

CENTER OF PLANNING AND ECONOMIC RESEARCH

LECTURE SERIES

17.

SOME PROBLEMS OF GREEK
SHORELAND DEVELOPMENT

By

JOHN HENRY MERRYMAN

Professor of Law
Stanford University
and Center of Planning
and Economic Research



ATHENS, GREECE

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Opinions or value judgements expressed in this book are those of the author and do not necessarily represent those of the Center of Planning and Economic Research.



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CENTER OF PLANNING AND ECONOMIC RESEARCH

The Center of Planning and Economic Research was originally established in 1961 as the Center of Economic Research in Greece in the expectation that it would fulfill three functions: 1) Basic research on the structure and behaviour of the Greek economy, 2) Scientific programming of resource allocation for economic development and, 3) Technical-economic training of personnel for key positions in government and industry. Its financial resources have been contributed by the Greek Government, the United States Mission in Greece and the Ford and Rockefeller Foundations. The University of California at Berkeley participates in the process of selection of foreign scholars who join the Center's staff on an annual basis. It also participates in a fellowship program which supports research in Greece by American graduate students, as well as studies for an advanced degree in economics of Greek students in American Universities.

Fellowships are also provided to young men who have graduated from a Greek University. They join the Center as junior fellows for a period during which they assist the senior fellows in their research and programming work and participate in seminars given by them.

The Center's main task, naturally, is the carrying out of research on key aspects of the Greek economy and on the fundamental policy problems facing the country in its effort to develop rapidly in the framework of the European Common Market. This research is carried out by teams under the direction of senior fellows. The results are published in a Research Monograph Series.

The lectures and seminars included in the Center's program are not only for the benefit of those working for the Center. Economists, scholars and students of economics are also invited to attend and participate in this scientific exchange which has been carried out in co-operation with institutions of higher learning here and abroad. A Lecture Series and a Training Seminar Series round off the publications program of the Center.

On the basis of this satisfactory experience, the Center was reorganized in August 1964, under its new name, with the purpose of carrying out on account of the Greek Government its scientific programming functions, in a more systematic way, at the national and regional levels.

Another need which the Center has set out to meet is the establishment of a library and a bibliographical service in the economic sciences. Besides its usefulness for the education of the trainees of the Center, this service will be of particular interest to Greek economists in general.

It is contemplated that the Center will exchange information and results with similar Centers in other countries, and will participate in joint research efforts with Greek or foreign public and private organizations.

Finally, one should emphasize that this is one more example of Greek-American cooperation, a pooling of human talent, funds and efforts, designed to promote the training of economists and to help in meeting Greece's needs in the field of economic development.

The final aim is eminently practical: to help in creating a better life for the Greek people.

GEORGE COUTSOUMARIS, Director

PREFACE

This study was carried out at the Center of Planning and Economic Research and in the field during June, July and August, 1964. Given the brevity of this period, the consumption of some time in acquiring a rudimentary familiarity with the Greek context and the comparative non-existence of data and hard information, it has been impossible to do more than introduce problems and make some rather general suggestions about possible approaches toward their solution.

The writer thanks Dr. George Coutsoumaris, Director of the Center, for a wealth of ideas and suggestions and much hospitality; Prof. Pan A. Yotopoulos, Director of Scientific Research at the Center, for more of the same; Mr. John Altigos, Miss Sophia Efstratoglou and Miss Sia Panayotopoulou, for willing and able research assistance; Mr. George L. Vickers, for good translations of difficult materials; Miss Eugenia Siaki, for excellent secretarial assistance, and all of them for their constant demonstration of *philotimia*.

Special thanks are due to Dr. Andreas Papan-dreou, Minister Alternate of the Ministry of Coordination and former Director of the Center, for

suggesting the topic for this study and assisting in a variety of ways in the quest for information from Greek officials.

The reader will find some criticisms of Greek institutions in this study. They indicate not disaffection for Greece, but the concern that grows from deep affection and the candor one denies to acquaintances and reserves for friends.

INTRODUCTION

«Whereas I had not seen a 100 Drachma bill for years, they suddenly gave me 100,000 Drachmae for land which provided no income...» statement by Greek peasant from Gytheion.

«The island of Papadiamantes, Skiathos, has ceased to belong to Greeks.» The newspaper Kathimerini, Jan. 9, 1963.

These quotations illustrate two phenomena which have recently been the subject of public concern (including a debate in the Greek Parliament on May 26, 1964) in Greece: the acquisition of Greek shorelands by foreigners and the large increase in the price of such lands in recent years. Consideration of these has led, with seeming inevitability, to an investigation of the tax status of shoreland transactions and to recommendations for revision of the Greek tax structure. Incidentally, it seemed desirable to draw attention to the legal aspects of some of these problems and to the state of legal development in which Greece finds itself.

The term «shoreland» is descriptive, rather than technical. It is used here to refer to the meeting of Greek land and sea and to the adjacent lands and waters whose peculiar site and use val-

ue is a result of the land-sea relationship. So defined, the shoreland is a unique, valuable and limited national resource. Like other resources, it can be wisely or foolishly used and, as with other resources, a national policy is essential for its orderly development. No such policy exists.

To conceive of the shoreland as a resource does not mean that its characteristics are identical with those of other resources. In particular, its beauty and its recreational utility tend to make it unique. Greeks, as well as foreigners, are drawn to the shoreland for rest and recreation. As wealth and leisure increase with the growth of the Greek economy the Greeks will have even greater need for their shoreland. A policy, or the lack of one, that permits the shoreland to be disfigured or to be made unavailable to Greeks is socially bad. Development cannot be approached in narrow market terms. Economic and social development objectives are likely to be in conflict more frequently in the creation of a national shoreland policy, than might be true in the case of other resources.

Indeed, there is much to be said for an approach toward shoreland development that reverses the normal procedure. Rather than taking economic productivity as the principal objective and modifying the resulting proposals where so-called «external economies» seem to compel withdrawal from the economic model, one is tempted to sug-

gest that the opposite be done. Beauty, recreation value and accessibility ought to be preserved and increased and other goals - including market goals - ought to be considered supplementary, rather than primary, considerations. It is conceivable that the result would be the same, but the difference in emphasis is very likely to lead to quite different conclusions. Preoccupation with economic productivity can lead to less than adequate consideration of non-economic objectives in planning, a fact which some existing Greek shoreland development amply demonstrates.

The supply of Greek shoreland is not inexhaustible. Its total stated length is 15,000 kilometers, of which about 11,000 border the islands and 4,000 the mainland.¹ These are impressive figures, but one peculiarity of this kind of resource is that it can only be used *in situ*. Its distribution with relation to the distribution of potential users thus becomes a factor that limits its utility. Over seventy-three percent of the shoreland is separated by sea from the great majority of the Greek people and from the principal points of tourist entry into Greece. Much of the shoreland on the mainland and larger islands is inaccessible by automobile or by regular boat or ferry service. Accessibility can be increased, but in the nature of things geography and demography restrict utility. A further, and perhaps the most important, limit is imposed

by the fact that much of the shoreland is barren rock and cliff with a kind of wild, craggy beauty but negligible use value. The number and extent of harbors, beaches, coves and forested sea-slopes are substantial, but finite. One who examines two recent studies of tourist development possibilities on the Western coast and islands of Greece, for example, is immediately struck by the small number and extent of shoreland sites deemed worthy of development.²

The more one talks to Greeks, the more he sees of existing shoreland development near the large cities and in the touristically popular islands, the more convinced he becomes that the basic problem is that of access. Faced squarely, the question is who will be able to enjoy this valuable, limited natural resource under what conditions over the foreseeable future. The issues concealed behind this apparently simple question are numerous, complex and interrelated.

