepayers continue to view it as a local authority tax. There is little perception, even after six years, of the centralisation of the fixing of the Uniform Business Rate (UBR) in England and Wales, its redistribution and of the local authority's role as a collecting agent for central government and, in reality, there is no longer any local link. It has become, in effect, a central Government tax (Bayliss, 1996: 14).

I.3. ECONOMIC THEORY AND PRINCIPLES OF LAND TAXATION

I.3.1. Economic Theory

From consideration of taxation on land and buildings together it is now appropriate to focus on land as a particular source of taxation and the fundamental question arises: why tax the land as a major source of revenue.

The answer to this question has been heavily explored in economic theory over the last two centuries. It was favoured by the **Physiocrats** in 18th century France on the grounds that only in agriculture does a country have a surplus *and* source of wealth so that there is a case for levying an *impôt unique* on land rents (Prest, 1981: 8). In essence, they set out to exhibit the way in which products of agriculture (then considered the primary source of wealth) would, in a state of perfect liberty, be distributed among different classes of the community (Robinson, 1991: 6).

Following this stimulus the topic was explored, for both rural and urban land, by an array of classical economists as Adam Smith, the Physiocrats, Ricardo, John Stuart Mill, Marshall, Pigou and Henry George. Their views and conclusions are contained in **Appendix I.2** with additional commentaries derived from Prest (1981).

The theory, on the whole, is consistently in favour. But there are important variations. The total view can be briefly summarised here by referring to the historical analysis of the Simes Committee of Enquiry (1952: 6).

The case for taxation of economic rent rests upon the following propositions:

(a) that it is unearned income, brought into existence not by anything which the owner, as such, has done but by the activities of the community generally;

(b) that a tax on it does not curtail the supply of goods and services and raise their price as many other taxes do; and

(c) in particular that it is a means of relieving the burden imposed by rates as at present levied upon dwelling-houses, shops, and other buildings and improvements to land.

From these propositions the Simes Committee concluded that there may, therefore be a *prima facie* case for a tax on economic rent as a source of local revenue.

As an end note to this theoretical discussion, which admittedly will veer towards more practical issues, it is worth recording the forthright opinions of Wilks (1975: 10-11) when he reflects on his second pilot survey for land value taxation at Whitstable and the ability of land owners to pay such taxes. His clear view was that the ratepayer owners own the land out of which the tax emanates and it is up to them to see that the land is developed to its optimum so as to be able to pay the annual impost. If they do not, no one but themselves can be blamed. He regarded the assessment of annual site values as a practical and readier process as compared with the extant statutory valuation basis of combined hereditaments of land and buildings. As to the tax being a good base for producing revenue, Wilks was equally forthright in confirming that the general rate at present was held to be one of the most easily collected taxes, and was cheap to administer, but that under land value taxation there would be fewer taxpayers, easier recovery and even less costs.

I.3.2 Principles of Land Taxation

The fact that the total supply of land in a country is fixed, and the view that the income derived from the ownership of land is a kind of "unearned" surplus, continues to lend support for measures to tax economic rent. As Stanlake (1989: 284) points out in very many countries increasing population and rising incomes have increased the demand for land and landowners have benefited from rising land prices, although they may have contributed little or nothing to the increase in the value of their land. The main attraction of a tax on economic rent is the arguable case that the whole of the tax would fall on the landlords. Starting from the basic premise that the best price (i.e. rent) they could get for their land will be determined by demand and supply, Whitehead (1992: 413-4) then examines the effect of taxation on economic rents when a factor is in inelastic supply, as in the instance of land. Here the landlord owners are able to command economic rents and it is argued that the imposition of the tax will not cause any change in demand or supply. The tax will have to be borne entirely by the supplier, i.e. the landlords, and will reduce the benefits being enjoyed hitherto. So land owners earning economic rents cannot alter their position, which is already the most profitable one, and the tax will simply cream off their profits. Thus it is maintained that a tax on land values cannot change the market price - it must fall on the landlords and must, therefore, reduce the revenue they receive as landowners. However economic rent is not unique to land; it accrues to any factor which is fixed in supply and faces an increasing demand. The differentiation appears to hinge on whether these other factors can generally be increased in

supply over time as contrasted with the comparatively finite nature of land supply. If supply can over time respond to increasing demand then this must reduce the economic rent element.

Much of the increased value of land arises from the efforts and expenditures of the community as a whole. Public expenditures on the infrastructure such as that on roads, water, gas and electricity services will dramatically increase the values of land which is adjacent to such services. There is a strong case to be made out for much (or all) of the increase in the value of the land accruing to the community rather than to the landowners, and many countries have introduced a development tax which is levied on any increase in the market value of land.

The various arguments put forward to support land taxation are succinctly enumerated in the Encyclopaedia Britannica (1997: Vol. 28, p. 416). One argument is that much of what is paid for the use of land reflects socially created demanded and is not a payment to bring land into existence. The community can capture in land taxes some of the values it has created - including those resulting from streets, schools and other facilities. This, it is maintained, would be a more equitable way of financing local government. Another argument is that the revenue from a tax on land would permit a reduction of taxes on buildings, which tend to deter new construction. A third argument is that higher land taxes would make for a more efficient use of land.

Thus there is a great deal to be said in favour of increasing taxes on land and thus lowering its prices. Economically, of course, a "high" price for some land is essential to encourage the best employment of it. The user of land ought to pay the amount of its worth at best use; but the owner, facing no cost of production, need not receive all that is paid. Government can reasonably take part of the total paid by the user.

A heavier tax would change the conditions of ownership. The total collected from users would not change, but private owners of land would retain less, the public Treasury getting more. The price system would still allocate land use. Taxes on improvements could then be reduced greatly. The tax relief on dilapidated buildings would be slight, but for those of high quality the reduction could be large in relation to net return on investment. More buildings, new and better ones, would be supplied. Modernisation and maintenance of existing buildings would become more profitable.

Over the longer run, land owners would get less of the increments in land values and the public would get more. Socially created values would then be channelled into governmental rather than private uses. Taxes could be related more closely to the cost of governmental services.

However the opponents of land value taxation point out that the unearned increment in land value has been capitalised in the purchase price and question the fairness of imposing a heavy tax on present land values for which owners have paid in good faith. They doubt the ability of assessors to make fair enough appraisals to support much heavier rates on land. They also doubt whether land alone, excluding buildings, would be an adequate tax base.

There are naturally counter-arguments to these opponents as will be developed later in this Report.

I.3.3. Summary

The ethical arguments concerning the ownership and rights over land were pronounced in the 18th Century onwards when the French Physiocrats began the articulation of economic and moral rationales for land taxation. Land had been a recognisable target for tax-gathers since ancient times but more modern taxation rationales were developed from the thinking of the Physiocrats and refined by such exponents as Adam Smith, Ricardo, John Stuart Mill, Marshall, and Pigou. Henry George made the biggest emotional impact in the 19th Century with his plea for a single tax on land as a panacea for all economic and fiscal problems and despite peer criticism and academic strictures his influence remains extant. We now turn to this influence.

I.4. DISTINCTIVE THEORY OF HENRY GEORGE (1839-1897): THE SINGLE TAX

I.4.1. The Theory

Probably the best-known exponent of land taxation was a 19th century American, **Henry George**. His *Progress and Poverty (1879*) drew upon economic analysis in the tradition of Ricardo and Mill to argue persuasively for a single tax on land and the abolition of other taxes (then predominantly levied on other property) (Harrison, 1983: Ch. 15-16).

George's essential argument about land rents was that land values were exclusively due to general forces whether of a natural or social character. Landlords had no moral right to land values and so there was no case for their being allowed to retain existing rents or the increments which were likely to eventuate in the future as economies expanded (Prest, 1981: 13).

George originally advocated a single tax upon land values as the sole source of government revenues, intended to replace all existing taxes. Supporters of George argued that since land is a fixed resource, the economic rent is a product of the growth of the economy and not of individual effort, therefore society would be justified in recovering it to support the costs of government. They accepted the view of David Ricardo that a tax on economic rent could not be shifted forward. A second argument was that acceptance of a single tax would make other forms of taxation unnecessary, and eliminating taxes on buildings would stimulate construction and economic growth. A third advantage was the simplicity of administration of a single tax.

I.4.2. Impact of Henry George in Britain

During the 1880's George visited Britain five times, three on extended speaking tours. His impact was considerable amongst progressive thinkers. Testimonials by Bernard Shaw,

Sidney Webb and Beatrice Webb, H. G. Wells and other eminent Fabians explicitly credit George with being the most potent single instrument in the conversion of both individuals and the working class itself to trade unionism and socialism. (Lawrence et al, 1992: 57 and Prest 1981: 14). Lawrence goes on to point out the interesting paradox in the history of 19th Century ideas that Henry George, the apostle of frontier individualism and free trade, should have gone down as the godfather of British socialism (Lawrence et al, 1992: 83).

George's influence spread even wider and by the late 1880's the radicals of the Liberal party allied themselves with him in supporting land taxation, which had its legislative effect some 20 years' later in the Finance Act 1910.

However George had to contend with much adverse comment from current and later economic critics. Marshall dubbed him *"a poet, not a scientific thinker"* (Stigler, 1969) and Marx's opinion was *"theoretically the man is thoroughly backward",* (Barker 1955: 356) whilst J. M. Keynes conveyed his thinking to *"the underworld of economics"* (Prest, 1981: 21).

But the doyen of the history of economic thought puts George into a more generous frame. In recalling a "few of those men who helped to prepare the ground for developments from the 1980's on" Schumpeter states (1954: 864-865):

> *"But we cannot afford to pass by the economist whose individual success with the public was greater than that of all the others on our list, Henry George. The points about him that are relevant for a history of analysis are these. He was a self-taught economist, but he <u>was</u> an economist. In the course of his life, he acquired most of the knowledge and the ability to handle an economic argument that he could have acquired by academic training as it then was. In this he differed to his advantage from most men who proffered panaceas. Barring his panacea (the Single Tax) and the phraseology connected with it, he was a very orthodox economist and extremely conservative as to methods. They were those of the English 'classics', A. Smith being his particular favourite. Marshall and Böhm-Bawerk he failed to understand. But up to and including Mill's treatise, he was thoroughly at home in scientific economics; and he shared none of the current misunderstanding or prejudices concerning it. Even the panacea - nationalisation not of land but of the rent of land by a confiscatory tax - benefited by his competence as an economist, for he was careful to frame his 'remedy' in such a manner as to cause the minimum injury to the efficiency of the private-enterprise economy. Professional economists who focused attention on the single-tax proposal and condemned Henry George's teaching, root and branch, were hardly just to him".*

But despite such condemnation the influence of George's ideas in Britain has persisted. Lawrence et al (1992: 56) comment that *Progress and Poverty* had a dramatic impact upon then contemporary British economists and although George's theory did not shape economic theory his ideas were in the minds of those who did, and fundamentally his ideas on land

taxation persisted even into the minds of 20th Century economists. Evidence is presented in a publication contemporary with this Report (Brown (ed), 1997) which reviews the relevance of Henry George's work to contemporary issues in the United States and elsewhere, showing the wide scope of that relevance,

It is also interesting to note that even after a 100 years the supporters of the Henry George tradition, in various groupings of Societies and Foundations around the world, are still actively pursuing their founder's precepts on land taxation and arguing their case. As Lee (1996: 78) points out the hope for land taxers must lie in promoting their ideals to the general public and educating future politicians to appreciate the merits of such a tax. There are several bodies actively trying to do this in Britain. The United Committee for the Taxation of Land Values was founded in 1907 and operated, from 1991 under the name of the Centre for Incentive Taxation (it is now known as the Henry George Foundation). Their journal *Land and Liberty* celebrated its 100th anniversary in 1994. Other active groups in Britain are the Land Value Taxation Campaign and the Land Policy Council.

I.5. HISTORY OF ATTEMPTS IN LAND VALUE TAXATION IN BRITAIN

I.5.1. Background

A quotation from a Journal of the Land Value Tax Campaign (Issue No 64, July 1996) stresses the philosophical (and even the theological) arguments as regards land as a common rather than an individual resource:

> "Definition of the rights of ownership and of property determines the relationship of citizens to each other, and of the citizen to the state. Whether there was a Divine Creator or not, the Earth was certainly not made by man. It follows that all men have equal rights in the bounty of Nature. A man may not own what neither he nor any other man created. It is the exertion of labour that confers legitimacy on a claim to ownership. Those who would guide public morals must not think they may shrink from a stand on an issue of such fundamental significance. The Earth, we think, is not Caesar's to dispose of."

Despite this exposition of apparent natural law, however latterly expressed, the Romans were not averse to codifying a complex system of property jurisprudence, at the heart of which the control, transfer and ownership of rights over land were clearly evident [Institutes of Justinian (483-565 AD)].

The Romans also recognised land as a target for measurement and assessment by surveyors for taxation on a quinquennial basis (Gibbon, 1951: Vol. II, Ch. XVII, p. 124) which would have been a normal part of imperial taxation in Roman Britain during the four centuries of occupation in the first Millennium.

But even the Romans were following an earlier tradition of land taxation as evidenced in Persia, Egypt and the Maurayan Empire in India in 300 BC where there were two types of taxes levied, one on the amount of land cultivated and the other on the produce of the land (Encyclopaedia Britannica, 1997: Vol. 21, p. 41).

As for later land taxation, per se, in Britain there was no systematic appraisal of supporting rationales until the 18th Century although pragmatically various attempts were made to levy special taxes on land. For example in 1604, Robert Cecil, Earl of Salisbury, examined proposals to commute certain fiscal rights into an annual sum to be raised by a land tax. By 1610 there had been some progress but the Government eventually backed down believing the sum was too low, and the leaders of the Commons felt that a land tax would be too unpopular (Encyclopaedia Britannica, 1997: Vol. 29, p. 55).

However from Britain's past, Wilks (1975: 1) has summarised the fleeting remnants of what little remains of land taxation by confirming that there were one or two very minor residual taxes still existing based on the value of bare land. These were known as Danegeld, land tax and Queen Anne's Bounty. His view was that for all practical purposes these could be forgotten being the residue of a system that was in force 700 or more years ago.

