SOME NOTES ON VALUATION IN Ceylon.

By

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Before considering this subject in detail, let us endeavour to arrive at simple definitions of "Valuation" and "Value."

Valuation is defined in the Charter of the Surveyors' Institution as:

"The art of determining the value of all descriptions of land, mineral and house property, and of the various interests therein."

Value is defined in the dictionary as "cost" or "price" but it is not quite so simple to arrive at a comprehensive definition for our purpose.

The following few instances will serve to illustrate the difficulty.

You may go into a Motor Showroom to-day and buy a car priced at Rs. 5,000, but that figure is only maintained until the ink on your cheque or hire purchase agreement is dry, when the value of the car drops by at least 10%. And if you take the new car out of the Showroom and convert it into a better machine by running it for a few hundred miles, your loss is even greater.

Value therefore is not exactly price, but rather a sum which can be actually obtained by the seller at the moment.

Again you may buy a piece of land in Nuwara Eliya and build a bungalow on it, costing altogether, say, Rs. 75,000. It is problematical whether you recover what you have spent when you want to sell it.

Or you may put up a commercial building on a good site in Colombo and a few months later the Colombo Municipality declares on paper in their
office that this district shall henceforth be a "residential" one, which means that no more business premises shall be erected there. Your building may, as a result, be worth much more than it cost because it cannot be legally replaced.

Or a Public Authority may erect a dust destructor or a public latrine. For purposes of sale these buildings are valueless as no one would buy them, but to the Public Authority they may be worth their cost as they are necessary for the proper undertaking of the Public Authority's duties.

A building erected three years ago cost more than it could be replaced for to-day. This is due to cheaper labour, keener competition amongst builders and contractors, and cheaper materials.

It will therefore be seen that value and cost are not necessarily the same. Value may be more or less than the cost of replacement.

Value is transitory, it may be here to-day and gone to-morrow. It depends upon the desire of someone to obtain the property valued and is governed by the usual laws of supply and demand, also of ability to pay and many other factors which will be touched upon later.

In this paper it is proposed to confine our attention to the most romantic and least perishable of all commodities, whatever may be our profession,—namely "the land we live on." In speaking of land, it is referred to in its legal sense, that is as including buildings, timber, etc. attached to the soil.

The definition of value for our purpose, which appeals to the writer most is:—

"The price which will be paid for a property by those who desire to obtain it."

In the time at our disposal it will only be possible to touch briefly upon some of the matters affecting this price, which fall to be considered by the valuer, for instance:—

(a) The supply or quantity available or likely to be available. Here land differs from all other commodities in that the supply is limited. Generally speaking we cannot create, produce or manufacture land (here for a moment we exclude build-
ings), but we can and do alter its character. For instance rural land is constantly being changed into urban land, thus decreasing the supply of one sort and increasing the supply of the other. But where changes cannot be effected the limited supply of a particular kind of land has a large bearing on its value. For instance, the high prices paid for sites in central situations in the Fort of Colombo, where for business purposes land has an extraordinary value, are due to the very restricted supply available.

The fact that the character of land can be changed by human agency gives to some lands a "dormant" value, and where this exists it must be considered by the valuer in making his valuation.

Land can to a limited extent be "created" by reclamation. Instances of this in Ceylon are the Colombo Lake Development Scheme and the Karaiyur Reclamation in Jaffna.

(b) Demand is caused by the desire of others to obtain the thing to be valued.

This desire may arise from a variety of reasons—necessity, cupidity, need for investment of surplus funds, ostentation, and territorial acquisitiveness.

Under the heading necessity we may place the natural desire of ensuring a roof over one's head, and the need for security of tenure and for expansion of business premises.

Cupidity covers the failing in human nature to covet that which is his neighbour's.

Investment requires no comment, by ostentation is meant the desire of a man to have a larger house (for instance) than he needs. As territorial acquisitiveness, for want of a better name, the in-born desire, not entirely peculiar to the Ceylonese, to be known as landed proprietors is referred to. This has a direct bearing on values, and a good instance is the paddy lands in the Kandyian provinces, where a definite standing is acquired by ownership of these fields, and in consequence very high prices are realised.

(c) Fashion.—Not so very long ago, Mutwal was the favourite residential district of Colombo
and quite rightly too, owing to the high situation overlooking the Harbour. To-day may be seen some of the roomy bungalows occupied by our predecessors. But now times have changed and fashion has decreed that Colombo South should be the residential district. Some may say that coal dust rather than fashion is the cause of the change, but similar migrations can be observed in most large Cities. And the result is enhanced prices in Colombo South and no buyers in Mutwal.

Attempts have been made in Colombo artificially to force fashion in a particular direction, but without much success. There is only one side of York Street for shopping purposes and that only in a limited length; people will not shop in Colpetty and apparently are not enamoured of life in flats.

(d) Progress is a considerable factor governing value. A new railway may alter the value of land entirely in the district it serves. New roads have the same effect. The High Level Kelani Valley Road, besides giving us a fine highway, has definitely increased the value of land along its trace and in many cases land which the writer himself bought a few years ago cannot now be obtained for double the price. On the converse side properties on the Old Avisanwella Road have declined in value and the same results may be observed in the case of the Panadura Bye-Pass Road, and the old Main Road.

The extension of electricity facilities, motor cars and motor busses and high rates and taxes tend to induce people to live outside towns, thus creating a demand for land in rural areas. Education, enhanced wages and better standards of living all help to bring people from overcrowded areas to more healthy surroundings.

A noteworthy case in Colombo which immediately enhanced the value of land in the vicinity was the removal of St. Thomas' College to Mount Lavinia. Land values and rents increased enormously as a result of the demand by parents for houses close to the School.

The proposed Ceylon University which it was at one time anticipated, would be established in Bullers Road, forced up values in the neighbour-
hood, at any rate, temporarily, and probably the same thing happened in the Dumbara Valley later.

The building of the Government Factory at Kolonnawa had the same effect and no doubt the Railway Workshops at Ratmalana will create a larger demand for land thereabouts.

The Colombo Flood Protection Schemes were a free gift to Colombo land owners in that many acres of land were improved and enhanced in capital value without effort or contribution by the owners.

On the reverse side of the picture, the impending erection of a Tuberculosis Hospital or Lepor Asylum will tend to affect values adversely.

A few years ago the Colombo Municipality erected a public market at Borella. It might be thought that this would enhance property values in the immediate neighbourhood, but in some instances the reverse was the effect. The Municipality put into force their market bye-laws with the result that the butchers who occupied many of the neighbouring shops had to move and rents fell at once.

The Municipality have the right by drawing lines on their town plans to declare "Street-Lines." They frequently do this and thereby prevent an owner from rebuilding or improving his property and render what was previously a building plot "sterile" in that it may not be built upon. A valuer should always satisfy himself that "street lines" do not affect the property in which he is interested, as a plot of land which on inspection appears an excellent building site, may actually be of very small value indeed.

(e) Obsolescence.—We have seen how modern progress and the action of the Legislature, taken to cope with progress, may affect values and conversely Obsolescence may also affect values, more particularly buildings, which in course of time become obsolete.

Sometimes this difficulty may be overcome by a judicious expenditure of capital. In this way some of the old bungalows built during the Dutch period have been modernised and are cool and
comfortable residences to-day, but due allowance must be made by the valuer for any such necessary expenditure.

Other buildings, no amount of modernization will render suitable for to-day's standards and it would be a waste of money to attempt to convert them.

We have arrived at a general definition of value and have touched upon some of the factors to be considered as affecting value; but reference must now be made to the Statutory Values laid down in various Ceylon Ordinances, which affect the valuer very closely.

These definitions vary from the general definition arrived at above and they also vary from each other. These will be considered later, but are referred to here in order to make it clear that the valuer must know the purpose for which he makes his valuation, for people who are not valuers may be surprised to learn that one property may have more than one value.

Apart from the definition under which one is working, the valuer will have to consider the difference between wholesale and retail values, such questions as security, vacant possession, restrictive covenants in leases, replacement value for fire insurance, value as a going concern and value to the owner or sitting tenant as affecting the property either beneficially or detrimentally.