The law seems to state that the shore, up to the high-water mark, belongs to the Greek people.³ From this it *could* follow that Greeks are entitled to free access to the shore and adjacent sea, since they can hardly enjoy it if they cannot get at it. Thus, a utopian vision is conjured up of a 15,000 kilometer-long sort of national park and bathing-beach, open to all. In fact nothing of the sort exists, and it is not clear that it should. Access

by land is widely restricted by a variety of exclusive shoreland uses. Many such uses are quite clearly inconsistent with any principle of free access: military installations, industry, ports and harbors, urban uses, private villas, high-priced tourist developments, all imply some degree of exclusion. Each of these has some conceivable place in any catalog of legitimate shoreland uses. The problem is how to accommodate them.

One conceivable mechanism of accommodation is the market. Despite the comparative freedom of the Greek internal economy, however, *laissez-faire* does not really exist in the shorelands. A variety of subsidies give preferential treatment to proposed tourist and industrial developments, and the foreign tourist industry itself is aggressively promoted in a number of ways by the Greek government. A law exists which seems to require government approval for many shoreland uses.⁴ Zoning and other regulations are applied in some areas. In others the interests of defense, of conservation or of density control inhibit the free market. The shoreland exists in a mixed economy, and it seems doubtful that any reversal in the direction of a free market is likely.

The tendency would seem to be in another direction, toward more comprehensive land use planning, a process already under way in urban areas in Greece.⁵ Whether this is indeed the pro-

per approach for Greece to take is something for Greeks to decide. But assuming that the trend in the direction indicated continues, it may be useful to mention three problems commonly encountered in land use planning in the United States, with the intention of helping Greece to plan shoreland development more effectively.

To begin with the obvious, land use planning is a very complex process. If it is to be done well, it requires an extensive infrastructure of information services, expertise, administrative and enforcement machinery. It places very heavy additional demands on the legal system, as on other aspects of government. It calls for special manpower resources. The complexity and subtlety of a satisfactory approach to planning also presuppose a relatively sophisticated society, a private sector that understands and is prepared to live with the decisions imposed. The state of political, social, economic and legal development of the nation affects both the quality of the planning process and its success in operation.

Second, the term «planning process» has been deliberately used, instead of «plan», in order to contrast dynamic with static planning conceptions. In the United States too much land use planning has in the past been based on the unstated assumption that the principal objective is a comprehensive, detailed map of the planned area, in

which each piece of land is restricted to a given use or range of uses. Once this is accomplished, the thinking goes, all that remains is enforcement, with occasional variations for obvious cases of injustice. This simplistic approach has the ostensible merit of certainty, but rigid enforcement of a static plan in the face of social change is undesirable, even if it were possible. The typical result in the United States has been to put unbearable pressure on the dispensing power, so that the plan is gradually destroyed by variances and permission for non-conforming uses. Thus certainty is lost and the static plan becomes merely an obstacle to a planning process carried on through the dispensing power, according to inadequate criteria. Emphasis on a planning process which attempts to rationalize the demand for certainty with the inevitability of change will, in the long run, produce better planning.

Third, land use planning decisions have the immediate effect of increasing some land values and decreasing others. One who is allowed to build the only supermarket in a predominantly residential area gets monopoly profits. One who is restricted to single-family residential use on land that has higher value for an apartment house loses land value. It is true that many kinds of governmental action have similar effects for which no adjustment is ordinarily made, but the decisions

produced in the planning process present the problem in a way that makes such effects seem particularly unfair. In a legally underdeveloped society the planning process is an open invitation to corruption, but even where decisions are made legally, according to valid objective criteria, the demand for adjustment of the resulting gains and losses is very strong.⁶

Like the formation of a shoreland policy and the choice of a mechanism for its implementation, the elaboration of a planning process for the shorelands is a matter for Greeks to undertake. The writer lacks the qualifications, even if he had the time, to tell Greece how to go about something so intricately related to the Greek *ambience*. Instead, the discussion will be limited to the two problems mentioned at the beginning of this study — problems not entirely unrelated to shoreland policy formation and planning — the acquisition of shoreland by foreigners and speculation.

XENOS

Many have observed that «Xenos» means both «foreigner» and «guest», and the legendary Greek hospitality, particularly in the villages, is still as candid and genuine as it is dignified. On the other hand, the Greeks as a nation have lately suffered very badly at the hands of foreigners. The memory of recent foreign subversion, invasion and occupation and of a ruinous civil war fomented and sustained by foreign powers and a foreign-dominated extremist minority is still alive in Greek minds. Hence the legendary Greek hospitality is understandably tempered by the harsh lessons of recent history.

As a part of Greece's post-war economic development program, substantial emphasis has been placed on the promotion of tourism, both to encourage foreigners to come to Greece as tourists and to attract foreign investment in tourist facilities. The returns have been substantial,⁷ but the growth in tourism has created certain problems for Greeks.

These factors tend to converge into a rather confused, but nonetheless real, popular and official concern about foreign acquisition of Greek shore-

lands. The principal arguments, drawn from the public press and conversations with Greeks, include:

1. National security is endangered. The shoreland is a means of access to Greece. In the hands of foreigners it can become a base for subversion, illegal entry of persons and materials, etc. It has happened before and, as a result, certain «border areas» are now the subject of legislation prohibiting land ownership by foreigners.⁸ All of the shoreland shares this kind of vulnerability.

2. Foreigners tend to buy and to monopolize the most desirable shorelands. They erect barriers, excluding Greeks from their beaches. Thus, although the beaches up to the high-water mark are by law⁹ the property of the Greek people, access by land to them is being lost.

3. The influx of foreign money is the cause of a speculative boom in shoreland prices. This «speculation» thesis is examined in some detail below.

4. Foreign purchasers take advantage of Greek peasants, paying too little for valuable land, leaving the peasants landless, poor, unemployed and feeling cheated.¹⁰

5. Greece is being overrun by foreigners, with offensive foreign customs and ideas. Often they tend to treat Greeks as servants or as picturesque natives, rather than as dignified hosts. This invasion is demeaning, and in the process, Greek

culture is being demoralized and the Greek land and people are being exploited.¹¹

Leaving aside the rhetoric with which these arguments tend to be loaded in the statements of politicians and the public press, two substantial points are involved: national security and cultural shock. So far as speculation, the cheating of ignorant peasants and access are concerned, there is little to show that Greeks themselves do not engage in the same practices. Foreigners may, by bringing in foreign capital, aggravate the situation, but it is common knowledge that Greeks are buying shorelands in substantial quantities, often for speculative purposes. There is no evidence that they are less likely to cheat the poor peasant. Indeed, one would expect them to be a good deal more adept at it than foreigners, and the usual advice to a foreigner interested in buying Greek land is that he have a Greek do the negotiating.¹² Nor is there anything to indicate that Greeks tend to allow freer access over their lands. Some of the most exclusive (in this sense) of tourist developments on the shoreland are Greek. These problems, to the extent that they are real problems, may be intensified but are not caused by foreigners. This intensification, when coupled with concern for national security and with cultural shock, may be significant. But in the interests of rational discussion, it must be recognized that some of the

complaints against foreigners ought to be addressed equally to Greeks.