The basic arguments for land value taxation were extensively debated in political and economic circles in Britain from the latter part of the 19th century. This resulted in many attempts, right up to the beginning of the Second World War, by municipal authorities to persuade Parliament to allow them to levy rates on land values. None succeeded.

There were also attempts by Central Government to introduce land value duties as taxation for national and local purposes in 1910 and again in 1931. Although enacted these measures proved to be unworkable and were eventually abandoned as unacceptable in practice. But the pressure for some introduction of land value taxation did not abate, and in 1942 and 1952 two Government appointed Committees (Uthwatt and Simes) reported relevant findings regarding the possible introduction of land value taxation.

Uthwatt Committee (1942)

Interestingly this Committee, (Expert Committee on Compensation and Betterment (Uthwatt) ECCB 1942) which reported on the compensation and betterment problem **(see II.2.2),** positively recommended a form of land value taxation in its proposal for a levy on enhanced annual site values as a practical method of recouping betterment. The levy was to run alongside the existing rating system and in the valuation lists made for rating purposes there should be provided an additional column in which should be entered quinquennially the annual site value of every hereditament separately assessable for rates.

Uthwatt also trailed the further possibility of linking the collection of local government revenues with the recoupment of betterment by suggesting that the ascertainment of annual site values would provide a basis for the differential rating of sites and buildings to the relief of improvements, should it be desired to introduce such system.

Very little comment on this proposal can be gleaned from later examinations of the prospects of introducing land value taxation, although a brief reference appeared in the Report of the Simes Committee (1952: 25) but without any evaluation of its possibilities. As a proposed solution it was never taken up.

Simes Committee (1947-1952)
Later in 1947 the Government appointed a Committee of Enquiry under the chairmanship of Erskine Simes with the following terms of reference:

"to consider and report on the practicability and desirability of meeting part of local expenditure by an additional rate on site values, having regard to the provisions of the Town and Country Planning Acts and other factors" (1952: 4)

It was subsequently confirmed that:

(1) the words "additional rate on site values" meant a rate levied upon a separate assessment of site values; and

(2) the expression "site values" included site values of agricultural land. (1952: 4)

The Committee took four and a half years to produce its Report, and was divided in its conclusions. A majority of six members found that meeting any part of local expenditure by land value taxation, having regard to the Town and Country Planning Act 1947, was neither practicable nor desirable. Three members dissented and submitted a minority report in favour.

The Simes Committee reported in 1952 and recorded in some detail the history of material relevant to site values, which wealth of material has been extracted and condensed into **Appendix I.1** of this section of this report: this Appendix also contains the Committee's summary table of the main features of the proposals for the rating of site values.

I.5.2. Findings of the Simes Committee (Majority Report)

> "We may summarise our findings by saying that insofar as we have been be impressed by the historical case for the rating of site values, we are nevertheless of opinion that this historical case and the evidence from overseas is not relevant to the conditions in Great Britain today.
>
> We consider that the impact of the Town and Country Planning Act, 1947, has altered the position by enforcing the claims of the community to the fruits of development of land as far as they can be foreseen. We do not deny the possibility of the rating of site values, but we have been impressed with the administrative difficulties, the prospect of litigation which would inevitably arise, the undesirability diverting much-needed

> manpower for the purpose and the relatively small revenue likely to be obtained and can find no significant advantages in its introduction.
>
> We accordingly report that the meeting of any part of local expenditure by an additional rate on site values, having regard to the Town and Country Planning Act and other relevant factors, is neither practicable nor desirable." (1952: 76)

I.5.3. The Conclusions of the Minority Report (1952: 97)

In addition the Simes Committee issued a minority report which found favour with land value taxation:

(1) the rating of site values is both practical and desirable. The arguments in favour of it stand unimpaired;

(2) the only event since 1939 having a material bearing upon the matter is the Town and Country Planning Act, 1947. This involves some changes in the method of application but does not affect the principle.

The recommendations of the Minority Report were (1952: 97):

(1) Local authorities should be required to raise a minimum rate in the pound on site values, and should be empowered to raise a higher rate if they think fit.

(2) Valuations of site value should be made by the Valuation Office of the Department of Inland Revenue.

(3) Valuation Lists should be open to inspection by the public.

(4) Scientific methods of valuation should be employed (e.g. in urban areas, land value maps).

(5) Objections to valuation should be dealt with so as to ensure a uniformity of valuation, and the tribunal dealing with them should be both expert in matters of valuation and familiar with values in the district affected.

The recommendations went on to include (1952: 98):

To deal with quinquennial re-valuations, that the primary valuation should be of the unrestricted site value, and this site value should be estimated as an annual site value (i.e. the yearly rent which might be expected to yield if let at the valuation date upon a perpetual tenure). Furthermore where the ownership of land is divided between several interests, each should bear its appropriate share of the site value rate by a system of deduction from rent. Furthermore the rating of site values should apply to agricultural land and other de-rated

hereditaments. The exemption from local rates given to buildings occupied for certain religious or scientific purposes should not extend to exonerate from site value rate those who received rents from such occupiers.

I.5.4. Subsequent Enquiries

Post 1952, with various changes in Government, the whole financial provisions affecting development value arising from the 1947 Planning Act were under review and in process of fundamental changes as described in detail in other sections of this report.

However, partly because of these changes, there was still a continuing consideration of the prospects of land value taxation from professional bodies and later from a Government appointed Committee and a Government Green Paper which are also summarised in **Appendix I.1.**

I.6. LAND TAXATION FOR REVENUE-RAISING PURPOSES: AN EVALUATION OF PAST PROPOSALS

I.6.1. V.H. Blundell's Findings

Blundell (1993: 16) provides a close analysis of the findings of the Simes Committee's work:

> "Although the Committee acknowledged the force of much evidence in favour of SVR [site value rating], it repeatedly came up against the instruction that it should have regard to the financial provision of the 1947 [Planning] Act - which effectively nullified the value of this evidence. The minority report attempted, with much difficulty, to reconcile SVR with the 1947 Act, and indeed a case of a kind was made out. But with the practical difficulties involved, the case was hardly likely to seem wholly convincing."

It is also interesting and pertinent to quote Blundell's findings (1993: 22) on the outcome of the various enquiry committees into land value taxation over the period 1952-1976:

> "During the period when these various enquiry committees have sat to consider site value rating, one or other of a succession of land reform Acts was in operation. These Acts were alleged either to inhibit the introduction of SVR, or already to be serving its main purpose. The confusion of a development tax with an ad valorem tax on all land values has persisted throughout. However, the financial provisions of these Acts have long been repealed, and therefore those objections to SVR which were based upon them are no longer relevant.
>
> The two Whitstable valuations [see Appendix I.1: Wilks, H. M. (1964, 1974)] have shown that most of the other criticisms were unfounded. Despite conclusive evidence

to the contrary, opponents of SVR continue to claim that the Whitstable site valuations would have "priced amenities out of existence", and to quote the Simes Report as though nothing had happened since."

I.6.2. Our Findings

What emerges from a study of these events is that despite the strength of social, economic and political pressures, since the times of the great Public Health legislation in the late 19th century, there has been a distinct lack of success with successive Governments in bringing land value taxation within their armoury of tax-gathering nostrums to supplement local and national revenues.

Why has this been so?

The evidence points to a lack of political will-power in the face of opposition from various professional groups and land-owners, each having their own taxation agendas. The modern economists have tended to rally against Georgist doctrines, although proposals under consideration by Parliament certainly did not embrace his root and branch single tax panacea. Rating Valuers and Surveyors have stressed the difficulties of site valuation (despite the findings of the Whitstable Pilot Surveys) and their traditional preference for the long established rating procedures for a tax on the occupation of combined hereditaments of both land and buildings.

What is now necessary is to consider what went right in these endeavour over the past century and what went wrong in order to seek lessons for future land policies. This task is undertaken in the following section of this Report.

To form a historical judgement of the achievements of the efforts to introduce revenue-raising taxes by targeting land values, it is helpful to try and identify some attempted aims and objectives of the instigators of these efforts and then to evaluate how far these aims and objectives were met or fell short of expectations.

I.6.3. Attempted Aims and Objectives

1. Pursuance of a more rational system of taxation for central and local purposes which would aspire to Adam Smith's canons. To reiterate the precepts enumerated in Section I.1, such taxes should be based on the individual's ability to pay, certainty, convenience and economy.

2. Extension of taxation to encompass hitherto untaxed sources. Whereas in Britain property taxes for local government revenues are levied primarily on the occupier on the basis of beneficial occupation of a combined hereditament of land and buildings, proposals for land value taxation are directed to the ownership of land and are assessed at site value.

3. Adherence to moral precepts in taxing land as source of wealth which was not created by its erstwhile owners but rather by the community. The ethical argument is that much of what is paid for land reflects socially created demand and is not a payment to bring land into existence. If the community can capture in land taxes some of the values it has created, it is maintained that this would be a more equitable way of garnering government revenues.

4. Adherence to recognised principles of sound economics in the neutrality of the proposed taxation and its distributional effectiveness. Thus taxes on economic rents from land, which is in inelastic supply, will not cause any change in demand or supply and cannot be shifted from the ownership of the land.

5. Promotion and encouragement of investment in improvements to land rather than penalising enterprise; in other words, the revenue from taxes on land would permit a reduction of taxes on buildings, which tend to deter new construction.

6. Promotion and encouragement of building development by taxing land at its value for highest and best use, thus penalising owners of undeveloped land.

I.6.4. What Went Right?

1. Focus on land values as a legitimate target which otherwise would be likely to escape taxation measures.

2. Focus on moral issues of fairer taxation - feelings of injustice that need positive fiscal action to achieve some redistribution of socially created values.

3. Focus on "sound" economic and taxation principles (i.e. via a tax on economic rent) being least intrusive and least distorting to the economy.

4. Focus on taxation of owners of land, as being the real beneficiaries of enhanced land values, rather than occupiers.

5. Focus on taxing basic land values rather than penalising investment by taxing buildings and improvements to land.

6. Focus on bringing land into "production" and a more efficient use of land rather than accepting delays by owners in anticipation of rising markets.

7. Focus on demonstrations that land taxation is a practical possibility; H. M. Wilks' double experiment in the land valuation exercises in Whitstable 1963 and 1973 showed that the valuation process did not constitute an intractable problem nor did the identification of ownerships.

8. Focus on taxing in legislative drafting with successive Parliamentary Bills culminating with the London Rating (Site Values) Bill prepared by the London County Council in 1938, which may well form a precedent for any future legislation

9. Focus on solution of previous technical difficulties over the "sanctity of contracts" as affecting the distribution of the land tax burden. For example, the Valuation and Rating Act (Scotland) 1956 provided for the abolition of owners' rates in Scotland and parallel reduction if rents in existing leases without any shattering legal, moral or practical consequences (Prest, 1982: 143).

I.6.5. What Went Wrong?

1. Most of the proposals were piecemeal and selective (see Schedule of Legislative Proposals in Appendix I.1) and were inspired more by individual or unilateral efforts rather than co-ordinated policies.

2. As a corollary to the preceding paragraph there was lack of overall national strategy for universal application to all land values throughout the United Kingdom.

3. Most of the proposals submitted by local authorities were targeted for local expenditures in their own local area. Some of the private member's Bills were drafted as adoptive measures for local authority pursuance although others had national expenditure in their sights.

4. No consolidation on a clearly defined raison d'être. The two Government proposals that were enacted, in 1910 and 1931, were originally drawn as national taxation measures for central resources. But under pressure from local authorities it seemed likely that if the Acts had become operative then some part of the tax collected would have gone into local resources.

5. In practical terms, perceived complexity was the chief stumbling block and this was the clear downfall of the 1910 Act (e.g. four different kinds of values had to be ascertained, improvements had to be valued, the taxes fell in an irregular and partial fashion, and the whole measure was complex and unworkable).

6. In political terms, a lack of Governmental will in the face of considerable opposition, from the lobbying by owners and their professional advisers, confounded the operation of the Government's own legislation and the enactment of any of the multitude of Bills originating from Private Members and Local Authorities.

7. The tax on land values was, in the main, regarded as an addition to existing rates, or in partial substitution. There was no clear-cut transference of the rates burden to owners via land tax to the benefit of occupiers.

8. The case for land taxation for revenue-raising purposes became entangled with the Development Charges under the 1947 Planning Act. The majority report of the Simes Committee of Enquiry (1952) used this as its principal reason for recommending non-pursuance of the rating of site values *per se*. But as brought out below (III.2), the abolition of these development charges in 1953 subsequently made this reason non-viable.

PART II - COMMUNITY BETTERMENT FROM DEVELOPMENT VALUE IN BRITAIN

II.1. TOWN AND COUNTRY PLANNING SYSTEM

II.1.1. Introduction

The planning of towns, as an art and science for particular urban projects, is ancient and has persisted throughout the centuries. But it is mainly in this century, that Government has intervened to ensure its countrywide application. It did so in Britain in 1909. The instrument for so doing is a "planning system" (consisting of statute, regulation, guidance). It is within this system that the planning process is carried out. This section will aim to introduce statutory town planning in Britain, since it is in this framework that betterment initially became practicable. In doing so we concentrate on those elements of this framework which impinge upon the betterment.

II.1.2. The Development Planning Process

The relation between the planning system and the built environment has its prime focus on the physical development which results from the activities of the land owner/entrepreneur/promoter who assembles his factors of production (land, building industry, finance) to create the final products for consumption or further production.

The role of town and country planning can be seen as intervening into the "land and development market process", so that the evolution of cities and regions can be directed towards a future which would not otherwise emerge, and to be the best of alternative possible futures which have been considered (Lichfield and Darin-Drabkin, 1980: 23). It is in order to influence such future that we have the process of planning, which aims at steering the future by means of 'planned development'. This aims at managing the changes in the physical fabric which would otherwise evolve in a 'non-planned' way, and thereby the existing fabric associated with intensity and location of the proposed socio-economic activities (Lichfield and Darin-Drabkin, 1980: 24).