Properties to be Valued.—In Ceylon there exists a large variety of different properties and different interests therein which may fall to the lot of the valuer. The following list is not comprehensive but all the items enumerated have been dealt with by the writer:

Government and Municipal buildings; urban and rural house property; tea, rubber and coconut estates; plumbago mines; rights of light and water; wayleaves; markets, public and private; cemeteries; building estates; race courses; stores and workshops; railways; gravel and stone quarries; golf and tennis clubs; hotels; gas works; ice works; hospitals and a lake.
A valuer may be retained in connection with the above on such divergent matters as:


**Land Tenure and Interests in Land.**—The valuer must be cognisant with the different forms of land tenure. Fortunately for him, by far the largest portion of Ceylon is held in fee simple or freehold, where the valuer only has to consider the question of perpetuity.

But there are leasehold interests where the valuation may be required, either of the lessee’s interest, or of the freeholders reversionary interest, or of the ground rent accruing to the freeholder.

The valuer must also make himself acquainted with the Feudal System of land tenure, which exists in Ceylon to-day and is in many respects similar to the ancient Feudal System in England. Lands were held from the Sinhalese Kings subject to Rajakariya or service, and they are of two kinds, Paraveni being estates of inheritance which can be alienated, and Mawuwee which are tenancies at will and cannot be disposed of.

Then there are the Temple lands, which owe no allegiance in service to the Kings and lastly the Nindagam lands held by a mesne lord from the Crown and which are perpetual estates of inheritance subject to services to be rendered by the lord, who in turn extracts service from his tenants.

These Nindagam lands are comparable with those held under the English copyhold system, the Nindagam lord being the Lord of the Manor, to whom is payable on the happening of certain events, fines, heriots and quitances.
These services may now be commuted into money payments.

A life interest is a fairly common form of tenure, a property being owned by an individual for life. The interest of the holder may have to be valued as also that of the reversioner whose interest does not commence until after the death of the tenant for life.

A far too common form of ownership is that of co-owners in undivided shares. It is not unusual for a man to own a \( \frac{1}{64} \) share of a land and the writer has seen cases where the share looks like a mathematical problem.

In this connection it is interesting to note that there may be property in a tree quite distinct from any property in the soil on which the tree stands.

It is essential that the valuer should have some knowledge of the rights of a co-owner under the Partition Ordinance, which gives a co-owner power to convert his ownership in common into the exclusive ownership of a divided portion or, in some cases, to have the property sold.

From the valuer's point of view it is necessary to consider whether the share he is valuing is worth its mathematical proportion of the whole.

In many cases, undivided shares are unsaleable except to the other co-owners and it is a very ordinary event for a purchaser to acquire a property in, say, five equal shares, each at a different price.

Then there is the land subject to the rights of "the planters share." Here the owner of the soil allows the land, either by agreement or custom, to be planted in coconuts. The planter takes a share, sometimes one-third sometimes one-half of the crop, or even of the land itself as his recompense and he is allowed to live on the land.

The planter's interest is recognised as a right in property which he may devise, and this right definitely depreciates the value to the land owner.

There are lands held from the Crown under different systems—some for periods of years subject to various covenants—some on what is called Ticket of Occupancy.
In some places, notably Diyatalawa, houses have been built on land held on this very slender title.

It is not proposed to encroach upon the Lawyer's province, which is to investigate titles, but it is obviously necessary for the valuer to know the kind of tenure his client claims under before he can make his valuation, as these points are not apparent from an inspection of the property. Neither is it proposed to more than mention the laws and customs of inheritance, dowry and marriage peculiar to the Sinhalese, Tamil and Muslim communities, but the valuer should make a study of all law and custom affecting the commodity he has to deal with.

*Land Measures.*—In Britain there are various units in use for the valuation of land. The acre is usual in rural districts while in urban districts in the North the square yard is used as the unit, and in the South land is usually valued at per foot frontage or in London at per square foot.

In Ceylon almost every valuation is based on an acreage rate (even land in the Fort of Colombo,) whether half a perch or 100 acres is involved.

But there are exceptions and it is necessary to understand the Ceylon standards of land measurements which are still largely in use.

The extents are based on the quantity of seed required to sow the lands and they vary in different Provinces and for high and low lands according to the fertility of the land.

In the valuation of paddy fields, the usual standard is the Pela (21. 20 perches) or the Amunam, which is equivalent to 4 Pelas or \( \frac{2}{3} \) acres. But the acreage equivalent of the Amunam in Uva is 3 acres and in Sabaragamuwa 4 to 5 acres.

For high lands the extent is given in Kurakkan sowing, with the result that a pela is equal to 10 acres and an amunam as 40 acres.

The Northern Province has its own standards and land is usually valued in Lachchams and Kulis. There are 12 Kulis in a Lachcham and 24 Lachchams in an acre paddy culture and 18 Kulies in a Lachcham with 16 Lachchams to the acre in Varaku culture.
In coconut country the area is often given at so many coconut plants extent.

**Valuers.**—The calling of a valuer has, perhaps, emerged in the second half of the last century as a distinct profession. Previous to this his work was undertaken by the local auctioneer, house and estate agent, who often had no technical education and relied solely upon his local knowledge and experience.

The following two extracts from the Journal of the Auctioneers’ and Estate Agents’ Institute will illustrate a type of auctioneer which existed in England about a century ago:

"**Joseph Wright,** an eminent Auctioneer
Died 11th October, 1835, aged 60 years."

"Beneath this stone, factious wight
Lies all that's left of poor Joe Wright
Few hearts with greater kindness warmed,
Few heads with knowledge more informed.
With brilliant wit and humour broad
He pleased peasant, squire and lord.
At length, old Death, with visage queer
Assumed Joe's trade of auctioneer,
Made him a lot to practice on,
With 'Going, Going' and anon
He knocked him down, so poor Joe's gone.

**W. Ross the Auctioneer.**
"Reading, writing and mensuration,
Barter interest and Alligation,
Extraction of square and cubic root,
And musick taught on German flute,
Sign painting done and Wills well made
Timber measured and land surveyed
The true contents and valuation
Of every kind and denomination,
Their real worth and told so near
By W. Ross, the Auctioneer."

Nowadays Valuation is recognised as a highly skilled and difficult process. It is a profession, in common with others, in which no progress can be made without technical qualifications, and added to such technical qualifications there must be practical experience. A valuer must have a
knowledge of the law relating to Property and Contracts; Landlord and Tenant; Easements; Prescription; and Partition and he must understand the incidents of the various interests in land. He must be keenly observant, of independent, sound and accurate judgment and, if possible, should have a natural gift which might be called “a sense of value.”

As the profession of a valuer has itself developed from that of an auctioneer and estate agent, so the modern tendency is towards further subdivision, and it is usual now for valuers, like doctors and engineers, to specialise in one or more particular branches of the profession. Thus some eminent men confine their attention to rating, others to the valuation of town properties, shops and flats; others are in agricultural practice or specialize in public house or machinery valuations.

And some concentrate on work arising from certain trades, while others make a special study of valuations for compulsory acquisition.

Nowadays none of the professional Institutions will admit candidates without examination and many will not allow applicants to sit for the examinations unless they are engaged in the office of a recognised surveyor or are taking a course of instruction at a recognised place of professional education.

The Surveyors’ Institute has recently agreed to hold the examinations locally provided candidates take exactly the same papers as in England. This gives local aspirants an opportunity to acquire the highest technical qualification available to a valuer.

Courses of instruction may be taken by correspondence from the College of Estate Management, London, or other well-known coaches.

Having obtained his technical qualifications, which will give him a knowledge of the principles, the young valuer must proceed to acquire practical experience, for it is impossible to frame a set of rules to cover the valuation of all properties. Certain rules, which will be taught to the young valuer during his technical education, do apply. But it is in the adaptation of these principles and methods to totally differing circumstances, that the skill and judgment of the valuer are required.
Principles of Valuation.—The principles of Valuation are the same, whether in Britain or Ceylon, but the valuer must have the local knowledge necessary to enable him to apply them.