It is beyond the scope of this study to attempt any evaluation of the national security argument. One can understand how a Greek, influenced by the memory of still recent cataclysms, is made uneasy when he sees foreigners (of certain nationalities in particular) acquiring land directly on the Greek sea. Whether they (or other foreigners) are really a danger is something for the Greek intelligence and military authorities to study. In any event, it is not clear that limiting the purchase of shorelands by foreigners would be a very effective remedy.¹³ Subversion can be carried on as easily on rented as on owned land, for one thing. For another, it is never very difficult for a determined foreigner to arrange to acquire beneficial use of land through dummy transactions of one kind or another. The interests of security would seem to be better served by keeping such transfers open and on the public record, with periodic notarial reports to the appropriate ministry about land transactions involving foreigners. This is, in fact, the present Greek practice.¹⁴ Of course a wide variety of other security measures may be called for, depending on the circumstances. The only point to be made here is that prohibition of the sale of shorelands to foreigners is 1) likely to be ineffective and 2) likely to be contraproductive by com-

elling the concealment of transactions that are now public.

The problem of cultural shock is a very real one. The relatively sudden influx of hundreds of thousands of foreign tourists into Greece¹⁵ has a significant impact on Greeks, and some adjustment in attitudes necessarily is involved. Ideally such a process of adjustment will preserve what is valuable and unique in Greek culture, and it ought not to require the sacrifice of individual or national dignity. But, while preserving these values, adjustment is unavoidable. Greece cannot have a substantial foreign tourist industry without accepting its consequences, and one obvious consequence is the presence in Greece of foreigners. A thoughtful program of education, both of tourists (e.g. in tourist literature) and Greeks, can help to ease the problem and to direct the process of adjustment along desirable lines. No such program exists.

The purchase of Greek shoreland by foreigners is only a small part of the total problem of cultural shock. To prevent such acquisition might ameliorate the problem — and indeed the psychological effect on Greeks might be substantial — but it would also tend to create certain economic difficulties. The foreign purchaser may acquire shoreland for speculation, for private development (his own villa, for example) or for income-produc-

ing development. Frequently he may have a combination of such objectives. Each of them has potentially beneficial effects on the Greek economy. The speculator furnishes foreign exchange when he buys the land, and Greece is actively seeking foreign exchange. The private development furnishes additional foreign exchange, creates employment and increases the value of the asset improved. The income-producing development includes all of these benefits and puts the asset to work.¹⁶

If the acquisition of shorelands by foreigners were forbidden this would, to the extent it was effective, divert a supply of foreign exchange from Greece. The foreign speculator is primarily interested in buying land, not in investing in Greek industry. He will spend his money elsewhere. It would also tend to limit the interest of foreigners in shoreland development, both by reducing the prospect of capital gains and by denying them the power to acquire ownership, which they frequently prefer to some lesser real or personal rights. But, in the case of the foreign developer whose interest continued, there would be no appreciable gain for national security or reduction of cultural shock. The same problems would continue to exist whether he owned or rented; his legal relationship with the land would be different, but the operative facts would be the same.

Thus, if it is assumed that a legal prohibition of sales of shorelands to foreigners could be made effective (a dubious assumption), these effects could be anticipated:

1. The foreign speculator would be diverted from entry into Greece. This would reduce the intensity of the Xenos problem. It would also reduce the flow of foreign exchange into the Greek economy.

2. The foreign developer would be discouraged from entry into Greece. This would reduce the Xenos problem at the cost of foreign exchange and the benefits to the Greek economy of shoreland development.

3. Some foreign developer interest would survive, using legally sanctioned real or personal rights in the land, rather than ownership, as the basis for development, with only limited reduction of the Xenos problem.

4. The fact that foreigners were prohibited from owning Greek shoreland would probably have some satisfying psychological effect on those Greeks who fear or dislike foreigners.

The difficulty of making such a legal prohibition effective is substantial. Where the prospect of large, tax-free profits of the sort that can be gained from speculation in and development of the shorelands exists, the ingenuity of buyers and sellers is likely to make such prohibition ineffective.

Dummy transactions, secret transactions, the use of such devices as options or contracts to sell, rather than transfers, the use of various types of business organization to conceal the presence or dominance of the foreign element, are merely rudimentary examples. Greeks, as sellers, will find it profitable to collaborate in evasion of the law, and the existence of penalties will tend merely to drive the price of the land higher and to use ever more subtle devices to hide the real nature of the transaction. The tendency toward corruption, both of private individuals and officials, will increase. The value of the land records as a source of security in land transactions and of information about such transactions will be further reduced. Confidence in, and therefore the effectiveness of, the legal system will be damaged by increasing the disparity between what the law says and what people actually do. The social cost of enacting an unenforceable law is very high.

A kind of Gresham's Law would also be put into operation. The shadiness of the typically profitable transaction in violation of the spirit of the law would tend to concentrate such transactions in a sort of financial underworld, where the participants would try to add to their profits by further dubious practices. Entry of the best kind of foreign developer, who is law-abiding and content with what the law allows, who pays his taxes, and

who develops soundly and responsibly, would be further discouraged. Bad money would drive out good.

This parade of horrors (which is by no means complete) may seem exaggerated. But Greek lawyers are the first to admit that Greece has in the past shared a regrettable Mediterranean tendency¹⁷ to enact simplistic laws to deal with complex problems, to rush into legislative action without thinking very carefully about the consequences, or to enact «rhetorical laws» whose purpose is not to solve the social problem but to seem to have done so, in order to quiet public opinion or political opposition. All of these dangers are present in proposals to forbid foreigners from owning Greek shoreland.

This does not mean that the problem does not exist. Foreigners are buying Greek shoreland, both for speculation and development (as are Greeks). As foreigners they create or intensify certain problems for Greece and Greeks. But a simple prohibition of foreign ownership of shorelands is likely to be unworkable as a solution, even if it is otherwise desirable. That it is desirable is far from clear. The cost in foreign exchange and in shoreland development may be far out of proportion to the resulting benefits and, in any case, the Xenos problem may be more effectively solved or ameliorated in other ways.

Any more scientific approach immediately encounters the nonexistence or unavailability of data and other hard information. What are the dimensions of the security problem? How much shoreland is owned or occupied by foreigners of what nationalities? How serious is the access problem? What is happening to shoreland prices? To what extent are foreign purchases contributing to rising prices? Who are the sellers? Are they gullible peasants? Do foreigners cheat them? What do they do with the proceeds of sale? Do they become unemployed, poor, do they feel cheated? Do they drift to the big cities? What is the actual nature and extent of cultural shock? What forms does it take? To what extent is it attributable to the very small percentage of foreigners in Greece who buy shoreland? What do these purchasers do with the shorelands? What do they contribute to Greece's economic growth? What would be the effect on them of various possible approaches to solution of the Xenos problem?

An army of research assistants could be kept very busy for a very long time in acquiring (and in gaining access to already found) information of this kind. Meanwhile decisions must be made, but they ought to be made on the basis of the considerations so far described and in the context of a comprehensive view of the entire complex of shoreland problems. Taken alone, the Xenos problem is likely

to become magnified out of proportion: it ought to be considered as one factor in the development of a more comprehensive shoreland policy.

Table I contains data on foreign acquisition of Greek land from 1960, the first year such data were collected, through May, 1964. These figures are subject to a number of defects. For one, the prices actually paid were higher than those reported. One must assume a similar degree of understatement in the foreign as in the total transactions in order for the price figures to be comparable. Second, the figures for the total of transactions are taken from the tax records: those for foreign transactions from the land registers. Some disparity may exist. Third, sales to foreigners may be disguised or concealed for a variety of purposes, notably to evade the restrictive «border areas» legislation, so that the actual number and value of such transactions is higher than the data indicate. Fourth, the reports from which these data are drawn do not attempt to apply any distinction between shoreland and other land. The writer has arbitrarily taken land within three kilometers of the sea to mean shoreland for the purpose of Table I, excluding land in Athens, Patras, Piraeus and Salonika. Fifth, it is not certain that the reports are complete, even as to registered transactions. The writer has heard of sales to certain prominent foreigners (including one to Anthony Quinn in

Rhodes) which do not appear in the reports. Sixth, many of the «foreigners» are actually Greeks residing abroad or Greek companies incorporated abroad. Finally, certain effective transfers may be made other than by transfer of legal ownership, in order to evade the transfer tax. The typical case is use of the contract to sell. One must assume a similar use of this practice in the foreign as in the total transactions for the data to be comparable.