It is in order to manage these changes that the planning process comprises three inter-linked sub-processes: plan making, plan implementation and plan review with an eye to modifying the plan.

II.1.3. Evolution of the British Planning System

Britain is said to be a leading country in the evolution of its urban planning system. The reasons are stated as follows (Lichfield and Darin-Drabkin, 1980: 6):

- the earlier consciousness of the squalor of the urban system built by the first industrial revolution in the world, starting in the 18th century

- the long tradition of good management of the land in British rural and urban land-owning

- the system of property in land which recognised obligations as well as rights

Town and country planning as a governmental task has developed from public health and housing policies. The nineteenth century increase in population and the significant growth of towns led to public health problems which demanded a new role for government. The consequent nineteenth century public health legislation was directed at the creation of adequate sanitary conditions through measures such as new powers for local authorities to make and enforce building by-laws for controlling street widths, and the height, structure and lay-out of buildings (Cullingworth and Nadin, 1994: 1).

The movement for the extension of this sanitary policy into town planning united diverse interests (Ashworth, 1954). The first statute was the Housing, Town Planning, etc. Act of 1909. This empowered local authorities to prepare schemes for controlling the development of new areas, with the emphasis on raising their standard. The Act permitted local authorities to prepare town planning schemes with the general object of 'securing proper sanitary conditions, amenity and convenience', but only for land which was being developed or appeared likely to be developed (Cullingworth and Nadin, 1994: 2-3).

This legislation was revised after World War I with the Housing and Town Planning Act of 1919. The preparation of schemes was made obligatory on all borough and urban districts having a population of 20,000 or more. Some of the procedural difficulties were removed, but no change was made in the concept. Major advances were made in the field of housing, especially for the working-class, rather than in planning. The 1919 Act accepted the principle of state subsidies for housing so that the nation-wide growth of local authority housing began. Another significant aspect was the new standard of working-class housing, at a density of not more than 12 houses per acre. With these new standards, development could generally take place only on virgin land on the periphery of towns, and municipal estates grew alongside the private suburbs (Cullingworth and Nadin, 1994: 3).

Further attempts were made to deal with the increasing difficulties. The most significant was the Town and Country Planning Act of 1932. The main object was to control the development on land, whether urban or rural, so as to secure proper sanitary conditions, amenity and convenience and so as to preserve existing buildings or other objects of architectural, historic or artistic interest and places of natural interest or beauty, and generally to protect existing amenities (Jennings, 1946: 12). It extended planning powers to almost any type of land, whether built-up or undeveloped. Schemes took about three years to prepare and pass through all their stages. Final approval had to be given by the Parliament, and schemes then had the force of law. Variations and amendments were not

possible except by a repetition of the whole procedure (Cullingworth and Nadin, 1994: 3). With the 1932 Act, schemes were to be prepared by a local authority, or a joint committee, though again the Ministry had the power to compel an authority to prepare a scheme or to himself prepare a scheme and compel a local authority to carry it out (Jennings, 1946: 13).

The 1932 Act schemes in fact established zoning as their main tool. Land was zoned for particular uses, with provision for such controls as limiting the number of buildings and the space around them. In practice, most of the schemes did little more than accept and ratify the existing trends of development, since any attempt at a more radical intervention would have involved the planning authority in compensation which they could not afford to pay (Cullingworth and Nadin, 1994: 4).

The 1932 Act enabled but did not require the developers to apply for planning permission. If they did not obtain planning permission, and the development was not in conformity with the scheme when approved, the planning authority could require the owner to remove or alter the development. (Cullingworth and Nadin, 1994: 4).

To evaluate what has been presented, it can be said that the inter-war planning system was defective in several ways. It was optional on local authorities; planning was local in character; central government had no effective powers of initiative, or of co-ordinating local plans; and the issue of compensation kept the local authorities away from applying effective measures (Cullingworth and Nadin, 1994: 9).

II.1.4. Changes During World War II

Just prior to the war the Barlow Commission was set up to look into the problems arising from the drift of population southwards, primarily in search of work. It decided that a national planning authority was needed, with power to control the location of new industry away from congested areas, possibly coupled with the building of new towns (Royal Commission on the Distribution of the Industrial Population (Barlow) 1940).

Very briefly, the Commission concluded that the development of garden cities, satellite towns and trading estates could make a useful contribution towards the solution of the problems of urban congestion (Cullingworth and Nadin, 1994: 6). The Commission agreed that the problems were of a national character and required a central authority to deal with them, but could not agree on the form of this central agency (Cullingworth and Nadin, 1994: 7).

The Commission stated that *"the difficulties that are encountered by planning authorities under the existing system of compensation and betterment are so great as seriously to hamper the progress of planning throughout the country"*. To meet the difficulties certain ideas had been put to the Commission, including one for the purchase of all development rights in undeveloped land by the Government. It also recommended a body of experts be appointed by the Government which would examine the important issues of policy and

finance involved in the question of compensation and betterment (Lichfield and Darin-Drabkin, 1980: 131).

In 1942 Lord Reith, the Minister of Works, appointed the Uthwatt Committee to examine the subject of compensation-betterment and reconstruction after the war. The Committee was concerned only about land policy. It formed the basis of the legislation on land policy from 1944 to 1948 and has influenced land policy since then. Besides the interrelation it brings about with the planning system and the land policy (to be considered in further detail in the coming sections), another main feature of the report related to reconstruction areas.

In 1943 there was another important step in Britain's planning history with the Minister of Town and Country Planning Act of 1943. For the first time, it saw the appointment of a minister charged with the duty of *"securing consistency and continuity in the framing and execution of a national policy with respect to the use and development of land throughout England and Wales"*, with a similar duty for Scotland being placed on the Secretary of State for Scotland. The phrase 'and execution' placed a responsibility on the ministers for bringing into operation measures adequate for the task of implementation, including land policy (Lichfield and Darin-Drabkin, 1980: 130).

The Town and Country Planning Interim Development Act of 1943 amended the Act of 1932. The Act related only to the interim development period (the period between the taking effect of a resolution to prepare a scheme and the date on which the scheme becomes operative). It introduced two main features: It brought the whole of England and Wales under planning control and interim development decisions became enforceable in the interim period (Jennings, 1946: 7).

II.1.5. The Post-War Planning System

The new Labour Government, after the ending of the War in 1945, introduced the Town and Country Planning Act of 1947. It differed from that of 1932, mainly in the sense that it introduced 'development plans' instead of "schemes" these conveyed no legal development rights, since there was nationalisation as of 1 April 1948 of all the development rights in the country, subject to compensation to be paid five years later with interest and all at once. In addition to that, developers were to pay on the grant of permission a development charge amounting to 100% of the increase in the value of land resulting from development.

The 1947 Act provided the whole country with powers of development control, which became mandatory and not permissive. Whereas previously the rules for granting permission were stated in a planning scheme which was a local law for the area, under the 1947 Act development could take place only on the grant of a specific permit (Lichfield and Darin-Drabkin, 1980: 137). Thus, it brought all development under control, other than minor exceptions, by making it subject to planning permission.

The initial development plans in Britain were prepared in the form of structure plans, local plans and action area plans. The structure plan stated and justified, to the public and to the Secretary of State, the authority's policies and proposals of structural importance for the development and other use of land in the area concerned. It also interpreted the national and regional policies in terms of physical planning for the area concerned. It was the document which provided the framework and statutory basis for local plans, which then in turn provided the necessary further guidance for development control at the more detailed local level (Ratcliffe, 1976: 75).

Local plans were the planning instruments for applying the strategies. They gave a detailed basis for co-ordination and control of development.

Action area plans explained, the current condition, problems and prospects of the action area; the strategic framework for the action area as provided by the structure plan; the policies and proposals of the plan; the phasing of any related proposals of the plan; and the method of implementation (Ratcliffe, 1976: 81).

The development plans required by the 1947 Act within 3 years of 1 April 1948 were still incomplete in the mid-1960s. In the time being, the system became inadequate for their contemporary needs. Within this context, the Planning Advisory Group (PAG) was set up in May 1964 to review the structure of the planning system (Cullingworth and Nadin, 1994: 49). It proposed a system which would better distinguish between strategic issues and detailed tactical issues. Their proposal had legislative effect in the Town and Country Planning Act of 1968 (Cullingworth and Nadin, 1994: 50).

The Act of 1968 also brought about a major shift in planning philosophy in the scope and content of plans. Whereas the 1947 Act was mainly concerned with land use, under the 1968 Act emphasis was laid on major economic and social forces, and on broad policies or strategies for large areas (Cullingworth and Nadin, 1994: 52). 1968 also saw an era of centralisation of policy-making which continued into the 1990s (Cullingworth and Nadin, 1994: 53).

II.1.6. The Current System

The Town and Country Planning Act of 1990 consolidated the earlier legislation, but was soon modified by the Planning and Compensation Act of 1991. Together they retain the major principles of the 1947 Act, but brought four significant changes to the planning framework. The first was to make the plan the primary consideration in development control, as opposed being a consideration alongside "other material considerations", thus introducing what came to be called a "plan led system". The second was to make mandatory the adoption of local plans in areas covered by county structure plans, and also by single-tier authorities, where they were termed "unitary plans". The third was to abolish the requirement for central approval of structure plans. Although the Central

Government kept its powers of intervention, and an examination in public was still to be used to debate the plan after deposit (Cullingworth and Nadin, 1994: 58). Finally, the Act introduced a mandatory requirement for counties to produce minerals plans and waste plans for the whole of their areas. There will be no more small areas local plans, action area plans or subject plans other than for minerals and waste (Cullingworth and Nadin, 1994: 58).

The 1991 Planning and Compensation Act was said to be a principal instrument in the reorientation of the planning system. It aimed at replacing the patchwork of planning policies with a comprehensive and systematic hierarchy of development plan policies and established a plan-led system (Cullingworth and Nadin, 1994: 48).

II.1.7. Summary of Critical Issue to this Research

Within this planning system there is one feature, that of development control, which is critical to the research topic. A large array of somewhat minor exceptions apart, no proposal for development on land (that is works on or under the land or material change in use) can proceed without a planning consent for the proposed development. In deciding on the application the planning authority *"shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations"* where such considerations must relate to the use and development of land (Town and Country Planning Act 1990, Section 70 (2)). This requires balance between the two in making the planning decision, and thereby considerable discretion the respective weights in this balancing were changed in the 1991 Planning and Compensation Act, Section 54A by introducing what has come to be called the plan-led system.

> "Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise".

Since there are only minimal development rights attached to the land in law, and since the rights are procured in the main only by the permit, it follows that in the main a refusal of the consent, or the imposition of unacceptable conditions, carries with it no entitlement to compensation.

The result of this process is that the development rights for any parcel of land, and thereby the consequential land value, cannot be determined with any certainty in advance of the decision on the planning application and, should there be an appeal to the Minister or the Courts, the decision that flows from them. While the shift in the weights of the balancing has changed by the 1991 Act, the non-certainty still remains.

II.2. COMMUNITY BETTERMENT FROM DEVELOPMENT VALUE EXACTIONS

II.2.1. Land Value Depends on Land Use

Land value may be described as the monetary valuation of land use (Clarke, 1965: 73). Since land value is intimately connected with use, it follows that as the use of land changes, so will its value. The value may also change before any change of use actually takes place due to the expectation of a potential change in use which will affect the land's "development value". This expectation can be that predicted by the market unaffected or affected by Government intervention, be it by town planning or general public controls e.g. for sanitation (Lichfield, 1956: Ch. 22-5; and Lichfield, 1979: 111-131).

As in the market generally, the land value will result from demand and supply. But land is distinctive in the supply side. Except for the man-made improvements it is a gift of Nature and therefore has no production costs. This simple fact is the basis of much that is of concern in this research (Appendix I.2).

Land value may therefore be classified as "current use value" or "potential use value". (Clarke, 1965: 74). It is in respect of the latter that the term betterment arises.

Betterment in Relation to Land Use/Value

Since the middle ages, the term betterment has been used to describe the increase in site value caused by improvements carried out at public expense (Parker, 1965: 54). Its principle is "that persons benefited by public expenditure should contribute to such expenditure to the extent of the increased value of their property, and this is not only if the improvement effected by the public authority was carried out for the purpose of conferring a benefit on such property, but also if the resulting benefit was purely accidental, the expenditure having been undertaken for a totally different purpose" (Clarke, 1965: 74, quoting *Palgrave's Dictionary of Political Economy*).

The Uthwatt Report (ECCB, 1942) extends this principle still further and attempts a comprehensive definition to include not only *"any increase in the value of land (including the buildings thereon) arising from central or local government action, whether positive, e.g. by the execution of public works or improvements, or negative, e.g., by the imposition of restrictions on other land"* but also the *"enhancement in the value of property arising from general community influences, such as the growth of urban population".* The first category is termed "betterment proper" and has generally carried approval. The second category is termed "unearned increment" and has long been subject to controversy (Clarke, 1965: 75).

Recoupment, on the other hand, was defined in the Uthwatt Report as a system enabling a public authority to recover the whole part of the increased value given to neighbouring lands by the execution of public works. It also added that recoupment is not strictly an application of the principle of betterment. The two different definitions are given as follows:

"The principle of betterment is that the public authority are entitled to require the owner of land increased in value by their works to pay over in money part of the increase which he thereby enjoys. In the case of recoupment, however, the authority buy outright the land likely to be enhanced in value by their proposed works, paying the owner its current market value, and any profit they are able to make by developing or selling it is entirely theirs; there is therefore, no need to ascertain how much of that profit is attributable to increase in value due to the particular works and how much to other causes, and the major difficulty of the existing betterment system is thereby avoided." (ECCB, 1942: 117)

Past and Present Betterment Legislation

Two threads in the fabric of the history of this country indicate the application of the principle of betterment in legislation:

(i) payment *according to* benefits received or dangers avoided, most frequently represented by sewers and drainage rates; and

(ii) payment (whether by direct charge or set-off against compensation) *in respect of* benefits received by public improvements, e.g. through the widening of roads.