Nearly all properties are valued according to the capacity they possess for producing revenue, in other words they are considered as investments for Capital.

A first class investment should possess the following attributes:—

2. A fair return as interest.
3. Income easy to collect.
4. Capital should be easily realisable.

Very few investments possess all the above qualities, the nearest approach being usually considered to be Government securities, and the competition from these and all other securities must be considered in valuing property from an investment point of view. On the other hand property has always had a peculiar attraction for the investor, land and houses being there to be seen and appealing to many more than stock or scrip. This fact has no doubt given rise to the adages "Safe as Houses," and "Putting one's money into Bricks and Mortar."

The matters to be considered in valuing a property on the basis of an investment are:—

2. The net annual value.
3. The length of time during which this income will be enjoyed.
4. The rate of interest applicable.
5. Any immediate expense necessary to secure the net annual value.

We will look at the above in some detail.

1. Net Annual Value.—It should be noted that this figure need not necessarily be the net amount of rent arising from the property at the time. It should be the net annual income which will be forthcoming if the property is put to its best possible use. The rent actually paid may be too high, or may have been fixed some years ago, or without reference to altering conditions. It may
be a concessional rent to an old tenant or a premium or advance may have been paid, or it may be that a little foresight in alterations to the property would result in an enhanced rental.

All these considerations, together with his local knowledge, will help the valuer to arrive at his estimate of gross rental value and it will be noted that he must necessarily be a man of some vision. From the figure adopted must be deducted a sum to cover all outgoings payable by the owner, in order to obtain the net annual value.

(a) Rates.—In Ceylon, it is customary for the rates payable to the Local Authority to be met by the landlord. These necessarily vary in different towns and may be anything from 20% in Colombo to say 5% in a small Local or Sanitary Board Town.

It may even be that the property is not situated within the limits of any Local Authority and thus rates are avoided in toto.

There are two possible pitfalls in making the deduction for rates from the gross rental. First the rates in the Town may be, say, 20% but this does not mean that they are 20% on twelve times the monthly rent which passes from tenant to landlord. The rates are chargeable on Annual Value, which is rent less rates and so are actually only 16 2/3% on the gross yearly rent.

The second difficulty lies in adopting as a deduction the actual sum paid by the landlord as rates. The valuer must estimate what the rates should be on a correct assessment as the enquiry is as to what the net income from the property will be in the future and as assessments are liable to annual revision, it would lead to error to adopt the payment made under an old assessment. Likewise it is desirable to consider whether the amount of the existing rate is likely to be materially altered in the near future.

(b) Repairs.—Next in importance is the deduction for repairs and the theory is that a prudent landlord would put aside a sum each year to cover this outlay.

In Ceylon many landlords do no annual repairs whatever, but sooner or later they are faced with a large call on their purses which would be avoided
if they had kept their property in ordinarily good repair annually.

The amount deductible for this outgoing varies naturally with the class of property. A tenement gets worse treatment than a bungalow and requires more expenditure to satisfy the Sanitary Authorities. A hotel must be kept in first class repair to attract guests while a store, as long as it is watertight, needs little repair.

The allowance for repairs is usually taken as a percentage on the gross rent and as rent arises from land and buildings and the former requires no repair, it is sometimes necessary to consider the proportion the land bears to the building.

An instance of this would be a small property in the Fort of Colombo, producing perhaps Rs. 500 per month. It is obvious that this rent arises mainly from the position and a percentage allowance on the total rent would give an excessive amount annually for repairing a possibly very small shop.

A very usual allowance, and one which has been recognised by the Courts, is 10% including upkeep such as insurance.

Insurance is, of course, a voluntary payment, but the valuer is not entitled to say that it is one which a prudent purchaser would neglect and it should be allowed for.

In cases of leasehold properties, a very usual clause in the head lease is one compelling the leaseholder to insure the buildings against fire.

(c) Expenses of Management.—There are certain properties where the income is not easy of collection by the ordinary investor, particularly in the case of the large blocks of tenements, often euphemistically called "gardens." Here it is customary for the owner, either to lease the property to a middleman or to employ resident rent collectors, sweepers, etc. In valuing property of this nature, it is necessary to make an allowance for the middleman's profit or the expense of collection as the case may be, for we are endeavouring to ascertain the net revenue obtainable by the ordinary investor.

(d) Vacancies.—In England it was usual to make an allowance for "empty," but in Ceylon
the necessity for such an allowance has not arisen yet, but, in the present times, it is a matter for consideration whether, in certain classes of property, the need for this allowance does not occur.

(e) Miscellaneous Outgoings.—It is interesting to note that Income Tax is not a legitimate deduction in the valuation of property. The reason for this is that Income Tax is a burden on all incomes and is not more applicable to property than to other forms of investment.

2. The Length of time during which the Income will be enjoyed.

In valuing freeholds unencumbered by leases, it is usual to regard the net income arrived at as above as receivable for perpetuity.

If the freehold is leased for a term of years at a higher or lower rent than the valuer’s estimate of net income, it is necessary to value the income under the lease for the period of the lease and to add to the result the value of the reversion to the normal income for perpetuity deferred during the existence of the lease.

If the freehold is subject to a tenancy for life, it may be that the reversioner obtains no income from the property until after the death of the life tenant. In such cases it is necessary to defer the reversion for the requisite number of years dependent upon the age of the life tenant.

In the case of leasehold interests, the length of the lessee’s term is known, but if he has an advantageous option to extend the lease, this extended period must be taken into account, as it is reasonable to assume that a prudent individual would exercise his option.

It frequently happens that the valuer is called upon to value the interest of a tenant for life in a property, or the interest of joint tenants for life, or the interest of the longest of two or more lives. The expectation of life of the holder then enters into the calculation and all Books of Valuation Tables contain tables which give the appropriate number of years purchase for the different ages of life tenants.
3. The rate of Interest Applicable.

This is the most important factor in a valuation and it is here that the skill and experience of the valuer are most called for. For, with the net income and the length of term as known quantities, it is the rate of interest which supplies the years purchase by which the net income is multiplied to arrive at the capital value.

Now the rate per cent which a buyer would expect to obtain from an investment in property depends primarily on the security for the income. It also depends on supply and demand which affect the value of other competitive investments. Generally speaking a man would expect a lower rate of interest if he invests his money in Government Stocks, than he would from shares in a diamond mine. In the former case the risk is obviously less, the income is regular and easily recovered, and the capital can be realised quickly and without loss.

The rate of interest will therefore vary with different classes of property, and with the gilt edged security market, and it will also be found to vary in different parts of Ceylon.

But we must not overlook other matters, which have been touched already upon and which also affect the rate of interest as applicable to certain properties very materially. Two of these are that a man will and does pay more for a house for his own occupation than he would if he bought it as a mere investment and that the desire to be in the fashion will over rule a buyer's concern for the return from his investment. In other words, it is necessary for the valuer to bear in mind that a comparison with the return from other investments may have to be modified to cover other motives for purchase.

The valuer must, therefore, give his very careful consideration to the rate of interest, and it is impossible to lay down any rules, but the following rates are given as a very rough guide based on past transactions, for different classes of Colombo properties, but it cannot be too forcibly impressed on the young valuer that "circumstances alter cases."
Tenements .................. 7% to 15%.
Boutiques .................. 8% to 12%.
Small Houses ................. 6% to 8%.
Residential Bungalows ........ 3% to 6%.
Pettah Business Premises .... 5% to 7%.
Fort Properties .............. 3½% to 5½%.

**Years Purchase.**—Having arrived at the rate of interest, it is simple now to obtain the multiplier for our calculation, namely the Years Purchase to be used to capitalise the net income.

Considerable confusion exists in Ceylon between "Years Purchase" and "Interest." They are absolutely distinct, although the former is derived from the latter by an arithmetical calculation and there is no mystery involved in arriving at Years Purchase. Again Years Purchase has nothing whatever to do with the life of a building. It is merely an arbitrary multiplier over which the valuer has no control, once he has used his professional skill in arriving at net income and interest and is in the position of knowing the term of the interest he is valuing.