TABLE I
SOME DATA ON SALES OF GREEK LAND AND SALES
OF GREEK LAND TO FOREIGNERS, IN THE PERIOD
JANUARY, 1960 - MAY, 1964.

	Number of sales	Reported price (drachma)
1. All sales	701,133	26,667,497,000
2. All sales to foreigners, excluding Athens, Patras, Piraeus and Sa- lonika	409	55,170,534
3. All shoreland sales to foreigners (sales within 3 kilometers of the sea) excluding Athens, Patras, Pi- raeus and Salonika	298	48,634,267
4. Percent: 2 of 1	0.058	0.201
5. Percent: 3 of 1	0.042	0.18
Total area conveyed to foreigners: 26,689 stremmata		
Total shoreland area conveyed to foreigners: 25,282 stremmata.		

Source. The data on all sales are taken from the Monthly Statistical Bulletin for Public Economics. Those for sales to foreigners are drawn from reports by Recorders of land transactions to the Ministry of Justice.

As Table I shows, the total reported area conveyed to foreigners within three kilometers of the sea (excluding Athens, Patras, Piraeus and Salonika) is 25,282 stremmata (a stremma is 1,000 square meters). Taking 15,000 kilometers as the length of the shoreland, the total area within three kilometers of the sea is 45,000,000 stremmata. The reported sales to foreigners are a negligible percentage of this total. Assuming that only 10% of the shoreland has substantial use value, that all foreign acquisition is concentrated in this 10%, and that the actual number of sales to foreigners is double the reported figure, the impact of foreign shoreland acquisition is still very small — around 1%. The data do show that a high percentage of reported foreign purchases fall within three kilometers of the sea. No similar data have been acquired for all transactions in land, but it seems likely that they also are concentrated near the sea: this is obviously the area in which there is the most active market in land in Greece, with the exception of the large cities. Hence, without placing too much reliance on the precise figures reported, one can question whether the acquisition of Greek shoreland by foreigners in the last 4½ years is nearly as significant as alarmists appear to claim.

SPECULATION

Everyone in Greece believes that Greek shoreland prices are rapidly mounting, and such terms as «profiteering» and «speculation» are heard on every side. Unfortunately, no systematic study of shoreland price behavior, the sources of speculative capital and the ways in which speculative profits are taken, exists (or, if it exists, has been found). Much useful information could be gleaned from the land registers, which include a statement of the prices paid in land sales. It is true that it is the universal practice to understate the price drastically, in order to pay a smaller transfer tax (a practice allegedly encouraged by many notaries). But it appears that there may be some uniformity in the degree of understatement. The most drastic statutory penalties apply to understatements of half or more of the price, and so a common practice is to understate by about 49%. It is also commonly believed by lawyers that the tax authorities acquire very accurate price information as a result of their investigations in the process of enforcing the transfer tax. Hence by using both sources it should be possible to acquire reliable data. The land records also include the names and

legal residences of the parties and a description of the land, and there is no reason to believe that this information is not, on the whole, accurate as to land outside the border areas.

In the time available for this project it was not possible to plan and carry out such a study in the land and tax records. Only fragmentary, unsystematic information has been obtained, and the most that can be said of it is that it is not inconsistent with the common belief about prices and profits from shoreland speculation. In the course of such brief field research as was undertaken, however, some interesting information about profit-making mechanisms did come to light and will be discussed below.

Some more general data on land price trends in Greece were obtained from public records of the number and stated value of reported transactions in the years 1958 through 1963. These are set out in Table II and III. They indicate that, except as to sales of apartments, there has been a very substantial increase in the weighted average value of land transfers. Even including apartments, the average transaction value has increased by nearly 70% in six years. An increase in land values is only one possible interpretation of these data. Another is that there has been a continuing uniform tendency to buy and sell larger or more improved tracts. A third is that there has been a

TABLE II
NUMBER AND VALUE OF TRANSFERS OF IMMOVABLES:
1958 - 1963, AT CURRENT PRICES IN 1,000 DRACHMAE.

		Sites	Buildings	Apartments	Farms	Total
1958	number	36,381	20,095	10,152	80,120	146,748
	value	963,039	928,024	1,161,014	774,428	3,826,505
1959	number	34,255	17,790	10,271	73,651	135,967
	value	1,023,739	1,011,987	1,052,201	705,831	3,793,749
1960	number	38,518	20,348	14,024	82,321	155,211
	value	1,121,940	1,308,377	1,473,638	837,891	4,741,846
1961	number	37,901	19,614	14,840	80,517	152,872
	value	1,290,729	1,359,087	1,678,884	958,566	5,287,266
1962	number	40,226	21,218	17,843	88,413	167,700
	value	1,501,052	1,547,722	2,148,106	1,129,515	6,326,895
1963	number	41,136	21,229	18,922	92,222	174,209
	value	1,876,108	1,736,635	2,623,327	1,468,998	7,705,068

Source: Monthly Statistical Bulletin for Public Economics.

TABLE III
WEIGHTED AVERAGE VALUES OF TRANSFERS OF IMMOVABLES:
1958 - 1963 (in Drachmae)

	Sites	Buildings	Apartments	Farms	Average
1958	26,470	46,181	114,363	9,665	26,075
1959	29,885	56,884	102,443	9,583	27,901
1960	29,127	64,300	105,079	10,178	30,550
1961	34,055	69,291	113,132	11,905	34,586
1962	37,315	72,943	120,417	12,775	37,727
1963	45,607	79,193	138,638	15,928	44,228

The rate of increase from 1958 - 1963 is:

For Sites	72.29%
For Buildings	71.48%
For Apartments	21.22%
For Farms	64.80%
Average	69.61%

Source: Table II.

uniform continuing tendency to understate the value less drastically, perhaps through more effective enforcement of the transfer tax. These data provide no means for comparing price trends in the shorelands with other land prices in Greece, or for determining the extent to which the increases shown are due to shoreland price behavior. For the purpose of this discussion of speculation, it will be assumed that shoreland prices are soaring, since the available data do not establish the contrary. Everyone seems to think that they are, and this belief itself may cause price increases.

It seems desirable to begin by trying to clarify the speculation concept. The term is generally used in contexts which imply that speculation is a bad thing, without explaining how or why it is bad. The process of clarification might begin by attempting to dispel certain common illusions and fallacies about the nature and effects of speculation.¹⁸

If the term «speculator» has any technical meaning it must refer to one who acquires or retains rights in goods in the expectation of making a profit from an anticipated change in their price. So defined, the speculator plays an important beneficial rôle in a market economy. One who plays the securities or produce market is a speculator. So is the sharp operator who buys and later sells land in a rising market. So is the peasant who re-

tains his land with the intention of selling when prices rise. It requires only a small logical step to include any person who acts on the basis of a prediction of price behavior in the speculator class. A belief that prices will drop will induce the speculator to sell short or to sell rather than hold. A belief that prices will remain stable will induce him to lend more money on a given security. And so on. In the context of this project, however, the speculator is one who buys or holds shoreland in the expectation of realizing capital gains from its later sale.