The first thread remains unbroken from the Middle Ages to the present day, when it is represented by differential rates under the Land Drainage Act, 1930. The second thread first appeared in 1662, but after a few years is broken and does not reappear until about 1830. Thereafter, although it is somewhat tenuous for long periods, there is no real break and it appears in full strength and colour in the London County Council Improvement Acts of the 1890's and in the Town Planning Acts from 1909 onwards.

The earliest Statute giving effect to the principle of assessment of contributions according to benefits was an Act of 1427 (6 Hen. VI, Ch5) appointing Commissioners of Sewers for 10 years to supervise works for sea defence wherever they might be required. The principle on which the sewage rates were levied under a later Statute of 1531 was that *"everyone whose property derives benefit from the works of the Commissioners may be assessed to the rates they impose"*. The sewer rate was in the nature of an improvement rate levied over the area, or in some cases on the individual properties, adjudged to be benefited by the sewage works and not necessarily only upon areas or properties for whose benefit the works were deliberately executed. While some authorities have doubted whether this is an example of the principle of betterment it certainly appears to contain the germ of the principle of betterment.

Whether the rates described in the preceding paragraph can be regarded as instances of the principle of betterment or not, it is clear that the principle is by no means a modern innovation. It was adopted by Parliament as long ago as 1662 in the Act 13 & 14 Charles II, Ch2 (ECCB, par. 245-277), though the word used is not "betterment" but "melioration".

The Act provided (inter alia) for the widening of certain streets in London (and for compensation to owners and occupiers of houses pulled down) and provided powers

> "to assess upon owners and occupiers of such houses, such competent sum or sums or annual rent in consideration of such improvement and melioration as in recent and good conscience they shall judge and think fit".

A similar provision was included in the Act for the Rebuilding of London after the Great Fire, 1667 (18 & 19 Charles II, Ch3) and in the Rebuilding Act 1670 (22 Charles II, Ch11) in respect of deepening the Fleet Canal and providing a public wharf. Others followed (ECCB, 1942: 107-114), namely:

- General Acts from 1931 to 1890, which provide for setting out benefits against compensation
- London County Council Bills and Acts, 1890 to 1902, to establish the right to recover a direct charge in relation to increase in land value from public street improvements
- General Acts since 1890 containing "Set-off" provisions when exercising compulsory purchase

The Town Planning Acts, 1909 to 1932 were the first general Acts since the reign of Charles II to provide for the recovery by a direct charge on those who benefited, in this case by restrictions on development not from public works

Compensation and Betterment

Just as betterment arises in relation to development value, so does compensation for its loss. But the two are not symmetrical since they relate to different land and have different legal rules for assessing the quantum.

This has given rise to problems which have been dealt with in two main ways. The first is named the "continuing solution" and attempts to deal with the gains and losses of development value as they arise. This method was attempted in the 1909 Town Planning and the 1932 Town and Country Acts in Britain. The argument is that gains and losses occur because of planning decisions taken in the public interest. Accordingly gains are taxed by a betterment levy (75% in the 1932 Act) and compensation is paid to those whose property values are held down, with a wide range of restrictions being excempted.

The second way has been what is called as the "once-for-all" solution. This method attempts to resolve the problems finally by a single operation at a given date. The argument is that all increases in urban site values derive from the natural growth of society and can therefore be appropriated by the state. Accordingly, development rights are given to the public authority and compensation is paid only for the development values that exist on the enacting date. Consequently, all future development values accrue to the state.

Examples are in the Uthwatt Report and the three Acts introduced by post World War II Labour Government, which are now discussed.

II.2.2. Uthwatt Report: The Classic Analysis

The Uthwatt Report (ECCB, 1942) is the principal report which provided a framework regarding compensation and betterment. Broadly, it set forth the ideas that land use planning would be on a national scale, that private rights in land be subjected to the public welfare, and that the use of land by private owners be restricted to accomplish this objective. Following these, it recommended that development rights be vested in the Government and a system be established to "obtain betterment" from landowners on development via a "development charge". In the Uthwatt Report, the term "betterment" covered not only the unearned increment caused by planning proposals, but also the increase in site value due to the natural growth of the society described as "general community influences" (ECCB, 1942: 115).

The Uthwatt Report was based on two issues of concern. The first was the fact that the future potential development value arising from future expected development affected a much larger area than needed for the development in the near future (ECCB, 1942: 14). The second issue of concern was that planning restrictions did not decrease the sum of land values, but merely redistributed them through 'floating value' and 'shifting value'; the former being described as the potential and speculative development value, and the latter as the balance between the fluctuations of the values of different tracts of land which is a result of the public control of land use (ECCB, 1942: 15). (See also Turvey, 1957: 122-130) Thus, in theory, it would provide the possibility of compensating all land owners whose land value decreased out of a betterment fund levied on those whose land benefited from an increased value (ECCB, 1942: 16). The Uthwatt Report also claimed that the above theoretical statement did not hold true in practice due to the limits of the existing statutory code. Practically, it would be possible only if all the land in the country were under a single ownership (ECCB, 1942: 23). Unification of the development rights for un-built-on land outside the urban areas was also concluded to be a means for removing the conflict between public and private interest (Lichfield and Darin-Drabkin, 1980: 134).

On the above theory, the Uthwatt Committee recommended as follows:

> ".....the immediate vesting in the State of the rights of development in all land lying outside built-up areas (subject to certain exceptions) on payment of fair compensation, such vesting to be secured by the imposition of a prohibition against development otherwise than with the consent of the State accompanied by the grant of compulsory powers of acquiring the land itself when wanted for public purposes or approved private development" (ECCB, 1942: 157-158).

The Committee recommended that local authorities be given the power of compulsory land acquisition for recoupment with the approval of the Central Planning Authority with no right of appeal against its decision. The Committee also recommended that the set-off against compensation should be abolished when a periodic levy on increases in annual site values would be established, with the exception of the increases in the value of undeveloped land outside 'town areas' as long as it remained undeveloped. The periodic levy scheme was recommended to be imposed through quinquennial assessments disregarding the increases due to recent expenditure of the owner. Indeed, the levy was set as 75 per cent of the value increments, taking into consideration the elements of increase due to the skill and enterprise of the owner or occupier. The Committee also recommended, in favour of this periodic levy, the abolition of the system of betterment collection under the Town and Country Planning Act of 1932 (ECCB, 1942: 165).

Another area of concern was whether compensation should be paid or not for planning restrictions on the use of land. Two cases were identified, in which liability to pay compensation was recognised and was not. The first was the limitation of the established rights to the owner of the land, in which case the State was liable to pay compensation. The second case was the vesting of the development rights to the State and in this case the State was not liable to pay compensation (Lichfield and Darin-Drabkin, 1980: 134).

As to the collection of betterment Uthwatt concludes (ECCB, 1942: 135):

> "We have shown that, of the existing methods for recovering "betterment" in its strict sense of increase in the value of land due to particular public improvements or provisions of planning schemes, set-off has been of little practical effect. We are forced to the conclusion that no *ad hoc* search for "betterment" in its present strict sense can ever succeed, and that the only way of solving the problem is to cut the Gordian knot by taking for the community some fixed proportion of the whole of any increase in site values without any attempt at precise analysis of the causes to which it may be due.
>
> One method which has been advocated of measuring increases of site value involves an initial valuation on a capital basis of all land in the country at a given date, this initial valuation being the datum line from which subsequent increases would be measured by re-valuations at periodic intervals, a levy been made after each revaluation on the increases so revealed.
>
> Broadly stated, our recommendation is that there should be a levy in respect of the increase in annual site value of each hereditament as revealed at each quinquennial rating revaluation over the datum annual site value (i.e. the annual site value as first determined for the purposes of the scheme)."

II.2.3. Town and Country Planning Act 1947

Based on the principles of the Uthwatt Report, the post-war Labour Government enacted the Town and Country Planning Act of 1947 which nationalised development rights. Beyond many exceptions no development was allowed without the permission of the local planning authority. If permission were rejected, no compensation would be paid, except in a limited range of special cases. If permission were granted, any resulting increase in land value was to be subject to a development charge (Cullingworth and Nadin, 1994: 107). The land owner had the right to continue the existing use of land so that any interference by the State would attract compensation (McAuslan, 1984: 84).

Betterment could be claimed as a development charge so far as the value of land was enhanced by the grant of permission (McAuslan, 1984: 78); in other words, it was conceived as *"any increase in the value of land (including the buildings thereon) arising from central or local government action, whether positive, for example by the execution of public works or improvements, or negative, for example by the imposition of restrictions on other land"* (Cullingworth and Nadin, 1994: 107). Thus the development charge was assessed at the full increase in value due to the permission to develop, reducing the incentive to develop, since all profit on development was theoretically taken away (McAuslan, 1984: 78)

Under the 1947 Act, loss of development value due to the nationalisation of development rights (which was calculated to be the difference between the unrestricted present use value and the existing use value) attracted compensation. This was based on admitted claims to an ex gratia and arbitrary fund of £300 millions, plus one-seventh for the accrued interest on the amount of the claim. When all claims had been received and examined, the previously set £300 millions would be divided between them according to the respective proportion of their value as at July 1st 1948, and paid together with interest. In practice, the total of all claims amounted up to £380 millions, not substantially exceeding the preliminary estimate (Cullingworth and Nadin, 1994: 107).

The Town and Country Planning Act of 1947 brought about two major changes. The first that whereas previously the rules for not granting permission were stated in a planning scheme which was a local law for the area, under the 1947 Act development was allowed to take place only on the grant of a specific planning permit. The second that whereas previously the landowner had his development rights granted to him in the local scheme, after 1947 the landowner had no rights until they were granted to him by the planning permit, except in the case of 'reinstatement' of established buildings (Lichfield and Darin-Drabkin, 1980: 137).

The 1947 Act did not work as expected. Land was being widely offered and, still worse, bought at prices including the full development value, even though developers were to pay a development charge amounting to 100 per cent of the increase in the value of land resulting from development (Cullingworth and Nadin, 1994: 10). This was largely due to the severe restrictions imposed on building. Building licenses were very scarce, and developers able to obtain them were willing to pay a high price for land upon which to

build (Cullingworth and Nadin, 1994: 108). Purchasers other than developers often found themselves forced to pay more for land than its existing use value, which in logic was all they should have been ready to pay (McAuslan, 1984: 78).

To prevent such problems, the Central Land Board had been given powers of compulsory purchase at the 'correct' price. This power was used to facilitate the supply of land at existing-use prices, but it was also used as a warning to owners of land in general. The second function was put into use only where an owner had actually offered his land for sale at a price above the existing-use value (Cullingworth and Nadin, 1994: 108).

The greater the amount of planning control, the greater did the gap between existing use and market values become. As a result of the 1947 Act, owners who were forced to sell their land to public authorities at existing use values considered themselves to be very badly treated in comparison with those who were able to sell their land at increased prices, resulting partially from the planning restrictions on other sites (Cullingworth and Nadin, 1994: 109).

II.2.4. Unscrambling: The Acts of 1953, 1954 and 1959

The new Conservative Government (1951) tackled this issue by a new scheme through a series of measures under the Town and Country Planning Acts of 1953 and 1954. One of these was the abolition of the development charge and the termination of the Central Land Board. The abolition caused land speculation. As long as owners could expect to receive only existing use value there was little point in buying land to hold in anticipation of a price rise. But when development values were given back to private sellers the prospect of speculative profits emerged again (Parker, 1965: 67)

With the new scheme the £300 million fund was extinguished as well. Instead of the compensation for development rights lost in 1947 being paid on a pro rata basis out of the fund, it was to be paid fully in the future, but only when the loss was actually realised on refusal of permission. The local authority was made responsible for the payment of this compensation in cases where the claim attached to a site which was being compulsorily acquired. In other cases it was the central government's responsibility (Parker, 1965: 66)

The owners who sold their land privately in the market were now placed in a privileged position compared with owners whose land was subject to compulsory purchase (Parker, 1965: 66). The former received the full market price for their property and retained the development value. The latter on the other hand, only received existing use value because, the development rights belonged to the State. This situation was tackled by the Act of 1959, which re-established market price as the basis of compensation for compulsory acquisition (Parker, 1965: 67). An owner could, thus, obtain the same price for his land irrespective of whether he sold it to a private individual or to a public authority, at least in theory. For the public authorities land purchase thus suddenly became extremely costly (Cullingworth and Nadin, 1994: 110).

II.2.5. Land Commission Act of 1967

The Labour Government of 1964 made another, quite different, attempt to secure a substantial part of the development value created by the community to the community itself, and the reduction of the cost of land to authority for essential purposes. To pursue these policies, a Land Commission was created to buy or compulsorily purchase land suitable for development, with the objective of supplementing the local authority powers to facilitate an orderly programme of approved development. The Land Commission was designed to be a site assembler, a planning agency to determine land use; a development agency to manage, dispose off or develop land itself, or engage either private or public developers. Thus a central government agency was established to compete with the local authorities in determining where and how land should be used (McAuslan, 1984: 78).

A betterment levy was introduced which was equal to a proportion of the development value on all land sold, either in the open market as a tax, or in a sale to the Commission and used as a deduction against purchase at market value. Initially the rate of the levy was to be 40% in order to encourage early sales would increase over time (McAuslan, 1984: 78). This 'betterment levy' was in fact the 'development charge' reinstated, this time at only 40 per cent, because it was agreed that the 100 per cent fixed by the 1947 Act had contributed to the reasons for the repeal of the financial provisions of that Act.

Together with the betterment levy, the Labour Government established a capital gains tax by the enactment of the Finance Act of 1967. The tax was charged on the increases in the existing use value of land only, and not on the increases in the development value as in the betterment levy (Cullingworth and Nadin, 1994: 111). Both of the taxes were measures taken for taxing the previously untaxed profits from land (Lichfield and Darin-Drabkin, 1980: 144). The Land Commission Act of 1967 was repealed in 1971 by the Conservative Government (McAuslan, 1984: 78).