In the case of freehold properties, previously referred to as incomes in perpetuity, the Years Purchase is obtained merely by dividing the rate of interest into 100.

Thus the Years Purchase applicable to:—

5% Investment = 100/5 = 20 years purchase.
8% Investment = 100/8 = 12½ years purchase.
12% Investment = 100/12 = 8⅔ years purchase.

For terms less than perpetuity, admirable books of tables exist such as Inwoods' Tables or Parry's Valuation Tables, from which the Years Purchase applicable at almost any rate of interest and for any period of years, may be found at a glance.

The theory and construction of these tables form subjects of study in the technical education of the valuer, but in practice they are used automatically.

We now have to multiply our net income by the years purchase and the product will be the capital value of the property, unless some expenditure of a capital nature is necessary to enable the property to produce the Net Income relied upon.

4. **Capital Expenditure.**—If any sum is requisite for the purpose, it must now be deducted.
Instances of the nature of this deduction would be such items as a new roof, installation of drainage or electric light, and alterations necessary to bring the property up to modern standards or to convert it to the use the valuer has contemplated in estimating his annual income.

The calculation will now be complete, but not the task of valuation. The valuer must now proceed to check his figures from data in his possession.

One check is a comparison with the prices paid for other similar properties similarly situated. The valuer should keep a record of transactions and compare his calculations with these results.

But a word of caution is necessary here for unless one knows the circumstances of the sale and of the buyer and seller, comparisons may be dangerous, and no one should rely upon an isolated sale as indicative of value, as, it may be that the sale in question was a forced one, or the title may have been defective. Here there is "safety in numbers" and a collection of sales will usually give a useful indication of value of that class of property in that particular neighbourhood.

However, no valuer can afford to neglect the guidance of actual bona fide sales and no knowledge of principles can entirely take the place of long and practical experience of dealings on the open market.

In studying actual transactions, it frequently happens that no sale can be traced of an exactly comparable property and the valuer must then use his skill in making allowances for different features and situation and thus arrive at a workable comparison.

Another method of checking results is by making a separate valuation of the site and of the buildings and adding the two together. This method should be used as a check only, as it used as an independent valuation, it will not find favour with the Courts.

The land should be valued at its bare site value and the buildings either by taking out the quantities or by careful cubing. It must be borne in mind that it is not the cost of the building which
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is being arrived at, but its depreciated value as it stands to-day, after allowing for age, condition and suitability.

A custom exists in Ceylon of comparing properties which are developed by buildings, by taking the sale price and dividing by the area which gives a result known as "rate per acre" for land and buildings together.

Owing to the fact that no two buildings are exactly alike and few sites are developed by buildings to exactly the same extent, a moment's thought will show that such comparisons should be very carefully used or fallacious results will be obtained.

It is now proposed to consider three classes of valuation which are in the nature of a special study as the definitions of value are laid down by the Legislature of the Island and upon the interpretation of which there have been many decisions in the Courts.

VALUATIONS FOR RATING.—The system of rating in Ceylon is different to that existing in England. There the Local Authority draws up its budget for the year, divides the total by the total Annual Value of the Town and levies a rate in the £ sufficient to meet this expenditure for the year. In consequence the rate varies according to the expenditure authorised.

In Ceylon the procedure is reversed. A rate is fixed at a certain percentage on the Annual Value of the town and the Local Authority then proceeds to budget according to the income this rate will produce. The percentage of the rate in practice is seldom altered, and economy in expenditure is not, as a matter of course, reflected in a reduction of the rate. Conversely many urgent and important works may be held up, as the amount of the rate is insufficient to finance them.

Here we are only concerned with the Annual and not the Capital Value. This value is used by the Local Authorities for the assessment of rates. The Rating Authorities in Ceylon consist of:

The Municipalities of Colombo, Kandy and Galle.
The Board of Improvement, Nuwara Eliya.
The Urban District Councils.
Local Boards.
Sanitary Boards.

The Municipalities are controlled by virtue of Ordinance 6 of 1910, which contains the following definition:—

"Annual Value means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for any house, building, land or tenement if the tenant undertook to pay all public rates and taxes and if the landlord undertook to bear the cost of repairs maintenance and upkeep if any, necessary to maintain the house............. in a state to command that rent."

It will be seen from this that the statutory tenancy contemplated by the Ordinance assumes a reasonable tenant on an annual tenancy, who will pay the rates and taxes and whose landlord will bear the cost of repairs and upkeep.

This prevents us adopting as a matter of course, the rent paid under a lease for a term of years. It also excludes the tenant who pays an unreasonable rent, although one is entitled to consider the actual tenant as a possible tenant.

As it is customary in Ceylon for the landlord to pay the rates and taxes, (contrary to our definition) allowance has to be made from the actual sum which passes from tenant to landlord in order to make the Annual Value comply with the Ordinance, as otherwise the landlord would be paying rates on rates. For instance, a bungalow worth Rs. 250 per month will produce Rs. 3,000 annually. If it is situated in Colombo the Annual Value will be arrived at as follows:

\[
\begin{align*}
\text{Rs. } 250 \times 12 & \quad = \quad \text{Rs. } 3,000 \\
\text{Deduction for rates} & \quad \text{16} \frac{2}{3}\% \\
& \quad = \quad \text{Rs. } 500 \\
\text{Annual Value} & \quad \text{Rs. } 2,500 \\
\text{Rates thereon at 20\%} & \quad \text{Rs. } 500
\end{align*}
\]

It will be observed that the sum payable as rates at 20\% on the Annual Value is the same as the deduction of 16\frac{2}{3}\% on the Gross Rental.
Then as repairs, etc. under the Ordinance fall upon the landlord, no allowance is provided for this outgoing, and the landlord pays rates on the full amount, even if he has to spend half the annual income on repairs. This does give rise, in certain cases, to hardship.

An idea still exists in Ceylon that premises occupied by the owner should be assessed more leniently than if they were rented out, but a glance at the definition above will show that this is a fallacy.

Nuwara Eliya Board of Improvement.

Ordinance 20 of 1896.

The definition of the above Ordinance is as follows:

"Annual Value shall mean the Gross Annual Value without any deduction for expense of repairs, maintenance or upkeep.

In the area administered by this Authority, therefore, no allowance is made from the gross sum paid by the tenant to his landlord.

It would be noted also that a large proportion of the residential properties are let furnished at "seasonal" rents for 3 or 4 months of the year and are unoccupied for the remainder of the year. In fixing the Annual Value a much lower monthly rental must be adopted as the average over the year and a deduction must be made for the use of the furniture.

The Urban District Councils were formed under the Local Government Ordinance No. 11 of 1920 and are being gradually extended to include most of the Towns in the Island.

The definition of Annual Value applicable to these Authorities is practically the same as that contained in the Municipal Ordinance with the following very important addition:

"Provided that in the computation and assessment of Annual Value the probable annual average cost of such insurance, repairs, maintenance and upkeep shall be deducted."

The result of this proviso is that the Towns governed by Urban District Councils are the only
areas in which deductions for the landlord's expense of upkeep are allowed and there is no doubt that this is the fairest method of assessment.

Attention is here drawn to the fact that these Urban District Councils have power to make byelaws fixing the percentage of deduction for annual repairs, and it is therefore quite feasible for the deduction to vary in different towns.

Many of these towns are also liable for a Police Tax under Ordinance 16 of 1865 and 3 of 1875 which contain special taxing provisions, including a definition of Annual Value as follows:

"Bonâ fide Annual Value of all houses, buildings, lands and tenements, as a basis of rating shall be the Gross Annual Value without any deduction for expenses for repairs and other expenses for maintenance or upkeep."

It will be seen, therefore, that there should be two distinct and different assessments in these Towns, and this fact is not generally appreciated.

In Local Board Towns the assessment is governed by Ordinance 13 of 1898, which contains a definition of Annual Value almost identical with that in the Municipal Ordinance. The amount of the rate is restricted to 5% on the Annual Value in addition to the Police Tax.