The idea that such gains are at least slightly illegitimate is firmly rooted in the lay mind,¹⁹ together with the belief that speculation is the source of a number of vaguely conceived evils. But to the classical economist the speculator plays an important rôle in driving shoreland prices toward the level at which they will reflect the value of the land at its fullest (economic) development. A «boom» that carries prices beyond this optimum level is possible, deriving some of its impetus from the momentum supplied by the speculation process itself, but the cumbersomeness and expense of Greek land transactions tend to reduce both the possibility of any drastic boom and the potential gravity of its consequences.²⁰ Speculation is not so much a cause as an effect, an effect of the existing disparity between shoreland values and shoreland prices.

There is a group of rather attractive fallacies associated with the idea that speculation in the shorelands results in a misallocation of scarce capital. In simplest form the thesis is that the prospect of large gains induces investors to buy shorelands for speculation rather than to invest in production. But in fact there is merely an exchange of assets between buyer and seller, and a misallocation of capital can result only on the assumption that the seller will use the capital less productively than the buyer would have, had he not bought the land for speculation. A variation of this argument is that the rise in land prices increases the cost of shoreland development and hence limits it. Aside from the questionable assumption that speculation causes prices to rise, this thesis assumes that the seller will put the proceeds of sale to less productive use than the buyer would have. There are no data to support such an assumption of asymmetry in economic behavior between buyers and sellers of shoreland or to show that any assumed asymmetry does not lead to a better, rather than a poorer, allocation of capital.

It can also be argued that speculation tends to magnify an existing unequal distribution of wealth. The theory is that only the rich have savings which can be used to purchase land and hold it for later resale. Since they are in high income tax brackets the incentives toward speculation are greater for

them, and the rich tend, on the whole, to have better information about the market and to be more likely to make larger profits from speculation. There is some validity to this thesis, but it is easily oversimplified. The potential seller of shorelands, who may be a poor peasant, already has savings in land. By merely holding it in a rising market he is able to speculate with it. Only the landless poor are excluded from speculation. Although he may not be able to hold out against the market as long as the wealthy man, the poor speculator may still get greater benefits than the rich in terms of the relative improvement in his economic and social position. It is much easier to tolerate the very rich when one is not very poor.

It may be more fruitful to consider the causes of shoreland speculation. These are of three kinds: 1. A rapid increase in the value of these lands. 2. Subdivision profits. 3. The tax freedom of capital gains.

The primary cause of speculation is the continuing increase in shoreland value. This is itself the product of a number of forces: public and private expenditure on infrastructure, such as roads and transportation facilities, public and private expenditure on the promotion of tourism, the general development of the Greek economy, increasing wealth and leisure among Greeks, better and

cheaper transport facilities from abroad to Greece, and increasing wealth and leisure among the foreign nations which send tourists to Greece. As a result of these factors the demand, and hence the price, has risen rapidly, and no point of equilibrium is yet in sight. Speculation is merely a part of the normal process of price adjustment in the face of increasing value, and one conceivable way to stop speculation would be to try to stop the value rise. The rather drastic measures that would be required, and the extent of their repercussions on the entire Greek economy, seem far out of proportion to the dangers of allowing this kind of speculation to continue. It seems much more desirable and beneficial to allow the normal market forces to continue to operate, bringing prices closer to real values.

Matters become more complicated when subdivision profits are considered. It is generally true that, within relatively broad limits, the unit price of certain kinds of land varies inversely with its area. The price per stremma of large tracts is lower than that of smaller ones, and one who buys a large tract can, even in a stable market, make a profit by dividing it into smaller units for resale. Such profits can be particularly large when existing restrictions on subdivision are evaded. The greater the increase in land values the greater the potential profits of subdivision. Hence rising shore-

land values increase the pressure to evade subdivision restraints.

The subdivision restraints of most relevance with respect to the shorelands are those applicable to forest land²¹ and those applicable to rural land.²²

In substance the former prohibit dividing existing tracts of forested lands; the latter prohibit building on plots of less than 4 stremmata in rural areas. One of the largest sources of profits from shoreland speculation accrues through various devices by which these and other provisions are evaded. The forest restriction is sometimes rather crudely and illegally dodged by burning or cutting the trees or by informally «reclassifying» the land as non-forested. But the safer and more pernicious practice is to acquire official permission to subdivide under the law's dispensing provisions. This requires outright violation or very flexible interpretation of the law by the responsible official, in response to influence or the opportunity for personal illegal gain — an allegedly common form of corruption in Greece. Occasionally the desired result is obtained by special legislation excepting a given tract or a given developer from the law's operation.

The rural property provision is frequently evaded by creating a new «town», so that the land is no longer considered rural (The permitted building lot size in towns is quite small). Sometimes the

scheme is disguised as a «dwelling cooperative», a much-abused institution originally intended to provide low-income housing. So classified, permission to subdivide easily follows, together with other benefits making the resale price rise even further. The rural property controls are also made inoperative by favoritism, pressure, bribes and special legislation.

Thus the whole depressing catalog of favoritism, selective enforcement, influence and bribery is brought into play by the prospect of adding subdivision profits to those to be made from the increase in land values. Individuals and organizations form dubious land speculation enterprises and pseudo-cooperatives for the purpose of exploiting such opportunities. It is this aspect of shoreland speculation that calls for correction, both because it undermines the policy of the restricting legislation and because it aggravates an already serious state of legal underdevelopment in Greece. For Greeks are the chief offenders. It is Greeks who, familiar with the *ambience*, can effectively engage in this activity. The officials who connive with them are Greek.

It can of course be argued that the existence of such large potential profits from subdivision of the shorelands merely means that the laws being evaded are unsound. From the classical economic point of view the market ought to be allowed free play.

If forested or rural shoreland commands so much higher a price for small villa development this represents a higher economic use. The existing laws both hinder development and give monopoly profits to those who successfully evade their operation. This argument suggests two things: first, that a re-evaluation of the policies of such laws may be necessary in view of the rapid changes taking place on the Greek shore and, second, that Greek legal development is lagging far behind Greek economic development. The first is beyond the scope of this project. The second opens up a whole range of considerations usually neglected in programs of economic development.

EXCURSUS: A Brief Homily on Legal Development.

The discussion of subdivision profits serves as one illustration of a number of truths which ought to be obvious. The writer is not, however, aware of any program of economic development in which they have received anything approaching adequate consideration.²³ They are set out here in the hope that they may stimulate some response among those who are active and influential in formulating and executing Greek policy.

Any such policy must be achieved through the law. It is one of the most fundamental rules of a free society that decisions are binding only if they

are put into legal form. This means that when the government seeks to act it must do so in certain ways or run the risk that its action will be found unconstitutional or an *exces de pouvoir*, but it also means much more than that. Failure to take this «much more» into account, both in formulating the policy and in deciding how to go about executing it, is a common and often fatal defect in the development process.

The law is much more than a body of authoritative rules. It is better thought of as a process, a process in which these rules play only a part. To enact a law is merely to add another datum to the mass of existing data to which the process will respond. Those who determine its response are judges, administrators, lawyers, notaries, scholars and, perhaps most important, people. The legal process cannot act independently of them; it is composed of them. The enactment of laws — the legislative process — is only one part of this total legal process. It also includes the judicial process, the administrative process, the private ordering of property, contract and personal relations, every aspect of law enforcement, legal scholarship, the education of lawyers, notaries and judges, the organization and conduct of the legal profession.