II.2.6. Development Gains Tax

On 17 December 1973 the Conservative Chancellor (Anthony Barber) announced during an emergency Budget that the Government proposed to introduce legislation to alter the basis on which tax was charged on "substantial" capital gains arising on the disposal of land or buildings with development value or potential. He also announced that provision was to be made in the legislation for tax to be charged on the occasion on which a building (other than one used for residential purposes) was first let following "material development".

However there was soon a change of Government following the general election of 28 February 1974 and it fell to a new Labour Chancellor to put these proposals into legislative clothing in Part III and Schedules 3 to 10 of the Finance Act 1974. This was regarded by the Labour Government as an interim measure only, to bridge the gap until a more far-

reaching one could be found (Prest, 1981: 96). Consequently these limited arrangements for a Development Gains Tax were replaced as respects disposals after 1 August 1976 by the more comprehensive Development Land Tax 1976, to which we now turn.

II.2.7. Community Land Scheme

The Labour Government of 1974 returned to the battle. It introduced its Community Land Scheme in two parts. The first was the 1975 Community Land Act which provided wide powers for compulsory land acquisition, and the second was the Development Land Tax Act of 1976 which provided for the taxation of development values. This was going to be an achievement in terms of 'positive planning' and of 'returning development values to the community' (Cullingworth and Nadin, 1994: 114).

The Community Land Scheme differed from the previous attempts in two ways. The first is that the provisions dealing with the taxation or recoupment of betterment were separated from provisions dealing with the public acquisition and development of land. The second is that the local authorities (and in Wales the Welsh Land Authority) became the vehicles for exercising power in respect to this function rather than the central government (McAuslan, 1984: 79). The increased power given to the local authorities was also conceived as a contribution towards more positive planning (Lichfield and Darin-Drabkin, 1980: 4).

The objectives of the Community Land Scheme can be grouped into two: enabling the community to control the development of land in accordance with its needs and priorities; and recouping to the community the increase in the value of land arising from its efforts. The first objective arose from the difficulties in achieving 'positive planning'; now that the lapse of the financial provisions of the 1947 Act largely but not entirely meant a reversion to "negative planing". The second objective stemmed, following the repeal of the Land Commission Act, from the absence of any specific means of channelling some part of this increase to the public hands, other than through general taxation (Lichfield and Darin-Drabkin, 1980: 169). Following these objectives, the intentions of the Scheme were identified as the passing through local authority hands of all land for development and renewal in the country, and the passing into public hands of all rises in land values which resulted from such development (Lichfield and Darin-Drabkin, 1980: 4).

In terms of land acquisition, under the Community Land Act a local authority could purchase land for the purpose of private-sector development either compulsorily or by agreement. If the authority gave permission for relevant development it had the option to acquire the land for subsequent disposal. The authority could dispose of land to the private sector by leases in general up to 99 years. The choice of developer to whom the local authority leased the land is affected by 'prior negotiating rights'. Exempt development, outside the coverage of the community land scheme, included development for which permission was given by a General Development Order, and development for purposes of agriculture and forestry (Lichfield and Darin-Drabkin, 1980: 171).

Land acquisition under the Community Land Act would be financed by borrowing and all costs of this borrowing, as well as the costs of management and of land improvements, would be met from the proceeds of land disposal (Lichfield and Darin-Drabkin, 1980: 173). Only when it was fully profitable would it be possible to transfer funds from the 'community land accounts' to other local authority sectors. However this held true only for 30 per cent of the surplus. 40 per cent had to be paid to the central government and the rest would be paid into a fund from which allocations would be made to local authorities whose community land accounts were in deficit (Lichfield and Darin-Drabkin, 1980: 174).

Under the Development Land Tax Act of 1976, development gains were calculated as the difference between the market value (the net proceeds of disposal) and either the current use value or the cost of land acquisition plus special additions (whichever was the highest). The tax would be paid when there was development on the land, or when the land was sold or leased (Lichfield and Darin-Drabkin, 1980: 174).

The Community Land Scheme was expected to change certain issues in the private sector development process. The first was the reluctance of landowners to make their land available for development, both because of the possibility of the exercise of compulsory purchase powers and the liability for development land tax. The second expectation was the change in the unwillingness and inability of the developers to undertake the obligations and risks of major schemes in the new climate, and the unwillingness of financial institutions to make funds available in the circumstances now prevailing. (Lichfield and Darin-Drabkin, 1980: 181)

Besides these anticipated changes, there were also other expected achievements of the scheme. Firstly, it would alter the kind of plans which were produced, since they would incorporate a greater recognition of the realities of the development process as the local authority played a greater role in it. Secondly, a patchwork landownership pattern would be overcome. Thirdly, there would be greater co-ordination between the public and private sectors at the plan-making stage, so that plans would be more realistic and implementable (Lichfield and Darin-Drabkin, 1980: 183).

The scheme, like its two predecessors, had little chance of proving itself. The economic climate of the first two years of its operation could hardly have been worse, and the consequent public expenditure crisis resulted in a central control which limited it severely (Cullingworth and Nadin, 1994: 114). The Community Land Scheme was abolished by the Thatcher Government in 1979. But the law as to the ownership of the development rights remained the same, having survived the Acts of 1953, 1954 and 1959. They are still separated from the balance of the ownership title and are owned by the Crown, so that the denial of compensation for refusal of planning permission, or imposition of unsatisfactory conditions, still prevails.

II.3. FUNDING OF INFRASTRUCTURE

II.3.1. What Is Infrastructure?

The land, buildings and spaces of any urban area are the base for its socio-economic activities, both by the town's residents and those coming in from outside, as regular commuters or irregular tourists, peripatetic academics and businessmen, etc. These need an infrastructure, namely "the underlying foundation or basic framework" (Longman, 1988).

In everyday usage there is however a difference in what is conceived as "underlying". There is general agreement on the inclusion of transportation or telecommunication (its obverse), and their associated facilities (such as lighting, car-parking, bus and railway stations, telephone exchanges) as well as basic utilities (water, sewerage, waste disposal, gas, electricity).

To this physical infrastructure others would add the social infrastructure required to serve people, to comprise all those services which makes land development (Loughlin, 1985):

(a) possible (circulation streets, roads, water, sewerage, gas, electricity, telecommunications, street lighting, street cleaning and refuse services);

(b) acceptable in terms of amenity (parks and amenity areas) and social overhead (schools, health and welfare services, libraries and other cultural facilities).

Paying for physical and social infrastructure, in the traditional broad division of labour in providing urban development, is generally the province of central and local government on behalf of taxpayers/ratepayers, together with ad hoc bodies on a commercial basis (gas, etc.), while private and public entrepreneurs generally provide the urban fabric which is remunerative. This division of labour is blurred at the edges. In a residential area the developer will build the streets and gift them at the required standard to the local authority for maintenance; in a rural area a local authority can build coastal protection works which are financed by tax assessment on specific beneficiaries.

Thus the building and running of a town is a mirror of our mixed economy. In this mix there is another ingredient: intervention by government (central and local combined) in the development, via the urban and regional planning system. This has broadly two aims: to remove impediments to the working of the market for both the private and public entrepreneurs; and regulate its activities in the "use and development of land in the public interest" (DoE, 1988: para. 17). This combined intervention provides a wider definition of the infrastructure framework (Wakeford, 1990):

> "all the supporting services required to ensure that land development takes place in a socially acceptable way; that is it does not intrude on the landscape, cause disturbance to neighbours, create traffic congestion, or overload the school system.

This would seem to bring into this definition the avoidance of unfavourable externalities which arise from development".

II.3.2. Current Funding of Infrastructure

Current practice in British funding of infrastructure has origins stretching back over centuries, and has evolved piecemeal with the growth in the infrastructure itself and the multiplication of public agencies and powers related to the funding. For these reasons the practice is complex (Loughlin, 1985). For our purpose we do not need a comprehensive description, but rather a categorisation of different kinds of funding as a context for the planning gain with which we go on to consider. Following is a somewhat heroic attempt. (Lichfield, 1991).

a Paid for by Central or Local Government and Recouped Respectively out of Taxes or Business Rate and Community Charge

These are the traditional public works funded from public sources, for example roads, rail links, drainage, sewerage, car-parking. Generally, the funds are levied on the population as a whole, paid into one pool and distributed from the pool for specific works. On occasions particular funds are earmarked or hypothecated for specific works. Or there is a special assessment levy on the beneficiaries of particular works.

b Paid for by a Statutory Undertaker with the Cost for a Specific Project Passed on to the Landowner/Developer

These are the traditional utility services, be they in public or private hands, be they or not a monopoly. Their capital cost is typically met by developers' contributions which are passed on to the consumers in the disposal price, or to land owners in reduced purchase price of land. An example is the levy for water and sewerage in the Water Act, 1989, supplementing the requisitioning required under the Water 1945 Act by a system of general infrastructure charging, intended to allow for capital costs incurred by undertakers when providing additional capacity.

c Paid for by the Developer/Operator under the "Polluter Pays" Principle

(i) Public Health

This somewhat archaic term covers construction which is regulated in the interests of public health, such as standards in sewers, water supply, etc., and access by streets to

development which are initially constructed by the developer and then transferred to the local authority.

(ii) Environmental Pollution

Control over emissions have been regulated since the Alkali Act of 1874, which has been the cornerstone of industrial air pollution since that time. This has taken on new dimensions with present concerns on environmental pollution (SOS for Environment et al, 1990a: Part IV and Annex A). There is being introduced a more rationalised regulatory system in the Environmental Protection Act, 1990, with the adoption of the principle of the "polluter pays", (both ex ante in terms of tax and ex post in terms of damage caused) and the general move towards introducing financial incentives and disincentives.

In parallel, environmental regulation under or alongside the planning system has been advanced since 1988 through the requirement for an environmental assessment to be made as a preliminary to obtaining planning permission; mandatory for a particular array of projects where environmental pollution is fairly certain (e.g. power stations); and at the discretion of the local planning authority where the environmental impacts are "likely to be significant" (e.g. large scale urban development) (DoE, 1990b). Parallel legislation has been introduced for projects falling outside the planning systems, e.g. forestry. In these the developer as potential polluter would be called upon to pay, via his amelioration in kind of the potential side effects (DoE, 1990b).

d On Planning Permission

When faced with an application for development an authority may grant permission with or without conditions, or may refuse. For this purpose, planning authorities have formidable powers of regulation over all but a complex array of exceptions (typically non-significant) in physical development (new works and material change of use). The objective has been given by the Department of the Environment to secure the "use and development of land in the public interest" (DoE, 1988: para. 25), which is aimed at "securing economy, efficiency and amenity in the development and use of land" (DoE, 1989: para. 4 and 5).

In general the development control seeks improvements in the quality of the development which is being proposed, so affecting private costs; minimisation of the divergence between private and social costs and benefits through amelioration of disbenefits in the proposals and thus internalisation of the costs; co-ordination with other development to minimise overall costs. Thus in practice development control passes on to the developer/landowner the financing of costs which would otherwise fall on the public purse.

II.3.3. Planning Gain/Obligation Agreements

The Conservative Government of the 1980's assumed direct and vigorous control over the expenditure of the local authorities, be it from local taxation or Government grant, which drove the authorities to seek ways of supplementing their resources, in order to meet their obligations. At the same time, land owners and developers were in fierce competition for the granting of permission, to use the opportunities on their land, which meant so much for them financially. During the boom of the economy and the development industry during the 1970's, planning permission thus became the vehicle for huge rises in land value accruing to land owners and developers without their incurring payment for the development rights, beyond normal taxation. As a result, there arose without express legal sanction the system of 'planning gain', which amounted to exaction by the authority from the applicant for planning permission of contributions in money or kind towards the direct costs that would otherwise be thrown on the authority because of the permission (DoE Circular 22/83).

The "planning gain" could not be legally imposed as conditions on the planning permission. In order to formalise the arrangements, authorities had to use agreements under the Town and Country Planning Act 1932. In the property boom of the early 1970s planning agreements became widely used (Cullingworth and Nadin, 1994: 114), in addition to three other legal bases: Section 52 of the Town and Country Planning Act of 1971, Section 111 of the Local Government Act of 1972, and Section 126 of the Housing Act of 1974. Besides these three, there were also some additional powers obtained under local acts (McAuslan, 1984: 84).

In England less than 1 per cent of planning decisions involve planning agreements. The largest proportion are concerned with regulatory matters (contracts, plans and drawings, building materials, etc.) and over a half deal with occupancy conditions (for example, restrictions required for sheltered housing, agricultural dwellings, social housing). Agreements serve an important function in securing the provision of infrastructure necessitated by a development (particularly roads), and in environmental improvement (such as landscaping). Only a very small number of agreements are concerned with wider planning objectives (Cullingworth and Nadin, 1994: 115).

From planning gain in practice attracted many criticisms (Rosslyn Research, 1990), leading to policy for improving the system (DoE Circular 16/91). In 1991 statutory provisions relating to agreements were provided by the Planning and Compensation Act 1991. Agreements have become 'obligations' which may be unilateral, not necessarily involving any 'agreement' between a local authority and a developer at all (Cullingworth and Nadin, 1994: 115; Section 12 of the Planning and Compensation Act 1991, amending section 106 of the Town and Country Planning Act 1990):

> "Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation (referred to ...... as a planning obligation) ....
>
> (a) restricting the development or use of the land in any specified way;
> (b) requiring specified operations or activities to be carried out, in, on, under, or over the land;
> (c) requiring the land to be used in any specified way;
> (d) requiring a sum or sums to be paid to the authority on a specified date or dates or periodically"

II.4. SUMMARY OF EXISTING SITUATION ON BETTERMENT

The three post-war measures for betterment tax on development value in Britain, introduced by successive Labour Administrations, have all been withdrawn by the succeeding Conservative Administrations. But one critically important feature of the 1947 Act remains unaffected, namely that the ownership of all landed property development rights continues to vest in the Crown. Despite the amending planning legislation of subsequent Governments these rights were not given up and returned to the property owners. Consequently there is now no "compensation problem" to form the other side of the betterment coin. If a planning application is refused or granted with conditions, no claim for loss of development rights can be admitted. As Prest (1981: 189) puts it succinctly

> "But at least one thing does seem clear in the fog: the issue of planning compensation for planning refusal can be considered truly dead and buried."