There is an anomaly in the method of assessment provided for under this Ordinance, as it is laid down that the valuation made under the Police Ordinance (referred to under Urban District Councils) shall be taken as the valuation for Local Board purposes. But as the definitions of Annual Value in the two Ordinances are quite different, it is not seen how both valuations can legally be the same, but it appears to be the practice to ignore this.

The Sanitary Board Ordinance contains no definition of Annual Value and the Police Tax procedure of assessing on the Gross Rental is provided for and correctly followed.

It is manifestly impossible to refer in detail to the Law and Practice of Rating, which has been built up from decisions in the Courts spread over many years.
There is still room for differences of opinion and in spite of the guidance afforded us by case law, the necessity arises even today to refer matters to the Courts for interpretation.

**LAND ACQUISITION.**—A matter which affects the valuer, in Ceylon as well as elsewhere, very closely indeed, be he official or unofficial, is the valuation of land and property for the purpose of compulsory acquisition by the Government or a Local Authority. It is, of course, essential that the Government of any country should have power to take possession of any private lands required for the safety or administration of the State, or for purposes of public utility, but it is a principle of the existence of such rights, that fair compensation should be made to the private owner.

The application of such powers is looked upon by the private owner either with intense dislike, as it is distasteful to the majority to be deprived of their property, which may often be ancestral lands, or it is looked upon as a unique opportunity to obtain a high price from Government coffers.

The principal Ordinance controlling the compulsory acquisition of land is the Land Acquisition Ordinance of 1876, which has been in existence for nearly 60 years without material amendment.

In India their Land Acquisition Act was revised in 1894 and in addition the large Cities have their own Acts.

But although there have been no amendments to the Ceylon Law there are numerous decisions of the Courts which supplement and interpret the original Ordinance.

In addition to this main Ordinance the Housing and Town Planning Ordinance No. 19 of 1915 and the Local Government Ordinance No. 11 of 1929 contain sections dealing with land acquisition.

The Land Acquisition Ordinance contains detailed instructions as to the compensation to be paid and the valuer must make his valuation in accordance therewith.

It is laid down that the acquiring Authority must pay for the property:

*The ‘‘Market Value’’ at the time of awarding compensation.*
It should be mentioned here that the Ordinance provides for other items of compensation besides "Market Value," under the headings of "Severance," "Injurious Affection," and "Loss of Earnings." These sections give rise to questions of great difficulty and afford scope for wide divergence of opinion and cannot be adequately dealt with in a paper of this length. It is therefore proposed to restrict these notes to the actual Market Value of the property to be acquired.

The Ordinance assists the valuer in arriving at his valuation by laying down that he must omit from his calculation:

The degree of urgency which leads to the acquisition.

Any disinclination of the owner to part with the land.

It will, therefore, be seen that the Crown is not to pay an exorbitant price based either upon the urgent necessity which moves it to acquire, or on the reluctance of an owner to sell except at his own price.

The price has to be fixed on the assumption that the transaction takes place between a willing buyer and a willing seller. It may well be that, in fact, no willing buyer exists, but this will not permit the acquisition of the property at a "forced sale" price.

The following are extracts from decisions of the Ceylon Courts on the definition of "Market Value."

"Of the several tests by which the market value of a land may be arrived at, one of the truest and fairest is the actual amount paid for a similar allotment of land in the same vicinity about the time of the acquisition."

"It is wrong to value the land, the trees and the buildings standing on the land separately and then add the several amounts together. Neither is it correct to value a building by reckoning the quantities of the materials and the work employed in building it."

"The evidence of the amount paid for other lands in the vicinity merely raises a pre-
sumption as to the value of the land sought to be acquired and may be far from conclusive."

"It is fallacious to determine the market value of a house by what another house in the neighbourhood fetched, because the one may have advantages or disadvantages which the other wants, such as difference of view, light, air and drainage and of the fashion and popularity of the road or street in which they are situated.

"Rental is a better test of value than price obtained in the neighbourhood, but the number of years purchase varies according to the money market or according to the supply and demand for land as contrasted with other securities."

"The market value of any given land depends on its extent, situation, relative position and its adaptability for any particular use, also upon the rent and rate of interest obtaining in the district."

"Among the tests of market value of a piece of land, are the price which anyone would give for it at a public auction and the price given at recent sales for lands similarly situated."

"The proper method of valuing the land is to consider (1) the situation of the property, (2) the best use to which it can be put and (3) the use to which the property immediately adjoining it is put."

"The tests of the market value of a piece of land are the price which would be given for it at a public auction, the price given at recent sales for lands similarly situated taking into consideration the circumstances attending such sales; the opinion of an experienced valuer; its rent and the current rate of interest in the district."

There are two other points worthy of note in connection with this Ordinance.
One is that its provisions shall not be put into force for the purpose of acquiring a part only of a house or building, if the owner desires that the whole of the house, building or manufactory shall be acquired.

Cases have occurred where a small portion of the porch of the house is needed for a road widening scheme. The owner may then demand that the whole house be acquired, but whether the word "house" includes the land on which the house stands is open to argument. The Indian Courts have, however, definitely laid down that "house" includes the land necessary for the enjoyment thereof. It is probable that this ruling would be adopted by the Ceylon Courts.

The other point is the 10% allowance for compulsory purchase. The claimant has no legal right to this and it is a matter beyond the valuer's province, as the acquiring officer has a discretion as to whether he will make this donation or not. His discretion must, however, be exercised reasonably and not arbitrarily or capriciously and the 10% can only be added to the "Market Value" and not to any amounts awarded for severance or injurious affection.

The Indian Act, however, gives an extra 15% above the market value as of right in every case and this is intended to compensate the owner for the compulsory nature of the acquisition.

There are other Ordinances dealing with Land Acquisition and it is proposed to mention two of these.

The Housing Ordinance No. 19 of 1915 contains the following definition:

"The estimate of the value of the land and building shall be based on the fair market value ............. due regard being had to the nature and condition of the property and the probable duration of the building in its existing state and to the state of repair thereof ..........."

And also:

"The Annual Rent of any building shall not be deemed to be greater than its assessed annual value."
These definitions introduce the terms "condition," "life," and "repair" of the buildings, all of which are matters which the valuer should consider whether he is specially instructed to do so or not, but the reference to annual rent is a totally different matter. It apparently gives the valuer no latitude. He must adopt the Annual Value as assessed as the rental value and therefore one factor in his calculation is fixed for him. He, of course, still has to exercise his judgment in the matter of interest and it is for him to vary the rate of interest, and thus the years purchase, if he considers the assessment too high or too low.

There is another matter which the Housing Ordinance introduces into Ceylon, and that is the principle of "betterment."

If we look upon injurious affection as "worsenement," then "betterment" is its converse, for whereas the acquiring Authority has to pay to the owner compensation for damage resulting from "injurious affection" to any of his other lands, in the case of "betterment" the owner has to pay the Authority for any improvement effected to his other land by the acquisition.

The Section bearing on this principle is:—

"Regard shall be had to any increase in the value of any other land or building belonging to the person interested likely to accrue from the acquisition of the land."

The only instance known to the writer where this principle has been successfully applied is the acquisition of the land for the new bypass road at Panadura. Here land was acquired which formed part of lands having no road frontages. After the construction of the new road these remaining lands became valuable sites and this fact was taken into effect in assessing the compensation.

Other features of the Housing Ordinance are that the 10% allowable under the Land Acquisition Ordinance for compulsory acquisition is expressly disallowed in acquisitions under this Ordinance. Also it is permissible, in certain circumstances to acquire a portion of a building and in back lane schemes, bare land may be taken
without any compensation. This was actually done in the Kandy Back Lane Scheme acquisitions.

Another Ordinance which contains provisions for the compulsory acquisition of land is the Local Government Ordinance No. 11 of 1920.

The relevant Section reads:

"In the event of any land already developed by buildings situated within the building limit of any road being subsequently acquired for the purpose of the widening of the road, the compensation payable in respect of such land shall be determined by the following principles:"

(a) Where the whole of the land belonging to the owner is of sufficient depth to admit of its being used as a building site the value of the land acquired shall be deemed to be the value of similar land in the vicinity not possessing a road frontage.