It is also useful to think of the law as one aspect of the culture of a given society. Usually it is a very old and very stable aspect. Statutes, which

must be expressed in words, incorporate all the problems of meaning that have been exposed by linguistic theory.²⁴ Those who must interpret, apply, act on the law have to supply it with meaning, and the meaning given is drawn from the culture. A new law tends inexorably to become culturally assimilated, to take on a meaning in application that is consistent with existing legal traditions and institutions. Laws mean what scholars, judges, the legal profession, and the public say they mean. There is no alternative. Even a law whose meaning seems clear must be culturally compatible. If not it will acquire a compatible meaning through tortured interpretation or encounter wide-spread non-compliance. Both are socially expensive.

It is not easy to induce rapid cultural change. In times of relative social stasis the restraining effect of this inertia may be unnoticeable, but in more turbulent times, and particularly when there are deliberate attempts to induce rapid economic and social change, serious tensions may develop. The legislative command may overreach, may make demands on the legal process that it is unable to meet, may offend fundamentals of the legal culture. When the disparity between the new statute's object and its operative legal effect becomes sufficiently great this tension becomes unbearable. In the resulting rupture both the social policy of the statute and the legal process itself are frus-

trated. The result will usually be worse than if the statute had never been enacted.

One of the most common defects of reform legislation might be called a lack of lateral legal vision. There is a very strong tendency for a legal system to be coherent, to hang together. A kind of interdependence is thus created, so that any modification in the system resounds throughout it. Such side effects are to some extent foreseeable, and once foreseen, it is possible to guard against unwanted consequences and make conscious use of those deemed to be desirable. Failure to anticipate such side effects can lead to results which offset, and even outweigh, the direct effects. The reformer who drives straight ahead, without looking to the right or left, can cause a good deal of wreckage on the way, and he may never reach his destination.

There are certain fundamental values that take on particular significance in the legal process. Among the most important of these are compatibility, predictability, impartiality, rationality and proportion. A law that fits into the context of the legal process, is relatively certain in operation, does not embody unacceptable discriminations among those it affects, seeks a result that is generally recognized as desirable and uses means which are reasonably related to the end sought, is a good law. Compliance will be high at low social cost.

All of these rather sententious generalities can be made more concrete and understandable by the following formulations:

1. A reform proposal may, rightly or wrongly, be unacceptable to the legal culture. It may be unacceptable to scholars, judges, the legal profession, the public, or to all of them. Such a law will be ineffective and the social cost of trying to make it effective will be high, far in excess of the gain. If it is thought that the cultural resistance is wrong-headed, a long process of education is in order. Such a process may irk the impatient reformer, but it is likely to be the most effective way of proceeding.

2. A reform may be incompatible with the existing legal process. As such it will share the fate of the culturally unacceptable law. To be effective, it must be preceded or accompanied by a change in the process itself.

3. Within the limits imposed by the culture and the process, a number of possible ways of legally formulating policy decisions is possible. Some will promise greater effectiveness, less social cost or fewer undesirable side effects than others. A conscious choice among them, according to fundamental legal values, is an essential part of any effective process of reform.

These might be called the basic laws of legal dynamics. It only need be added that inaction is

a form of action. To leave the law (taking law to mean culture plus process) formally unchanged in turbulent times will create the same kinds of tensions as do attempts to induce social change. The law contains its own built-in mechanisms for change, but they are very gradual. If the law is allowed to lag far behind, trouble follows. Economic development cannot proceed very far without legal development. A law adequate for a nation of peasant farmers and small fishermen will not support an industrial economy.

Widespread non-compliance, evasion, corruption, contempt for and cynicism about the law among laymen and politicians, all are signs of legal underdevelopment. So are a highly abstract and conceptual legal education and legal scholarship. Where all these exist the legal system is sick. The citizen justifies his form of corruption by pointing to the irrationality of existing laws, to the uncertainty and delays of justice, to the ability of those with friends and money to get favored treatment. The official justifies his corruption by the widespread use of influence and the pay-off and by popular disrespect for and evasion of the law. While these chase each other around a descending spiral, legal education and legal scholarship — and hence the judiciary — retreat into the unreal world of conceptual jurisprudence, avoiding contact with real social problems.

Greece needs legal development as much as it needs economic and social development. Induced legal change is as important to the infinitely complex process we call progress as induced economic and social change. Such change is not accomplished easily; the problem is not so much in the formal rules of law as in the legal process and the legal structure. Very little is known about legal development: change of this kind is seldom planned. But if the same scale of effort had been put into legal as into economic development over the past ten years Greece would have progressed a good deal farther on all fronts. Institution now of an imaginative program of legal development would be both a highly original and, in the social as well as economic sense, a highly profitable venture for Greece.

In the meanwhile Greece cannot stand still. Measures that must be taken can, however, be made a good deal more effective by careful attention to the third law of legal dynamics. This requires examining, and frequently modifying, proposals for action in the light of legal reality, so that they can be made compatible with the culture and the process, consistent with fundamental legal values, and sensitive to side effects. This legal participation must, to be effective, reach well back into the process of policy formulation. To treat the lawyer as a mere legal draftsman, as a

kind of technician, is to postpone his participation in the development process much too far. He ought to be in at the beginning.

TAXATION

The profits from shoreland transactions are, generally speaking, subject only to a transfer tax. There is no capital gains tax, and the difficulties of definition and enforcement of those gains that ought under the law to be treated as income allow some of the profits to persons who are dealers in land to escape income taxation. There is no generally applicable property tax, but there is a tax on income from property. Assessments are made for some public improvements but are usually restricted in effect to lands adjacent to new roads.²⁶

The transfer tax itself is only incidentally a tax on gains; the entire value, including the basis, is taxable.²⁷ The tax must be paid before the transfer can be made by the notary. In practice this means that although the value of the land is the statutory basis of the tax, the stated price is generally used. The value only comes into play if the tax authorities investigate the transaction for evasion and the price, if truly stated, is still some evidence of value. The rate is 9%, plus 2% in certain areas for fire protection. It has been mentioned that the parties always understate the value of the land in order to minimize the tax. Hence the effective rate

is something less than 11%. Leaving this aside, and assuming that the parties split the tax, one who engages in a purchase and later sale in a rising market will pay 11% on the basis (the value at the time of acquisition) and 5½% on the gain. If this gain accrues over a holding period of several years by a person in a high income tax bracket the relative significance of the transfer tax as a gains tax is very small. If one takes the practice of understating the price into account it becomes even smaller. If the speculator does not actually buy the land, but merely acquires a transferable option or contract to sell, it disappears.

Thus the profits from shoreland speculation are only incidentally subject to taxation, increasing the rewards of speculation. Given the existence of a progressive income tax these profits are larger for persons with high income, increasing the existing maldistribution of wealth. The inequity of the present tax régime is very great. Governmental expenditures on infrastructure and the promotion of tourism are a principal cause of increasing shoreland prices, but there is negligible recovery of these social costs from those who receive the benefits. The general improvement in economic conditions in Greece is another factor in increasing shoreland prices. The fisc benefits from increasing income taxes, but profits from land sales are not in-

come and are not taxable at any comparable rate or frequency. The rest of the economy subsidizes the speculator. All those who pay income taxes, and those unfortunate few who are assessed for public improvements,²⁸ do the same.

An increase in values of the sort that is taking place in the shorelands of Greece is an example of pure economic rent in the Ricardian sense, of unearned increment. It accrues without any contribution from the landowner. It would, particularly in a developing economy, appear to be one of the most obvious, equitable and rational bases for taxation. The present position merely magnifies the windfall nature of the profits, exempts him who receives them from contributing to their social cost, magnifies the existing maldistribution of wealth and possibly inhibits, rather than promotes, development.