However this has now an additional importance beyond the solution to the compensation problem when land value is mooted as a new taxation base. Any objections from land owners, for example, to an incremental betterment tax, as envisaged in the Uthwatt Report (ECCB, 1942: 135-154), on the development rights which they do not own but nevertheless can enjoy, would hardly make for a credible case at the Court of Equity.

What does remain unaffected are the various means of transfer of funding of infrastructure, from the public to the private realm. Indeed the degree of transfer has accelerated under the same Conservative Administrations, through the introduction of planning gain/obligation agreements in the 1970s, which were further strengthened in the 1980's and 1990's (Cullingworth and Nadin, 1994). But while these measures have enabled authorities to claw from landowners/developers the costs of infrastructure, and are not designed or intended to secure betterment from rising development values themselves, have produced a decided shift of burden from the public to the private sector. Since, in rent theory, if not in practice, this burden would be at the expense of the landowner, it is a form of community benefit. And their potential for doing so could be greatly enhanced. While open to justifiable criticism in their evolution over 25 years, the planning

gain/planning obligation process has offered a useful and flexible tool for redressing the public/private balance in land development. (Lichfield, 1989; Lichfield, 1992).

II.5. COMMUNITY BETTERMENT FROM DEVELOPMENT VALUE: AN EVALUATION OF PAST PROPOSALS

II.5.1. Attempted Aims and Objectives

As with land taxation for revenue raising proposals, (Sec I.6.3) we now evaluate past proposals for community benefit from development value in order to draw lessons for the future. And as there we will first try and identify some attempted aims and objectives of the past proposals, which were in pursuance of:

- the centuries' old aim to transfer to the community from the landowners some element of the rise in land value which comes from community growth.
- trends to place on landowners rather than the community the direct cost of infrastructure needed to serve new development.
- the system initiated in the 1970's whereby exactions, not limited to traditional infrastructure, were levied in association with particular planning permissions (planning gain/planning obligations).

II.5.2 What went right?

Taking each of the three headings in turn:

1. Recoupment

- Following the opening up of the issue by the Barlow Commission (RCDIP, 1940) the Uthwatt Committee set the scene with its classic report on compensation and betterment. This provided a very good basis for post war legislation and practice.
- On this basis three successive Labour Governments introduced quite diverse attempts to tackle the issues of recoupment for the community.
- From these a vast amount of experience was obtained of what could and could not be done.
- As a result, and despite opposition, the thesis has been widely accepted by the development industry that some recoupment to the community was expected and accepted.

- One enduring residue is the acceptance that compensation is not payable by the community for restrictions on value from denial of compensation for refusal.

2. Infrastructure

- There has been a decided shift in practice, through transferring the cost of infrastructure from the community to landowners/developers.

Planning Gain

The logic of the process has been accepted in general but there are still many reservations about its practice and applications.

II.5.3 What went wrong?

1. The Plaything of Politics

- Each of the three Labour Government ventures were both opposed by the Conservatives in opposition and then unscrambled/repealed as soon as the opportunity arose, and before the wrinkles could be ironed out. Furthermore, the Conservatives had no reasonable antidote to put in the place of the repealed systems. Accordingly there was no opportunity to amend any of the three ventures in the light of experience.

- All three Labour Government attempts were very laborious and complex. Therefore they required a great deal of time to implement, which none received before being repealed by the Conservatives.

- This lack of possible experience was augmented by the Labour Governments' switching to a new concept in each case, so that they themselves failed to offer later opportunities for improvement of the previously rejected scheme.

- All this fragmentation was aggravated by the real defects in the schemes, which have been recorded by commentators, as now summarised in the following section.

2. Flaws in the Labour Government Schemes

- The Town and Country Planning Act 1947 Act failed because while it allowed the private market to operate it took away all incentive to develop by the 100 per cent development charge (TCPA, 1997: 42, quoted from Cox, 1984: 82; Blundell, 1993: 5).

- According to the 1947 Act, increases in land values arising from causes other than development or redevelopment remained with the landowners. In practice, the

majority of land value increases were of this kind and therefore they could not be returned to the community (Blundell, 1993: 12)

- The 1947 Act and the Land Commission Act of 1967 both encouraged speculation by giving landowners the hope that their land would increase in value without being liable to the development charge (Blundell, 1993: 7-8).

- The financial benefits of collecting development charges under the 1947 Act were discouraging by 1952.

- "...the total sum received in development charges in the three and a half years which had elapsed since the "appointed day" was but £8.6 millions, with a further £4.9 millions set off against the compensation fund. The revenue which the charge was producing was negligible; the disincentive to development was massive" (Douglas, 1976: 214)".

- Similarly under the Land Commission Act of 1967, the Commission completely failed to collect the forecast yield from levy: expected to yield £80 million in its first year, in fact it yielded a mere £15 million, with £32 million the next (1969-70). And it had compulsorily purchased a derisory 2207 acres of land and sold 913 acres. (TCPA, 1997: 29, quoted from Cox, 1984: 151).

- The Community Land Act of 1975 faced difficulties after the Government's spending cuts of December 1976 reduced the borrowing capacity of local authorities by £70 millions, which at the same time restricting their acquisition of land due to funding problems (Blundell, 1993: 12)

- In the end the Community Land Act was a failure in that by April 1979, the Community Land Account was in deficit to the tune of £33 million (TCPA, 1997: 31, quoted from Cox, 1984: 187)

- The main problems in the Community Land Act were due to the fact that the Government allowed no new staff to be hired; there were conflicts between planning, finance and surveying staff; the 99-year lease provisions were difficult because lending institutions preferred 125 years; there was some deliberate withholding by landowners; almost 98 per cent of potential land was exempt because already held in land banks by statutory undertakers and builders; and there was a building slump which meant that this exempted land was not used up as expected (TCPA, 1997: 31, quoted from Cox, 1984: 187-91)

PART III - CONFLICT BETWEEN PLANNING AND LAND VALUE TAXATIONIN PRACTICE AND THE POSSIBILITIES OF COMPATIBILITY

III.1. NATURE OF THE CONFLICT

Despite the voluminous references to the topic of land value taxation brought out in Part I, there is a clear single theme throughout, namely: tax the land as a particular resource on the basis of its value for development. But there is great variety in the formulae that have been put forward for making the assessment of the value. For the purpose of this Report we need to assume a generalised definition. This could be as follows (Lichfield and Connellan, 1995: 5):

> "Under site value taxation the persons who would bear the burden would be the owners of land. The share payable by each owner would depend upon the value of the land disregarding any buildings or any other improvements upon it. With undeveloped land its value would reflect any potential for development. In addition to the shift in burden from occupiers to owners there would also be a wider distribution of liability (e.g. agricultural and unoccupied land would be brought anew into the tax base).
>
> The fundamental idea of site value presents no difficulty. It is the value of each site estimated as at the valuation date upon the assumption that any buildings or other improvements on it did not exist, but that everything surrounding it remained as it is. That is to say that the site is to be valued as if it alone were unimproved but that it enjoyed whatever advantages arise from its situation, the road system, the public services, the proximity of shops, places of entertainment, schools, churches, and every other convenience of civilisation.
>
> These are in fact the advantages which have always been bought whenever a vacant site has been purchased. The conception is a clear one. The main difficulty is putting it into legislative form, arising from the fact that in law the ownership of land includes the ownership of whatever improvements have been made to it, and that such ownership is frequently divided into several legal estates or interests."

The assessment of value for the purpose of land value taxation is concerned with the market value for development. As such it is not necessarily directly concerned with the effects of planning and development (Lichfield and Connellan, 1995: 6).

> "The current development/planning process, and the recent attempts at recoupment of development value in Britain;...bring out the potential conflict that arises when land/site taxation is administered alongside a planning system in which development rights are not derived from the plan itself but rather from the planning permit administered under the system. By definition, in the circumstances of

flexibility and discretion in planning control that exists in Britain, there must be uncertainty in the future land use/land value of particular parcels. The fact that there are generalised land uses in the plan itself is no guarantee that those uses will be permissible on all land within the generalised description.

From this it follows that land/site taxation can impose taxes on land owners (including in built up areas) at levels which will not correspond with the levels that the land owners will eventually earn with the relevant planning permits. Inevitably confusion will arise in the mind of the landowner/developer for particular parcels, when he is taxed at a certain level which is not accepted as appropriate to the planning proposals by the planning authority. For this reason, it would be impracticable and inequitable to run the two systems independently of each other.

This situation arises, it should be emphasised, because of the flexibility and discretion in the British planning system. It would not apply necessarily elsewhere, as in the US, where the control mechanism is by zoning, where the precise lines in the land use permit of a formal basis for the land valuation."

III.2. COMPATIBILITY

The above quotation continues.

> "Once the need for inter-dependency arises, it is inconceivable that in Britain land use planning policies and proposals in the public interest should follow the market, indicated by the taxation assessments, which does not reflect public policy values. But the reverse is not inconceivable. Indeed it would make considerable sense if the land/site value taxation assessments were geared precisely to the planning policies for proposed land uses in the area in question. In this way, the taxation measures can be seen as tools for the implementation of the planning and environmental policies, and as a means of assisting them to come into effect."

Thus it is seen that the conflict can be resolved by giving prime place to the planning and land policies and adjusting the land/site taxation to them. This is not to say that the taxation would be simply for revenue but would be seen as part of *land policy*, aimed at assisting in the implementation of the plans. For example a new land tax in areas ripe for renewal would support plan policies for renewal and a zero tax would support conservation.

Thus the appropriate introduction of land value taxation would need to be compatible with the planning system. Here it is useful to explain why non-compatibility was concluded, in the Majority Report of the Simes Committee, to be a reason for rejecting land value taxation. There the quite different reasons seemed to be based on the difficulty of assessing development charge on any particular property where its development rights were shared by both the landowner (having pre-1947 Act development rights) and by the

Government (having the right to impose a development charge in respect of the increased development value at the later date of the planning application (Simes Committee, Ch. XI)). There are, to be sure, other kinds of difficulty in the valuation of property affected by planning proposals, but these could be overcome (Hudson, 1985).

With compatibility this in mind the approach could be adjusted to the conditions in Britain within a range of options which have been described as between the deep end and the shallow end (Prest, 1981: 188), as follows:

Deepest End

This involves a full-blown introduction of SVR (site value rating) or LVT (land value taxation) as a replacement for the existing rating and council tax systems and an extension of those systems to land presently excluded. This form of SVR/LVT encompasses a dual function of revenue gathering for local services and recoupment of development value. It shifts the existing local services burden away from occupiers as a direct charge to owners. As to recoupment, SVR/LVT being an annual charge on the owner based on the development value of the land, makes it difficult to shift the tax from the owner's responsibility.

Since the values placed on land would be plan-led there could be departures from the principles of traditional land value taxation. In the context of a market value standard there is scope for considerable debate (Connellan and Plimmer, 1996), and some reconciliation could be found.

- Plan proposals could be firmed up by the issue of "Certificates of Development Potential" upon application by the owner and/or the assessing authority (Hudson, 1985: 6-8)

- If planning proposals are eventually not realisable, any tax payments based on values derived from wrong assumptions could be reclaimable (plus interest)

Moving Towards Acceptability

The "deepest end" may be hindered by the lack of knowledge about the detailed mechanics and the implications of the land value taxation (Prest, 1981: 170). In such a case, some further softening could be introduced:

- Graduation of tax payments depending on development stage (say 25% on plan indication, say 50% on grant of permit, say 100% on development completion)

- Another way of ameliorating the immediate impact of land value taxation is to adapt the scheme recommended by Uthwatt (ECCB 1942: 138) of a periodic levy on increases in annual site values as revealed at each quinquennial rating revaluation over

the datum annual site value (i.e. the annual site value as first determined for the purposes of the scheme).

- To meet the "hardship" complaint of owners who acquired land at a price which reflected the highest and best use, that is to say before any land tax implications took effect, an *"equilibrium value"* could be struck by valuers making assessments. Such a process means that the value of the land for assessment purposes is reduced so as to reflect its value as if the tax were in operation (Prest, 1982: 37-38)

Influencing the Options - Moving to the Shallower End

The range of options for SVR/LVT can also be influenced by redefining the target area:

- Not all land to be included e.g. pure agricultural land might be exempted from taxation.

- By retaining the existing occupiers' rating and council tax systems as revenue producing for local services, and using land tax as a vehicle for promoting land policy and, as incidental to that policy, obtaining some development value to the community. The possibility of selecting or combining different types of property taxes has recently been reviewed by Connellan et al (1996).

- Land policy in this submission means specific policy objectives and, on this scenario, the land tax would be targeted to specific rather than wider planning aims.

- This tax, it will be seen, is quite different from the spirit of an infrastructure tax (e.g. impact fees or a "planning gain" type of tax). It is a fiscal incentive or deterrent to advancing or deferring the development of selected areas, over a reasonably short term, in accordance with the plan and land policies.

PART IV - POLITICAL PROSPECTS: THE PROGRAMMES OF THE THREE PARTIES

As we have seen above the central topic of this Report has been very sensitive to the colour of the particular political party in Government. Accordingly, having looked at the range of options to introduce some form of land value taxation which is compatible with the planning system, it is now opportune to consider the political possibilities of Government action in the light of the General Election of May 1 1997, which returned a Labour Government with a huge majority, ending 18 years of Conservative rule.

IV.1. THE CONSERVATIVE PARTY

Despite its venture into recoupment of 1973 (see II.2.6) there has been no indication from any of its published literature that the Conservative Party (now in opposition) has any policy that would change the present system of Council Tax and Uniform Business Rate (UBR) for producing local government revenue. As to betterment from development value, no change from the present planning system has been mooted. Therefore no positive moves are likely to come from this political quarter.

IV.2. THE LABOUR PARTY

The following are the only official Party statements that have been identified as relating to the topic. It is still an open question as to whether the Labour Government would be prepared to consider the possibilities of additional revenue taxes based on land values and betterment from development value.