(b) Where the whole of the land belonging to the owner of the land acquired is not of such sufficient depth, the value of the land acquired shall be deemed to be the value of similar land in the vicinity possessing a road frontage.

It will be seen from this that a new principle is introduced in that front land may thus be acquired at back land value, where the owner still has a building block left after the acquisition.

Although it has only been possible to touch upon a few of the leading principles, enough has been said to shew that the matter of compulsory acquisition of property in Ceylon, as elsewhere, is a specialist's job and it will suffice to repeat that the valuer must know not only the purpose for which he makes his valuation, but the particular Ordinance the Acquiring Authority is working under.

VALUATIONS FOR ESTATE DUTY.—The last class of valuation to which it is proposed to refer is that covered by the Estate Duty Ordinance No. 8 of 1909, which covers the collection of what are commonly known as Death Duties.
The definition of value in this Ordinance is as follows:

"The value of any property shall be estimated to be the price, which, in the opinion of the Commissioner of Stamps such property would fetch if sold in the open market at the time of the death of the deceased and no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time."

The valuer operating under this definition has to consider what figure he can obtain for the property on a given date in the open market. There is here no question of assuming a willing buyer or of awaiting a favourable opportunity to realise. Another thing which is expressly excluded is the difference between wholesale and retail values.

If the deceased owned a street of similar houses, or a number of building blocks, all of which were to be sold at one and the same time, it is natural to expect a lower price owing to the quantity offered for sale. But the Estate Duty Ordinance does not concede this and each lot would have to be valued separately without relation to the fact that many other similar and adjoining houses or plots would be in the market at the same time.

There is an interesting point regarding vacant possession of property for Estate Duty purposes.

A few years ago in England, a house of which the buyer could obtain vacant possession, would fetch about one-third more than one occupied by a tenant. This, of course, does not apply so much to Ceylon, owing to the fact that we have no Rent Restriction Act here, but cases do occur where a buyer would pay more for occupation.

A house, therefore, in which the owner lives, on the death of the owner, has to be valued as though it were vacant, as "at the time of the death of the deceased" there was no occupant!

Conclusion.—The writer trusts that these few notes, which but form an outline of the art of valuation in this country, will have been of interest and will serve to illustrate some of the difficulties
and problems which form the daily task of a valuer. Some of these problems are peculiar to Ceylon and some are the same the World over.

It must not be overlooked that a right of appeal to the Courts exists in all cases of Rating, Land Acquisition and Estate Duty Valuations. The valuer must therefore be prepared, at all times, to uphold his valuations before the Courts, and to withstand cross examination as to the "how, why and wherefore" of his figures. The Courts have decreed that an expert valuer must give his reasons for his conclusions, or his opinion is worthless. It will be seen therefore that it is not sufficient for the valuer to know the correct value of a property, but he must also be able to convince others that he is right.

If the paper has convinced you that the practice of valuation is not quite so simple as some would have you believe and that a property has different bases of value varying with the purpose for which the valuation has to be made; it has served its purpose.

Acknowledgement.—The writer's acknowledgements are due to Mr. C. Stewart Orr, Chartered Surveyor, and Municipal Assessor, for his courtesy in placing his really excellent reference library at the writer's disposal and to the authors of the following works:—

Valuation of Real Estate by C. A. Webb.
Hints to Young Valuers by Cragg and Merchant.
Rajaratnam's Digest of Cases.
Principles of Valuation by Sydney A. Smith.
Modern Progress and Value by Arthur Hollis.

The last two are papers read before the Chartered Surveyors' Institution and the Auctioneers' and Estate Agents' Institute and reported in their respective journals and the writer wishes to place on record his indebtedness to these publications.
DISCUSSION.

Mr. Eastman.

I do not propose to comply literally with our President's request to read this paper, as I feel this would be rather too great a strain on your patience and my voice. I suggest, therefore, running through some of the principal headings and having done this, if any of you would like to ask for explanations or details, I will then do my best to answer your questions.

I must say that this paper has involved me in very considerable difficulties, the principal one being to keep myself within reasonable limits. The subject is such a big one that once having begun it has been very, very difficult to condense the paper to 30 pages, and much has had to be left out. For instance, I have disposed of the question of "Valuation for Rating" in 24 pages, while "Ryde on Rating," which is the standard work on the subject, runs to 1100 pages!

Another difficulty is the definition of 'Value.' We all think we know exactly what this word means, but to produce a definition which will satisfy all requirements is not an easy task. I trust the definition I have arrived at after much thought will be acceptable, but I realise it is not perfection.

I then endeavour very lightly to touch upon some of the factors governing value and to quote local instances of these. In connection with the Kelani Valley High Level Road referred to under the heading of "Progress," I am pleased to note that Mr. J. M. Adam in a paper which we shall have the pleasure of hearing tomorrow more than supports my contention that the value of land on this road has increased. He states that values in some instances have gone up by 300%, whilst I have contented myself with remarking that land there cannot now be obtained for double the price paid by Government.

On page 5 I refer to the question of the "sterility" of building land arising from the laying down of Street Lines. You will be
interested to hear that since writing these notes a case has recently been before the Courts in which the Colombo Municipality acquired a plot of land for a new road, after having laid down street lines defining the trace of the new road. The Court held that this land had been converted from building land to land not capable of being built upon by a resolution of the Colombo Municipality and that that Authority was entitled to acquire the land at the reduced value arising from their own act.

Apart from the general definition of value I have had to refer to the various statutory values laid down by different Ordinances. These are in some ways artificial values, but are very real from the point of view of the valuer.

The question of Land Tenures and interests in lands is one of absorbing interest apart from the necessity, from the valuer's point of view, of being "an fait" therewith. I can recommend Mr. F. A. Hayley's book to anyone desiring to study this subject.

On page 11 I have stressed the question of technical qualifications for valuers. You will be pleased to hear that at the examinations of the Surveyors' Institution held in Ceylon last March, two Ceylonese presented themselves for examination and I understand two Ceylonese passed.

I should be glad to know that these "budding Valuers" were present with us to-day.

Regarding the principles of valuation, I trust that I have not been too technical, but you will appreciate that it is not easy to deal with this subject without bringing in technicalities, and I have endeavoured to express myself as simply as possible.

There is one point in regard to the annual deduction for repairs on which I should like to dwell for a moment, in view of the fact that this question is an important one at a time when we all have to fill in the forms issued to us by the Income Tax Commissioner.

The allowance under Section 6 of the Income Tax Ordinance for repairs is 20%, which I consider an extraordinarily liberal amount. There are
not many extraordinarily liberal allowances in the Income Tax Ordinance, so it is refreshing to find one such.

In the middle of page 14 of the paper, I take an instance of a small property in the Port of Colombo let at Rs. 500 per month, which rent arises almost entirely from the site. We can all visualise any small shop in a main thoroughfare in the Port or Pettah let at this rent. In fact some of us may even have escorted our wives shopping to such an establishment—possibly even this morning. Under the Income Tax Ordinance the net annual value will be arrived at as follows:

Rent Rs. 500 × 12 .... Rs. 6,000
Rates .... 1,000
Repairs 20% .... 1,000

Net Annual Value .... Rs. 4,000

Having imagined such an establishment will you not agree with me that an allowance of Rs. 1,000 per annum for repairs is not handsome?

On page 17 I have given you a table shewing approximately the rates of interest applicable to various classes of property.

Yet the Income Tax Ordinance only permits, in the case of property not within an area rated by a Local Authority, a maximum net Annual Value of 5% on the Capital Value.

Here I think that sooner or later the Income Tax Commissioner will have to obtain from the Courts an interpretation of the words "Capital Value." Is it cost or selling value? An Up-country bungalow may have cost Rs. 50,000 to build in times of prosperity, but may be almost worthless now. I am afraid the Commissioner must suffer from the same difficulty as I have in arriving at a definition of Capital Value, as the Ordinance has not attempted to define these words.