A proposal that gains from the increase in shoreland values be taxed is, from one point of view, merely a proposal that the existing subsidy for speculators be revoked. Subsidies through special tax treatment are a feature of most tax systems, but ordinarily they are given in return for some supposed benefits. It is difficult to imagine any such benefits from shoreland speculation, except possibly as a way of attracting foreign exchange. Given the present ambiguous Greek attitude toward foreign purchase of shorelands it seems

doubtful that this is a sufficient justification for the subsidy. In any event, Greeks also speculate and are probably much more efficient at it than foreigners. There is no apparent reason to subsidize them.

It is true that there are some advanced nations in which capital gains are untaxed. England is the standard example. But it is also true that many economists disapprove of the British scheme. More important, there is an effective annual property tax in England. In this way the cost of holding land for speculation increases over time, and the owner periodically contributes to the cost of government by paying an annual tax based on the value of the land. In many other countries, for example the United States, there are both an annual property and a capital gains tax. Greece has neither.

It is not recommended that Greece institute a property tax. Even if such a tax were otherwise desirable, the necessary institutions to support it — notably adequate land surveys and an established market in all kinds of land — do not exist. The very extensive administrative and legal structure necessary for its equitable assessment and enforcement are lacking. Given the serious reservations that exist among tax economists about the desirability of a property tax it is doubtful that the extensive innovations it involves should be undertaken in Greece at this time.

On the other hand, it is strongly recommended that gains from shoreland sales be taxed. Assuming an optimum rate structure (discussed below) the predictable immediate consequences would be: a reduction in speculative profits, a more equitable tax system, more efficient and more equitable recovery of the cost of public benefits, less exaggeration of the maldistribution of wealth, a decrease in foreign purchase of shorelands for speculation (and hence a decrease in the inflow of foreign exchange), and the creation of a new source of revenue for the Greek treasury. Such a tax should also tend to produce fuller compliance with the transfer tax by creating a conflict of interest between buyer and seller. It would reduce subdivision profits by subjecting them to taxation. It would be a step forward in Greek legal development.

Such a tax, if imposed only on the land, should not discriminate against shoreland development by Greek capital. In a perfect market it ought merely to reduce the price of the land to the point where the anticipated gains, after tax, were equivalent to the tax-free gains from other forms of speculation. Its principal impact would thus tend to fall primarily on the owner of the land at the time the tax was established. Thus it should not discourage development, even where the potential investor combines gains with income objectives.

The tax would tend to discourage foreign capital from Greek shoreland development, were it not for the 1953 law on foreign investment.²⁹ This law gives government-approved projects a variety of advantages, including exemption from most taxes.³⁰ Presumably a worthy project would receive such government approval. Hence, institution of the gains tax, by depressing shoreland prices, should actually encourage foreign development.

Imposition of the gains tax on improvements, as well as the land, would discriminate against shoreland development by those potential investors combining income and gains objectives, since it would tend to shift such investments to those opportunities in which gains were untaxed. Assuming that this effect would be substantial, two obvious alternatives arise: generalize the gains tax beyond the shorelands, to include all gains in all sectors, or limit the shoreland gains tax to the land, exclusive of improvements. The former is much the preferable alternative.

All of the arguments in favour of taxing the gains from increasing shoreland prices apply with equal force to other kinds of gains. The shorelands problem is merely one example of a basic inequity in the Greek tax structure. Ideally all gains should be taxed; this should be the general rule. Such exceptions as are necessary could be treated as exceptions and be subsidized directly (the preferable

way) or indirectly, through exemptions or other preferential devices. To limit the tax to gains from increasing shoreland prices is to forego the opportunity for a highly desirable reform and to magnify difficult legal problems: how to distinguish, for tax purposes, between shorelands and other lands, and how to distinguish, for tax purposes, between land and improvements.³¹

There is an intermediate possibility, based on the theory that land is somehow different and hence justifies special tax treatment. According to this view, which may be based on nothing other than the relative ease of taxing land, one could rationally limit the gains tax to land and improvements, leaving other types of gains tax-free. While this argument might possibly justify some slight difference in rates, it is difficult to see how it could support the exemption of one and taxation of the other. It would also magnify the legal problem of distinguishing, for tax purposes, between improvements to land (immovables) and movables.

Hence the recommendation is for the imposition of a generally applicable tax on capital gains.³² This is a big undertaking, and no attempt will be made here to develop the details of such a proposal. Three matters do, however, require brief consideration before leaving this subject: realization, rates and the future of the transfer tax.

The typical method of realizing capital gains

is through sale of the asset. The difference between the cost (or other basis) and the price received on sale, adjusted to constant money values, is the gain. The problem is how to treat donative transactions. There are three typical cases: transfers at death, gifts *inter vivos* and sales below value. In the United States the first two are treated alike; the death or gift tax is assessed on the value of the asset at the time of the transfer, and this becomes the new basis in the hands of the donee. The capital gains tax is not applied, there is no «constructive realization» and the old basis is not carried over. The sale below value (with some latitude for the good bargain) is treated as a gift of the excess of value over price, and the purchaser donee acquires the new value basis.

The United States approach to realization in donative transactions is difficult to justify, except on historical grounds. Its only conceivable advantages are minor: the trouble of establishing a basis for purely donative transactions is avoided, and only one, rather than two, taxes need be calculated. It would seem preferable to treat donative transfers as realizations and apply the gains tax to the gain. Consider the taxpayer who realizes a gain and then promptly dies; he will be liable for the gains tax and his estate will pay a death tax on the sale proceeds less the gains tax. There is no apparent reason why his dying one day later

should exempt the gain from the gains tax. The better procedure is to treat the donative transaction as a constructive realization, impose the gains tax, and then apply the gift or death tax to the value of the asset, at the time of the transaction, less the gains tax.

In establishing rates, two principal approaches exist: to treat gains like other income, taxable at the same rates, or to treat them as *sui generis* and provide a separate rate structure for them, as is done in the United States. The former is clearly the preferable approach. Logically there is no distinction between capital gains and ordinary income except the rate of realization; one is realized all at once and the other gradually. Changes in the value of a capital asset, like the accrual of other income, take place over time. In the case of ordinary income there is an annual accounting period; the income for that period is calculated, the tax is assessed, and a new period begins. But the gains accruing over holding periods of more than one year represent more than one accounting period, and it is inequitable to tax them at progressive rates in the year of realization.

The obvious answer is to allow such gains to be spread over the holding period, with the gain for each tax year treated as ordinary income in that year and taxed as such. There are various ways to go about this. One is to require the taxpayer

to report capital appreciation as an item of income in each taxable year (just as he is allowed to deduct depreciation). Another is to reopen his returns for the years of holding and assess the additional taxes for each such year in the year of realization. Both of these, and other conceivable approaches, have their own defects, and absolute parity of treatment is impossible, but use of a separate rate schedule for gains leads to even greater inequities. It is also a more complicated matter, both for the taxpayer and the tax collector, to treat gains as ordinary income. This is, indeed, the strongest argument for a separate flat rate structure of the sort that exists in the United States for capital gains. But it should be noted that this merely tends, by placing extreme importance on the distinction between capital gains and ordinary income, to shift the problem to the legal system. It is doubtful that there is any saving in the actual costs of reporting, assessment and collection. If one adds the social cost of the inequity of special capital gains rates, the United States approach would seem to be a more costly one than that here recommended.³³

Enactment of a generally applicable capital gains tax in Greece would provide an appropriate occasion for reconsideration of the transfer tax. As pointed out above, it already operates as a crude gains tax, but this is neither its principal

impact nor its principal function. Like other transaction taxes it increases the price of the commodity, but unlike other such taxes there is no end to the process, since land is neither consumable nor depreciable. It differs from gift and death taxes both in its restriction to land (and improvements) and in the fact that it applies to market, rather than donative, transactions. Indeed, one of its principal effects is to make land less alienable, impeding the formation and operation of a land market. A part of the transfer tax is earmarked for fire protection, another for roads and another for the lawyers' pension fund, but there is no rational relation between the rates and frequency of incidence of the tax and these services. The remaining larger portion of the tax goes into the general fund. Conceivably a part of this could be thought of as paying for the system of land records, which would be rational, but it is inconceivable that the records are that costly to establish and maintain. If they are, there is something seriously wrong with them.