Town and Country Planning

> "Labour will regularise the planning gain system presently operating for non-domestic development proposals, to ensure that it operates transparently and according to clear rules. Where there is a substantial increase in the value of a site resulting from the granting of planning permission, we believe that the community should derive some benefit. There must be open discussion of the social, environmental, and economic costs and benefits of particular proposals" - (In Trust for Tomorrow, 1994).

Local Government Finance

> "Although crude and universal council tax capping should go, we will retain reserve powers to control excessive council tax rises". Labour Party Manifesto (1997)

> "There are sound democratic reasons why, in principle, the business rate should be set locally, not nationally. But we see no change to the present system for

determining the business rate without full consultation with business". Labour Party Manifesto (1997)

IV.3. LIBERAL DEMOCRAT (LIB-DEM) PARTY

The possibilities are more encouraging with the Liberal Democrats, who increased their representation in Parliament significantly as a result of the recent general election. They have a long history of support for land value taxation as summarised in Douglas (1993) as follows:

> "The alternative system of LVT has a long pedigree with both the Liberal and SDP (Social Democratic Party) forerunners to the Liberal Democrats. The Liberal Party repeatedly reaffirmed its support for this idea, from the 1889 meeting of the National Liberal Federation to the last Party Assembly in 1987. The Labour Party, the former home of the founders of the SDP, gave more erratic support for LVT, but in 1931 a Labour Government actually put on to the statute book proposals to value and tax land. In 1991 the Liberal Democrats declared their support for a measure of LVT within the financing of local government."

This support was given by the approval of the following resolution at its Annual Conference (September 1991):

> *"**Poll Tax, Council Tax and UBR***
>
> Conference condemns the current Government's "reforms" of local government taxation, including the introduction of the poll tax, its replacement by the proposed Council Tax, and the introduction of the Uniform Business Rate. Conference believes these taxes are fundamentally unfair, act to remove power from local government, and are ultimately unworkable.
>
> Conference calls for:
>
> 1. Poll tax to be replaced at the earliest opportunity, in 1993, by a local income tax set by each local authority without central government interference but subject to the need for equalisation;
> 2. The uniform Business Rate to be replaced by land value taxation on the [unimproved] capital value of all land except that used for principal private residences or for agriculture;
> 3. The site value levied by each council to be determined in a prescribed proportion to the rate of local income tax which it chooses to set;
> 4. The 1992-93 Community Charge Benefit to be made more generous, including 100% rebates to those with no income."

This support was part of the Liberal Democrats' platform at the 1997 General Election, as explained by Vickers (1997):

> "We would replace it [Uniform Business Rate] with a locally set Site Value Rating (SVR) system, using data held by the Valuation Office [Agency of the Inland Revenue] on property transaction values. It could be operating within one year of enactment by Parliament, initially using self-valuation by occupiers while the Valuation Office data was adapted where necessary".

In continuance of this approach, as part of a campaign to raise the profile of LVT within the Party in preparation for its 1997 Annual Conference, the Liberal Democrat Campaign for Land Value Taxation (1997: 31) sought *"to promote the idea of LVT, and to study the relevance of LVT to other items of concern to the Party and its members"*. For example, they made reference to a number of issues which are pertinent to this Report e.g. planning, capturing betterment, how LVT would collect betterment values, land values as an aid for planning etc.:

> "It is equally inconsistent and arbitrary to attempt to collect increases in land values subsequent to individual actions of planning consent, whilst ignoring all existing land values and all increases arising from other causes. Plainly, a concept like planning gain is a hit-and-miss, random affair, not a methodical means of ensuring that publicly-created land values are regularly captured for community benefit.....Under a system of LVT, the valuation would be based on the full rental value of the site, at its optimum permitted use. Thus, betterment arising from planning decisions would automatically be collected as a revenue stream, along with existing land values and betterment arising from all the other causes which influence land values. If a system of LVT were in operation, land value maps and valuation rolls would be available. Planners and responsible political authorities would thus be in a position to gauge the likely effects which any one of a series of options would have - and so, too, would the public. The likely consequences of planning policies could be more accurately appraised. Again, the mere awareness of anomalies in patterns of land values would direct the planners' attention to consideration of appropriate remedial action".

The prospects of the Liberal Democrats continuing with this LVT policy appears to be a reasonably probable outcome of these deliberations and the Liberal Democrats seem to be the major standard bearer for Henry George's policies in this current Parliament.

IV.4. SCOTTISH NATIONAL PARTY

The Scottish National Party (SNP) which, although a minority party, increased its representation in the UK's Westminster Parliament at the General Election. Its

significance is likely to be increased through the subsequent overwhelming referendum endorsement of the principle that Scotland is to have its own Parliament, for which forthcoming elections the SNP is expected to do well and to afford an effective challenge to the Labour Party in Scotland.

As reported by Barron (1997) the new Labour Government has conceded "tax varying" powers to the Scottish people, but these are restricted to raising income tax by a modest amount. The SNP, however, which wants independence for Scotland from the UK, has gone on the offensive with the prospect of claiming powers to vary the tax structure itself - in favour of taxing land values. It will be interesting to monitor just how far-reaching are its manifesto proposals for LVT in the Scottish Parliamentary elections.

APPENDIX I.1
HISTORY OF ATTEMPTS IN LAND VALUE TAXATION IN BRITAIN

Schedule of Legislative Proposals [Source: Simes Committee Report (1952: 23-24)]

Proposal	*To meet Local Expenses*	*Levied on Annual or Capital Value*	*Limitation on amount of rate*
Royal Commission on Housing of Working Classes, 1885.	Part of it	-	-
L.C.C. Evidence to Royal Commission on Local Taxation, 1899.	Part of it	Capital	6d. in £. (2.5%)
"Separate Report" of Royal Commission on Local Taxation, 1901.	Part of it	Annual	To be fixed by Parliament
Judge O'Connor's Minority Report (Royal Commission on Local Taxation), 1901.	Whole	-	--
L.C.C. Bill, 1901.	Part of it	Annual	2s. in £. (10%)
Mr C. P. Trevelyan's Bill, 1902	Part of it	Annual	2s. in £. (10%)
Dr T. J. MacNamara's Bill, 1903	Part of it	Capital	1d.in £. (0.42%)
Mr. C.P. Trevelyan's Bill, 1904 and Sir John Brunner's Bill, 1905	Part of it	Annual, defined as 3% of capital value	Same rate on improved value of occupied, and unimproved value of occupied land
Land Values Taxation (Scotland) Bill, 1905	Part of it	Annual, defined as 4% of capital value	2s.in £. (10%)
Select Committee on Land Values Taxation (Scotland) Bill, 1906	Whole	Annual	--
Finance (1909-10) Act, 1910	Part proposed but undetermined	Capital Annual	Incremental and Reversionary Duties (10%) Levy on undeveloped land (0.21%)
Departmental Committee on Local Taxation, 1914 (Minority Report)	Part of it	Capital	10% of amount raised in rates plus half of any future increases
Manchester Bill, 1921	Part of it	Annual, defined as 5% of capital value	-
Finance Act, 1931	-	Capital	1d in £ (0.42%) originally proposed
Mr. J.C.(later Lord) Wedgwood's Bill, 1932	Whole or Part of it	Capital	-
Mr. A. MacLaren's Bill, 1937	-	Annual	-
L.C.C. Bill, 1938-39	Part of it	Annual	2s.in £. (10%)

THE FOLLOWING INFORMATION ON THESE MEASURES WAS DERIVED FROM EVIDENCE PRESENTED TO THE SIMES COMMITTEE

Royal Commission on the Housing of the Working Classes, 1885

The argument which weighed most heavily with them was that land value taxation would increase the supply of land available for housing. They considered that the existing rating system was an impediment to the acquisition of land which should have been available for working class housing on the outskirts of towns.

The Commission argued that such land if it were rated at, say, 4% on its selling value, the owners would have a more direct incentive to part with it to those who are desirous to build and a twofold advantage would result to the community.

First, all the valuable property would contribute to the rates, and thus the burden on the occupiers would be diminished by the increase in the rateable property. Secondly, the owners of the building land would be forced to offer their land for sale and thus their competition with one another would bring down the price of building land.

Select Committee on Town Holdings, 1892

This Committee reported against the rating of ground rents. First, it argued that ground rents were already in a sense within the scope of the rating system in that rate poundages affected their values, so that to subject them to an additional levy would be anomalous and inequitable. Secondly it was held that through the normal process of tax shifting part of the effective incidence of the existing rate would frequently be borne by landowners, in accordance with the working of the laws of supply and demand. Thirdly it was contended that ground landlords derived little or no benefit from the current expenditure of local authorities.

Royal Commission on Local Taxation, 1901

This Commission was appointed to enquire into "the present system under which taxation is raised for local purposes, and report whether all kinds of real and personal property contribute equitably to such taxation and, if not, what alterations in law were desirable in order to secure that result".

The Commission reported in 1901 and three different views were apparent. Majority of the Commission (nine members) were against the rating of site values in any form; 5 members (including vice-chairman Lord Balfour of Burleigh reported in favour of substituting a rate on site values for part of existing rate and one member (Judge O'Connor) was in favour of a total transfer of rate liability to sites.

Evidence submitted by the L.C.C. considered that, as the expenditure of occupiers had contributed to the increase in site value, an additional source of revenue should be sought as a partial relief to them. It was submitted that this could best be accomplished by rating the owners of sites, more especially since much, if not all, of the improvements to increased expenditure accrued to the latter's benefit. The L.C.C. proposals were embodied in a Bill: "**Site Value (London) Rating Bill"** introduced into Parliament in 1901.

Private Bills, 1902-1905

Several Bills advocating land value taxation, were introduced to Parliament by private members (e.g. C. P. Trevelyan, T. J. MacNamara, and Sir John Brunner) during this period but none were successful in reaching the Statute Book.

Land Values Taxation Scotland Bills, 1904-6 and Report of Select Committee, 1906

The Bills passed their second readings and then the matter was referred to a Select Committee of the House which approved of the principle of the Bills, viz. "the setting up of a standard of rating whereby the ratepayer's contribution to the rates is measured by the yearly value of the land, which he owns or occupies, apart from the buildings and improvements on it". They considered that this was justified by the fact that "land owes the creation and maintenance of its value to the presence, enterprise and expenditure of the surrounding community" and because it is well "to select a standard of rating which will not have the effect of placing a burden upon industry". They held that the "valuation of building sites is practicable, and not more difficult or uncertain than is the valuation of many other subjects".

To implement this recommendation, legislation was introduced in 1907, the Land Values (Scotland) Bill. Despite twice been passed by the Commons it was rejected by the Lords and the Government eventually decided not to proceed with the measure.

Land Value Duties (1910) Act

The next legislative step was the enactment of the land value duties under the Finance (1909-10) Act, 1910.

They comprised:
(1) an increment value duty on land sold or subject to long leases, payable on transfer or death of owner;
(2) a reversion duty of 10% on the termination of a lease of 21 years or over except on land with purely agricultural value;
(3) an annual levy of one half penny in the £ of capital value on undeveloped land other than house gardens, land with a purely agricultural value, or land worth not more than £50 an acre;
(4) a 5% levy on mineral rights.

The legislation was extremely complicated; it should be especially noted, however, that there was no attempt at a general levy on the site value of land. Of more direct interest to our enquiries is the definition of site value, on which these duties were to be based.

The assessable site value was defined as the sum which the property would realise if offered for sale by a willing seller in the open market, subject to ordinary rates and taxes and in its actual condition as regards buildings and other structures, subject to fixed charges, public rights of way and user, easements and restrictive covenants, less any value in respect of:

(a) buildings and any other structures, and all growing timber, fruit trees etc.
(b) works or capital expenditure by the owner, executed or incurred for the purpose of improving the value of land as building land of for any business or industry other than agriculture.

Before the Act of 1910 had being passed, Government promised, after protests from local authorities, to allocate to them half the proceeds of these duties by the Revenue Act of 1911, however, this concession was suspended up to 31 March, 1914, and the basis of distribution was never determined.

Departmental Committee on Local Taxation Report, 1914

This Committee had before it be proposals for a limited site value rate in urban areas, coming from the various private members Bills between 1902 and 1905, and the land value taxes of the 1910 Act. The majority of the Committee recommended against any rate on site values. The minority, however, accepted the Separate Report of the Royal Commission and went further in recommending that the principle should not be confined to urban areas alone, and that its application should not be at the option of local authorities and that no attempt should be made to limit it to meeting expenditure tending to increase the value of land.

Select Committee on Site Value Taxation, 1919

This Committee was appointed "to enquire into the present position of the Duties imposed by Part I of the Finance (1909-1910) Act, 1910", and other matters connected therewith. However in the Budget of the following year, the Chancellor of the Exchequer declared that the 1910 duties were unworkable in their existing form, had produced hardly any revenue and would require amended legislation of a highly technical character if they were to be revitalise. He accordingly decided to repeal them in the Finance Act of 1920 and the revenue collected was repaid to those who had contributed to it.

Dunedin Committee, 1922

This Committee concluded in respect of a rate on site values, that land already bore its share of rates and that the value of land did not inevitably rise as a result of the expenditure of the

community; indeed, sometimes it fell. They therefore felt that they could not recommend the rating of site values.

Finance Act, 1931

Taxation of land values for national purposes was provided for, for the second time, in the Finance Act, 1931. The Commissioners of Inland Revenue were directed to ascertain as at 1 January 1932, the land value of each land unit, which was defined as "the amount which the fee simple thereof with vacant possession might have been expected to realise upon a sale in the open market on the valuation date upon the assumptions that there were not upon or in the unit any buildings, elections, or works, except roads etc. or anything growing on the unit except grass etc.".

Valuation under this Act was suspended by the Finance Act of 1932 and the provisions of the 1932 Act were finally repealed by the Finance Act of 1934.