I am glad to find that the framer of the Income Tax Ordinance, realises the differentiation between the various local Authorities and their rating powers to which I have referred and makes allowance for these.
Whilst on these questions of rating, I would call attention to the paragraph at the top of page 23. My good friend Mr. Orr, the Municipal Assessor, will be the first to admit the truth of this statement.

We may now pass to the question of Land Acquisition and I would like to draw your attention to the matter of betterment. Why should the Acquiring Authority make a present to the land owner of the enhanced value arising from the expenditure on road making?

It has been suggested that the Authority should acquire, say 100 feet, on either side of the new road, and resell at a profit after construction.

There is a difficulty in this and that is that the Land Acquisition Ordinance only permits the compulsory acquisition of land when needed for a public purpose. Would this procedure be regarded as "a public purpose"? Still, why should not the Acquiring Authority buy an extra 2 foot strip on each of the new road and refuse to allow the frontagers to use the new road until they pay for this privilege?

The necessity for this suggestion, from the point of view of the tax payer in general, is well illustrated on the New Kelani Valley High Level Road, as is likewise the need for some control over the erection of new buildings. Many of you will be visiting this new road tomorrow morning and I would ask you to study the buildings which are cropping up and then to consider whether there is not a strong case for Town Planning.

In conclusion I would like to refer to the view which undoubtedly exists in Ceylon that anyone can be a valuer. You will find work entailing great responsibility being undertaken by persons with little knowledge of the principles, let alone the practice of valuation. I trust my paper will help to prove that this is not as it should be and I am sure that, if and when any such unfortunately placed individual has to face the cross examination of an able Counsel in the Courts, he will himself realise that "a little knowledge is a dangerous thing."

Another word of advice to those entrusted with the making of claims for compensation. Avoid spoiling your case by claiming excessive
amounts, which you cannot substantiate in Court. There is room for difference of opinion—sometimes very material difference of opinion—but remember that there are two sides to every case, listen to the other side and be reasonable. Many a good case has been spoilt by an excessive claim. I know one where the claim was seven times the amount of the offer, but I hasten to assure you that I was not responsible for either figure.

If you will kindly ask any questions on points which I have not made clear, I will try to enlighten you.

The President:—Would any member like to ask any question? In the first place I would like to ask Mr. Orr, the Municipal Assessor, to open the discussion.

Mr. G. Stewart Orr said:—Mr. President and Gentlemen—the Committee has asked me to come along and open the discussion on Mr. Eastman's paper. Personally I do not know the reasons underlying the decision of the Committee in inviting me. Possibly it may be because I am Mr. Eastman's most consistent opponent. We are always up against each other. I also notice that to-day is the 12th August—just the beginning of the shooting season in Scotland—and possibly the Committee, knowing me to be a Scotsman, expect me to shoot at Mr. Eastman. However, I must say that Mr. Eastman's paper is a most valuable one. Having had twenty years' experience in the profession of a valuer in the course of which I have read papers by the leading valuers including Farraday, Sir Trustom Eve and Sir James Ingles Davidson, I can only say that the paper by Mr. Eastman is one which ranks very high and ranks among the best papers which I have heard or read. If Mr. Eastman should care to elaborate his paper and publish it, it would become, I am sure, the best-seller of the year in Ceylon. Every black-coated gentleman of Hulstsdorp will be rushing to get a copy and just possibly to my embarrassment in a Court of Law. There are a few points in Mr. Eastman's paper which possibly I do not see eye to eye with him. As Mr. Eastman has pointed out, valuation is not a science, it is an art and there is always
bound to be difference of opinion. The first thing I want to speak about is the question of value. On page 2 Mr. Eastman says: "The definition of value for our purpose, which appeals to the writer most is the price which will be paid for a property by those who desire to obtain it." I cannot agree with that definition. I cannot give an adequate definition of value to replace it. It is so difficult to find means of expressing what value is. Webster in his International Dictionary describes value as worth, but that even differs from price. As an illustration of value differing from price I quote a case in Buller's Road. In that case land with road-frontage was accepted as being worth Rs. 60,000 an acre. There was one who had no road-frontage to his land and to obtain it had to buy a particular strip of land in front of his property. The owner of that land forced up the price and the result was that the land went up in price to Rs. 85,000 an acre—Before the ink on the contract was dry the land went down to Rs. 60,000—its true value. So I say that value is not the same as price. Mr. Eastman in dealing with "fashion" says that flats are not popular. I did not intend to mention this but this morning I have been dealing with the question of assessing the new Galle Face Flats. This goes to prove Mr. Eastman's opinion of flats. In that building there are 39 flats of which 20 are unlet. It is very difficult to arrive at the annual value of these flats because in the first rush some people paid Rs. 475 a month. Subsequently when the first glamour was somewhat over other flats were rented at Rs. 275 a month. With 19 flats unlet in conjunction with the varying rents paid for flats which are let it is very difficult to assess the true annual value of these flats. I have spent several hours over this problem but have not yet reached a decision. I sympathise with the objector who has to wait a long time pending the decision on his objections, but this example shows that an objection cannot be disposed of in a few minutes.

Mr. Eastman mentioned the fact that the presence of street lines affects the value of land. This is a very real restriction as was proved by two Land Acquisition cases which I had recently.
In these cases the owners had purchased land as building-land and paid building-land value for it.

Subsequently my Council laid down street lines over this land with the result that the owners could not build. When I came to purchase the land under the Land Acquisition Ordinance I tendered a value for unbuildable land. The owners refused my value and the cases went to Court. The Court upheld my view on the ground that under the Land Acquisition Ordinance I had to pay the value as at the date of the acquisition and it was acknowledged that on that date the land could not be built upon. Under that Ordinance I must also pay the price a prudent purchaser would give. Obviously a prudent man won't pay building-land value for unbuildable land. Not only the presence of street lines but all restrictions on a property must be taken into consideration. Thus in Kochchikadde we have the congested area by-laws. Supposing a man thinks of purchasing a bit of land at Kochchikadde for the purpose of building an Engineering Workshop as it is close to the Harbour. It would not be advisable for him to purchase the land for that purpose because the congested area by-laws would not permit him to build anything but tenements. In regard to annual value for rating purposes Mr. Eastman might have made it clear that the annual rent paid for a property is not necessarily the measure of its annual value for rating purposes. If a house which is worth Rs. 100 a month is rented at Rs. 60 a month the annual value should be based on Rs. 100. It is often customary in Ceylon to let out houses for short periods for weddings etc., at a high rate but that rate cannot be accepted for the purpose of annual value. Similarly if a man lets a house worth Rs. 100 a month to his brother for Rs. 50 you cannot take that rent as reasonable. Mr. Eastman said that he considers the definition of annual value under Local Government Ordinance to be the best for rating purposes. I agree in theory but not in practice.