Local and Private Bills, 1919-1939

Interest revived in the rating of site values and Bills were introduced to Parliament, by both local authorities and by private members, providing for some form of land value taxation. These included the Manchester Bill 1921, J. C. (later Lord) Wedgwood's Bill 1932 and A. MacLaren's Bill 1937. However the L.C.C. Bill 1938-9 was of more interest and importance than most and its provisions are described below:

Provisions of the LCC Bill 1938-9

(1) A valuation was to be made of the annual site value of every land unit, this being defined as the annual rent which the land comprising the land unit might be expected to realise if demised with vacant possession at the valuation date in the open market by a willing lessor upon a perpetually renewable tenure upon the following assumptions, namely, that at the valuation date:

(a) there were not upon or in that land unit -
- (i) any buildings, erections or works except certain roads; and
- (ii) anything growing except grass, heather, gorse, sedge, or other natural growth;

(b) the annual rent had been computed without taking into account the value of any tillages manures or any improvements for which any sum would by law or custom be payable to an outgoing tenant of a holding;

(c) the land unit were free from any encumbrances except such of the following encumbrances as would be binding on a purchaser - easements; rights of common; customary rights; public rights; liability to repair highways by reason of tenure; liability to repair the chancel of any Church; liability in respect of the repair or maintenance of

embankments or sea or river walls; liability to pay any drainage rate under any statute; restrictions upon user which have become operative imposed by or in pursuance of any Act or by any agreement not being a lease.

(2) The incidence of the rate was to be upon the respective owners of the site value (generally by means of deduction from rent), any past or future provision in contracts, having the effect of relieving in whole or in part any person entitled to receipt of rent from any liability, to be void in respect of the site value rate, and the occupier, in normal cases, would pay the rate in the first instance.

(3) The amount of the annual rate on site values, as from April, 1941, was to be two shillings in the £. (10%) and it was to be collected by the rating authority with the general rate, although there would have been a separate demand note for the site rate.

FOLLOWING IS A SUMMARY OF SOURCES WHICH WERE PUBLISHED POST SIMES:

Royal Institute of Public Administration (1956)

The RIPA's report examined possible new sources of local revenue and gave an account of the operation of land value taxation in other countries, stating that where it had been adopted it appeared to be successful. However the report concluded that whilst the argument for land value taxation encourages the development of land and for that reason it is a useful tax, especially in an expanding country with a large area of land, it is of less interest in a country like Great Britain.

Blundell (1993: 18) commented on this finding:

> "That Britain has a relatively small area of land makes it more, not less, necessary, to ensure that the land which is available for expansion is not left idle or underdeveloped, whilst making no contribution to the local services which help maintain and raise its value."

Wilks, H. M. (1964, 1974)

Originally this was a commissioned survey of a town in Kent which in 1963 tested the practicalities and effects of introducing land value taxation as an alternative to the established rating of landed property as combined hereditaments of land and buildings. The survey was conducted by H. M. Wilks, a leading rating surveyor, who adopted the provisions of the L.C.C. Bill as regards definitions of site value. He concluded that the exercise was professionally feasible but inevitably shifted the burden of rates between different types of property.

In 1973 Wilks' re-valued Whitstable with an amended definition of annual site value and reflecting on this second valuation he confirmed:

> "Comparability with the orthodox method - the total rateable value is of the same order as the orthodox rateable value list, because of the extra land and so on that one brings in and the extra values that accrue, so that the rate poundage can be of the same order of figure. It is clear and incisive to operate and from the valuer's point of view, the number of problems seem to be far less than those which we have to meet on the orthodox system.
>
> The only problem that I can see in this country in bringing in such a method is the interim period or changeover. It is so bound into the system in this country that the occupier pays the rates. All leases of and transactions in land are based on this premise. Is it worth upsetting all this, is it worth having to review by statute every transaction in land, every lease of land for this other system of taxation? Now that I have done my two reports my answer is an uncompromising "Yes". It is all worthwhile."

Royal Institution of Chartered Surveyors (1964)

This working party was set up to consider, inter alia, the changed situation following the demise of the compensation/betterment provisions of the Town and Country Planning Act 1947. However it came to the same conclusion as the Simes Committee in 1952, voiced in the following terms:-

> "The majority report of the Erskine Simes Committee (1952) came to the conclusion that site value rating was neither practicable nor desirable. We have endeavoured to look again at the problem, bearing in mind that development charges introduced by the Town and Country Planning Act, 1947 have been abolished, and by taking into account the information made available by the Whitstable Pilot Survey we have come to the same conclusion".

Ministry of Housing and Local Government (1971)

This Green Paper considered trends in local government expenditure, possible additional sources of revenue, improvements of the rating system, and the future system of control of government grants. Various options were examined but none specifically recommended. As far as land value taxation was concerned Blundell (1993: 19) opined there was little evidence of original thinking, and the misconceptions of the Simes report were repeated without further consideration.

Ministry of Housing and Local Government (1976) (Layfield)

This was a Report from another Government appointed committee whose brief it was to examine the various options for taxation to provide local government revenues. Inter alia, it considered land value taxation as one of these options but rejected it favour of retention of the then-existing rating system, but recommended that domestic dwellings should be assessed on capital values rather than annual values, because there was more evidence of the former than of the latter. It further recommended that agricultural land and buildings should be rated, and that a local income tax should be levied as an additional source of finance.

The Report's conclusions on land value taxation were:

> "The proposed development land tax and the Community Land Act effectively remove site value rating from consideration. Apart from these developments, we would not consider a tax on site values to be a suitable or a firm enough base for raising local revenue. Local accountability would not be promoted. The practical difficulties are formidable. At least a decade would be necessary to put site value rating into use, with a long period of transition thereafter before it could become fully operative."

APPENDIX I.2 - THE ECONOMIC THEORY AND PRINCIPLES OF LAND TAXATION

The Physiocrats

The so-called physiocratic school was founded by Francois Quesnay (1694-1774), court physician to Madame Pompadour and Louis XVth, but followers preferred to be known as *"economistes"*. The term *"physiocrats"* became current only in the 19th century.

This school of economists was characterised chiefly by a belief that government policy should not interfere with the operation of natural economic laws and that land is the source of all wealth. It is generally regarded as the first scientific school of economics.

Physiocrats emphasised *"the role of nature"* and they envisaged a society in which natural economic and moral laws would have full play and in which positive law would be in harmony with natural law. They pictured a predominantly agricultural society and therefore attacked mercantilism.

Given their assumptions and the social system they desired, the physiocrats were logical and systematic. What they did was to rationalise medieval economic ideals, employing to that end the more modern philosophical and scientific methods. As to practical outcomes, a land tax was established by the Revolutionary Constituent Assembly in December 1790, which also followed physiocratic concepts, but it eventually floundered (Encyclopaedia Britannica, Micropaedia 15th Ed., 1997: Vol. 9, p. 414).

Adam Smith (1723-1790) distinguished the varying types of taxes on land and traced out their differing effects. He also set in motion the train of reasoning about the taxation of urban land rents focusing on *"ground-rents, and the ordinary rent of land, are therefore, perhaps, the species of revenue which can best bear to have a peculiar tax imposed upon them."*

Summary of Smith's Arguments (Prest, 1981: 9):

(a) The view that taxes on urban land rents are neutral in their resource allocation effects
(b) The equity argument that it is fair to tax away surpluses which are more due to extraneous circumstances than to individual efforts.
(c) The benefit principle: that people should pay for government actions and services which are to their advantage.

However Adam Smith would not accept the solution that a tax levied on the market value of *all* land would constitute a continuous pressure on the possessors and would induce those who possessed land to play the game of competition and co-operation. It is true that Smith regarded land as *"peculiarly"* suitable for taxation, since such a tax falls on an economic surplus and could not be passed on to consumers in the price of goods. But he resisted the

application of the tax on the value of *all* land. In fact, he explicitly opposed a tax on the rental income which could be imputed to idle land (Harrison, 1983: 28-29).

David Ricardo (1772-1823)

The idea of a single tax on land was bolstered by the work of David Ricardo (1772-1823) who is generally attributed with formulating the law of rent: *"The rent of land is determined by the excess of its produce over that which is the same application can secure from the least productive land in use"*. Ricardo also supported a tax on rent (Robinson, 1991: 7).

Although no one can fail to recognise the immensity of Ricardo's intellectual achievement in isolating the concept of economic rent and attaching it to *"the original and indestructible powers of the soil"* (Ricardo, 1951: 67), his contribution to the subject of urban land taxation is relatively limited. In his comments on Adam Smith he was content to say *"the effect of these taxes [i.e. taxes on ground-rents and the ordinary rent of land] would be much as Adam Smith has described"*. As Prest (1981: 9-10) points out the man who developed the concept of intensive and extensive margins of cultivation with rural land did not apply them in the context of urban land.

It used to be common practice, following Ricardo, to define land as the *original and inexhaustible powers of the soil* but Ricardo wrote before it was widely known that many present-day deserts had once been fertile areas (Lipsey, 1989:296).

Ricardo argued that the rent of corn land was high because the price of corn was high, and not vice versa. Modern students of economics will recognise in the Ricardian argument the idea of *derived demand*. Given the fixed supply of land, its price depended on the demand for land, which was itself a function of the price of corn. *Rent*, which originally referred to the payment for the use of land, thus became the term for a surplus payment to a factor over and above what was necessary to keep it in its present use. The concept of economic rent, the surplus of total earnings over transfer earnings, is analogous to the modern economists' concept of profit as a surplus over opportunity cost (Lipsey, 1989: 300-301).

The essence of Ricardo's theory is the fact that the supply of land, unlike the supply of capital and labour, cannot change in response to a change in demand. Land has no supply price. The amount available does not depend upon the market price; higher prices do not lead to larger quantities being supplied, and falling prices do not reduce the actual supply. The *supply price* of a factor may be defined as the minimum reward necessary to retain a factor in its current employment. Any payment to a factor of production which is greater that its supply price is a kind of surplus and it is this surplus which is known as economic rent.

But most land can be put to different uses, and the *supply of land for any one use* is not fixed. The removal of the assumptions, however, does not invalidate the idea of economic rent as a surplus. Modern economists however argue that it is a concept which is not peculiar to land; it can be applied to the other factors of production. Whenever a factor is earning more than its

supply price, it is receiving a part of its income in the form of economic rent. This situation arises when demand increases and the supply cannot fully readily respond to the increased demand (Stanlake, 1989: 280). But this does not recognise the unique feature of land: with minor exceptions (e.g. tall buildings or coastal reclamations) the increased demand cannot create an increased supply.

In a consideration of the concept of attributing value to land, for a factor of production to have a cash value, it must have utility, be capable of ownership and be limited in supply. Turner (1977: 1) illustrates these principles with respect to land by looking at Ricardo's theory of rent. The economist usually uses the word "rent" to refer to the concept of *economic* rent but using the legal definition of land as real property and including buildings and other improvements which the economist would regard as capital rather than land, the income received from the land in the form of *contract* rent will include elements of interest, or return on capital.

John Stuart Mill (1806-1873) declared that *"rents were created by circumstances"* and could have justifiable been expropriated from the time of Adam and Eve onwards. Which brings to mind an associated argument for the commonality of certain gifts of nature in the text attributed to John Ball's sermon on the Peasants' Revolt in the 14th Century: "*When Adam delved and Eve span - who was then the gentleman?"* Incidentally Henry George was later constantly proposing to his British audiences this same oft-quoted question of the social radical (Lawrence et al, 1992: 180).

Mill however saw two obstacles to taxing rents at a swingeing rate. First, it is not always easy to distinguish between the elements of current values due to private endeavour and "circumstances". Second, the present owners of land may not be people who have drawn rents over the centuries but may be recent purchasers who bought at market values based on expectations of future rent levels free from confiscatory taxation. A third obstacle may now be added in that there are many other cases where people may enjoy monopoly type surpluses and as Prest (1981: 28) puts it, *"...it is hard to see the equity case for taxing one lot of monopoly rents specially without taxing as many of the others as one can".*

Mill's solution was to ascertain the present value of all land, urban and rural and thereafter all future increments in value could be safely taxed at a high rate, unless it could be shown that they were very specifically due to the endeavour of individuals. In other words the principle was to tax unexpected windfalls in land values. In the end a land tax could be thought of as a public rent-charge or a substitute for the State retaining part of the land (Prest, 1981:12).

Marshall (1842-1924) also contributed to the theory of urban rents by demonstrating that Ricardo's notion of intensive and extensive margins of cultivation to agricultural land could also be applied as a principle to urban land. Urban site values, like agricultural land values, were determined by demand levels and land for Marshall, as for Ricardo, was distinct from all other agents of production in its long term fixity of supply and in its unique characteristic that the whole of the return on it was a surplus. Marshall argued that the taxation of site value was

analogous to the taxation of monopoly profits in that there was surplus which could be tapped without any deleterious effects on resource allocation. Taxes on site values would reduce these excess profits of owners but that would be all.

Marshall distinguished three different solutions. First, the State should buy land plus buildings at full market price. Second, the State should purchase the inherent value of the soil. Third, all land should become State property a hundred years hence - which plan Marshall deemed to be less objectionable than the others (Prest, 1981: 16).

A. C. Pigou (1877-1959) in 1909 made a clear distinction between taxes on the public value of land (i.e. land value taxation) and taxes on windfalls (i.e. unexpected increments in land values) and declared himself in favour of both taxes, arguing from both economic theory and practical experience in other countries. In the case of site value taxes, the main theoretical plank was their neutrality from a resource allocation standpoint, essentially on the lines of Ricardian rent theory. The case for taxes on windfall increments was held to be similar to that for wartime excess profits taxation: that if increments arose which were neither foreseen nor due to effort on the part of the recipient they were ideal objects of taxation from a resource allocation viewpoint and were also likely to be distributionally commendable. As Prest points out rather neatly it seems fair to summarise Pigou's position as being a synthesis of Marshall and J. S. Mill in that he could claim the authority of the former (but not the latter) for arguing for taxation of site values but the authority of the latter (though not the former) for taxing increments in land value (Prest, 1981: 18-19).

Henry George (1839-1897) was probably the best-known exponent of land taxation. His argument was to propose a single tax on land and abolish other taxes. His theory is described in further detail above **(Section I.4)**.

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