His Excellency the Governor two years ago appointed a Committee on Rating Laws and I was a member of it. We spent at least 14 hours on this question of annual value. We consulted
Indian authorities, Burma authorities, Singapore authorities, Australian authorities, British authorities etc., and we decided after going into it deeply that the definition under the Municipal Councils Ordinance was the better one because in that case you are making everyone pay on the amount he actually receives or may be reasonably expected to receive as rent. Under the Local Government Ordinance the only practical way to arrive at the annual value would be to give a scale of reduction according to the various classes of property. Mr. Eastman himself stated that many owners in Ceylon do not repair properties. If you decide under the Local Government Ordinance to give a 20 per cent reduction for repairs you may give a person who does not spend money on repairs a present of 20%. Another who actually pays more for his repairs than is allowed loses on the deal. This penalises the good property owner. In any event the more reductions you give from the gross annual income to arrive at a rateable value the higher the rate you will have to charge on that rateable value. A Local Authority must have a certain sum to cover expenses. If they can get that sum by levying 20 per cent. on the gross value, then they would have to levy a higher rate per cent. if an allowance is given for repairs. There is really only one other point which Mr. Eastman mentions which I will deal with. He suggests that a strip of two feet on either side of a road should be purchased to give us the benefit of increased value to land through which a road is being taken. I am afraid we cannot do that under the Land Acquisition Ordinance because in buying a property we are bound by the legal definitions under the Ordinance. We must take the law as it stands. The Land Acquisition Ordinance distinctly lays down that the Authority buying a property, whether the Government or the Municipality cannot take into account any increase in the value of the other lands owned by persons whose land is being acquired. If we take a 2 feet strip on either side of a road I am afraid that it will amount to taking into account increased value of those other lands because we are taking that strip in the hope that people will pay us money in order to get access to the road. I do not think
that will be allowed under the Land Acquisition Ordinance. The Courts are very generous to people whose land is being acquired and would not approve of such a proceeding as suggested by Mr. Eastman. There is one other point that I would like to touch upon and that is where Mr. Eastman says that in acquisitions under the Housing Ordinance where the Annual Value for rating purposes is less than the actual rent the property that is acquired shall not be deemed to have a greater rental value than the annual value for assessment purposes. Mr. Eastman considers that in view of the limitation of the annual rental value the valuer could manipulate his years purchase in order to nullify the effect of the definition under the Housing Ordinance. The whole idea underlying the Housing Ordinance, in my opinion, is to enable the Council or Local Authority to purchase land necessary for the improvement of conditions of the working classes or the general improvement of the town and to purchase that land as cheaply as possible for this purpose. Previously Mr. Eastman had stated when one arrives at the net annual income you must consider the type of property and the interest the purchaser would expect from that type of property. In the same way in arriving at capital value under the Housing Ordinance you are entitled, in my opinion, to consider the rate of interest which could be obtained from that class of property. It is immaterial what the net annual income from that property is, whether it is Rs. 150 a month of Rs. 200 as long as it is of a certain type the years purchase should remain constant. You cannot take into consideration the fact that the annual value is less than rental value because the whole idea is to limit the capital value paid. One remark more. I was agreeably surprised at Mr. Eastman's paper. I am speaking as what people call an expert on the subject and I say that Mr. Eastman's paper is a first class paper and deserves the study of any one interested in the valuation of land.

Mr. J. G. Morley,

I have only just seen the paper so am unable to comment on it generally, but there is one matter I would like to touch on. In regard to valuations
for Estate Duty Mr. Eastman quotes the definition of value, which is as follows:

"The value of any property shall be estimated to be the price, which in the opinion of the Commissioner of Stamps such property would fetch if sold in the open market at the time of the death of the deceased and no reduction shall be made in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time."

In the present days when properties are often sold at ridiculous prices it is extremely difficult to determine value in accordance with this definition. Unfortunately we have no case law to assist us in Ceylon.

In England, it has been established that when arriving at the price which a property would fetch in the open market two things should be assumed, firstly, that the hypothetical purchaser is a man of means and substance and, secondly, that the property is to be offered in the most advantageous manner.

I think it is only reasonable that we in Ceylon too should make our valuations for Estate Duty on a similar assumption. We often find Executors and Administrators who experience difficulty in seeing this point of view, so I should like to have Mr. Eastman's views on the matter.

Mr. Eastman,

I am particularly glad to see Mr. Orr here this afternoon, and although he describes himself as my most consistent opponent, I always find him, unofficially and out of Court, a most valuable ally.

As often happens when he and I discuss matters relating to valuations, we do not always see eye to eye and it appears that I have failed to avoid one or two contentious points. I propose to refer to those upon which Mr. Orr comments in the order in which they have been put to me.

The first is the definition of Value. As I have myself explained I have found considerable difficulty in arriving at a satisfactory definition, and it is interesting to note that Mr. Orr finds the same difficulty.
The actual definition which I have given in the paper on page 2 is as follows:

"The price which will be paid for a property by those who desire to obtain it."

This is not the same "price" to which I refer on page 1, in other words value is the price which can be actually obtained, which is not always the same as "asking price." Neither is the price which an individual may be willing to pay for exceptional reasons of his own, necessarily the price 'which those who desire to obtain it may pay.'

But if you would like a more learned definition of value, I will read you a few lines from a paper read before the Surveyors' Institution by Mr. Frank Hunt:

"The first question which arises is, What is value? Some of us may remember the hilarity which greeted the definition of value mentioned in this hall nearly two years ago, which certainly did not err on the side of lucidity. It was Professor Cannan's definition:"

"The value of a given quantity of a commodity in some other commodity is the quantity of the second commodity for which a given quantity of the first commodity is being exchanged between two persons equally desirous and capable of promoting their own interests; or if no such exchange is taking place, it is the quantity of the second commodity for which a perfect judge or valuer estimates that the given quantity of the first commodity would at the time be exchanged between two such persons, supposing an exchange took place in the ordinary course of business."

"The value, that is the exchange value, of one thing in terms of another at any time and place, is the amount of that second thing which can be got there and then in exchange for the first. Thus the term value is relative, and expresses the relation between two things at a particular place and time."

"In modern practice, of course, the thing for which a commodity exchanges is standard money, and comparisons are therefore made with money."
There is another extract which is a comment on this definition:

"There was also, he was convinced, a very much closer correspondence between value and price obtained than was commonly recognised. He believed that in the case of a normal transaction between two people, who as Professor Cannan said, understood their business and were properly advised, the price obtained was a very effective and satisfactory measure of the value of the property sold."

Mr. Orr has referred to several other points of interest, to reply fully to which would require a whole afternoon’s discussion, and not the few minutes I have at my disposal.

One is the question of the Annual Value of certain flats. He has 20 flats paying varying rents and 19 unoccupied flats, and the problem is to arrive at a fair annual value of each. A sound knowledge of the definition of Annual Value, coupled with a sense of give and take, will give, on the average, a fair and uniform figure.

Another point raised by Mr. Orr to which I had but briefly referred in my paper, is the question of restrictions on the use of land and their effect on value.

This is not a matter of such importance in Ceylon as it is in England. In Ceylon restrictions are few, instances being street lines and the different areas into which Colombo is divided, such as residential, commercial, etc.

In England restrictive covenants are quite common, precluding a landowner from building houses of below a certain cost, excluding certain trades, compelling approval of plans, building lines, etc.

I have seldom come across parallel cases in Ceylon, but of the instances mentioned by Mr. Orr, I have already cautioned the valuer from accepting and valuing as such every piece of land which looks like building land.

It is also a fact that an owner of land in the Kochchikade congested area, as the law stands at present, would be precluded from demolishing tenements and replacing them by anything but other tenements.
Mr. Orr takes exception to my remark at the top of page 22 that the fairest method of assessment is that contemplated by the Local Government Ordinance.

I agree that this is a matter of opinion and that it does not very much matter as long as the assessments in each town are similarly arrived at, as a higher assessment normally means a lower rate and vice versa.

Regarding betterment, my suggestion that it might be possible for the acquiring Authority to buy a strip of land 2 feet on either side of a new road with a view to selling it later on to the frontagers, is a tentative one and I think it is perhaps a question more suitable for discussion among the lawyers than among ourselves.

Personally I think some attempt should be made to utilise the betterment clauses of the Housing and Town Planning Ordinance. Why should owners of back land be presented with road frontages at the expense of the community in general?

I gather Mr. Orr only takes serious exception to one statement in my paper and that is the matter of valuation under the Housing and Town Planning Ordinance referred to at the top of page 27.

Here I must beg permission to differ from Mr. Orr. The point will, no doubt, form the subject of legal argument one day and until we have a definite ruling I would prefer to retain my present opinion.

Mr. Morley refers to Estate Duty valuations and the knotty problem of "willing buyer." Here I have had considerable experience both on the Crown side and on that of the executor. The official attitude is well described in the concluding paragraph of my opening remarks. In my experience there have been many cases of notice of appeal lodged against the decision of the Commissioner, but I cannot remember one which has actually gone to Court on a question of value.

I think this indicates that both Government and private Assessors, the Commissioner of Stamps and the Financial Secretary have all exercised a spirit of "sweet reasonableness."
Chairman. I am sure this Association is deeply grateful to Mr. Eastman for giving us this very fine paper. It is a very valuable one and should stand us in good stead. I feel I know a little more about valuation than I knew before. I hope you will give the usual thanks to Mr. Eastman for his paper.

Mr. Eastman, Mr. President, gentlemen—I thank you.