On the whole, it is difficult to find any rationale for such a tax other than convenience; land is relatively easy to tax, and land transactions are a convenient source of revenue. Indeed, the tax smells of an earlier age, when land was the principal form of wealth and agriculture the principal form of production,³⁴ when land sales were in-

frequent in rural areas and urban land problems were not thought to be very important. Those days, in Greece, are gone forever, but the transfer tax lingers on. It is strongly recommended that this tax be reduced to a rate — certainly less than 1% — adequate to maintain the land records.

There would, of course, be some loss in revenue. The data are set out in Table IV. The extent to which this loss would at the outset be offset by the gains tax is problematical, but over time there should be a substantial increase in revenues. There would also be a clear gain in tax equity and rationality and in the economic values that flow from a freer market in land. The reputedly highly effective staff and records now employed in enforcing the transfer tax could then be used in enforcing the more productive, more equitable, and more rational tax on capital gains. That tax, it should be emphasized, has a built-in tendency toward self-enforcement. Buyer and seller have conflicting interests; it is in the interest of the one to understate and of the other to overstate the price. This effect can easily be over-emphasized; enforcement is always going to be necessary, but the tendency does exist and is significant.

To one familiar with Greek tax history these recommendations may have a disturbingly familiar sound. In 1919 a tax on the «automatic increase» in land values was enacted.³⁵ It was re-

TABLE IV

TRANSFER TAX, TOTAL TAX AND TOTAL GOVERNMENTAL REVENUES IN GREECE, 1954 - 1962
(in thousands of Drachmae)

	Transfer tax	Total Govt. revenues	% of total Govt. revenues from transfer tax	Total taxes	% of taxes from transfer tax
1954 - 55	170,834	10,804,513	1.58%	7,498,073	2.27%
1955 - 56	325,369	18,980,491	1.71%	14,040,640	2.31%
1957	272,777	14,438,797	1.88%	10,932,048	2.49%
1958	315,268	14,728,051	2.14%	11,959,268	2.63%
1959	320,501	16,546,272	1.94%	11,822,386	2.71%
1960	366,168	18,170,949	2.01%	12,786,740	2.86%
1961	400,284	20,725,502	1.93%	14,330,337	2.79%
1962	478,899	21,704,197	2.21%	14,898,272	3.21%

Source: Annual Reports of the Public Accounting Department.

pealed in 1929 and replaced by the ancestor of the present transfer tax. What is here proposed may thus look like a reversion to an earlier, unsuccessful tax, but it is not. The 1919 tax, inspired by followers of Henry George, was a tax only on the unearned increment in land and was aimed primarily at land speculation in Athens. Its brief life coincided with one of the most difficult periods in modern Greek history, a time of war, revolution, occupation, dictatorship, the reception and resettlement of hundreds of thousands of Greek immigrants from Asia Minor, inflation, and severe fiscal instability. It was regarded by its opponents as «socialistic». In sum, it was inequitably limited in its impact to land, too narrow in its objectives and, in all probability, too advanced for the Greece of that time.

The present proposal, even in the context of the democratic, rapidly developing Greece of today, may possibly place too great a strain on the legal process and encounter serious problems of cultural compatibility. The achievement of its worthy economic and social objectives could be frustrated by the backward state of legal development in Greece. The basic equity of the proposal and its tendency toward self-enforcement are helpful characteristics, but it should not be assumed that they are enough. The returns will be in direct proportion to the investment made in educating officials and

the public to appreciate the purposes and understand the operation of the tax and in modifying the legal process so as to make its collection and enforcement effective. This is true of any reform, but it is, as was emphasized above, too often ignored.

CONCLUSION

The current public polemic about foreign acquisition of Greek shorelands and speculation seems to the writer to be both exaggerated and misdirected. It does, however, serve the useful purpose of drawing attention to three clusters of real problems: the nonexistence of a comprehensive, coherent shoreland policy, the tax freedom of capital gains, and the lag in Greek legal development. Of these the last is the most fundamental and, in the writer's view, the most urgent.

The observations and recommendations herein are offered with more diffidence than may appear to the reader. But of the backwardness of Greek legal development there can be no question. The evidence is too clear to doubt that enlightened programs of economic and social reform place too great a burden on an inadequate legal system. This is not an indictment of the legal profession or the law schools or the Ministry of Justice; it is an observation of the fact that in Greece, as in many other nations, fundamental economic and social reforms are not accompanied by equally fundamental legal reforms. In time a legal system designed for minimum intervention in a market eco-

nomy and a Darwinist society breaks down when called on to support extensive economic and social planning.

A first step in legal development is realistic, factual research into the actual, as distinguished from the theoretical, operation of existing legal institutions. The United States is generally conceded to be the nation in which this kind of research has been most effectively performed, and a good American law school is the ideal place for Greek lawyers to get the training that will enable them to do this kind of thing effectively in Greece. A number of Greek lawyers have already received such training and could form the nucleus of a Greek Center of Legal Research. The second step, proposals for fundamental legal reform, would grow naturally out of their research, and the third step, their participation at the highest levels of economic and social policy formation would, hopefully, follow. The writer's final recommendation is that such an institution be established in Greece.

NOTES:

1. Statistical yearbook of Greece, 1961, p. 2.
2. Ministry of Coordination, Northwestern Greece: A Feasibility Report on the Tourist Development of the Coast and the Islands (1963); Peloponnese: A Feasibility Report on the Tourist Development of the West Coast and the Islands (1963).
3. The relevant provisions are articles 967, 968, 970 and 1054 of the Greek Civil Code and Compulsory Law 2344/1940. In fact there is widespread monopolization of beaches, some clearly illegal but some on the basis of special legislation which appears to authorize the practice. The Greek National Tourist Organization, for example, takes the view that its projects are thus privileged. See n. 4, *infra*.
4. The law referred to is Compulsory Law 2344/1940. It appears to provide the basis for extensive controls over shoreland development, but there is no evidence that it is regularly used. One reason may be that the construction of new tourist facilities is undertaken almost exclusively by or through the National Tourist Organization which has its own enabling and operating legislation (Compulsory Law 827/1948) which it regards as superseding the 1940 law as to its own projects. Letter of July 20, 1964, from Directorate of Technical Services, Greek National Tourist Organization.
5. According to an official source, the Greek government is actively considering the establishment of

extensive controls over the shorelands. Letter of July 20, 1964, from Directorate of Technical Services, Greek National Tourist Organization. For a description of existing urban planning legislation and practice in Greece, see Tomazinis, *The Application of Advanced Planning Practices to Greece* (unpublished thesis, Georgia Institute of Technology, 1959).

6. In the United States no overt process exists for adjusting to such gains and losses; they are formally treated as unavoidable products of governmental action and allowed to remain where they fall. But their existence, particularly where the effects are substantial, has unavoidable effects on the planning process. Requests for variances and use permits are more likely to be granted where application of the plan produces economic hardship, and particularly drastic effects may lead to a finding of unconstitutionality.

In England an attempt was made to offset such products of planning. The scheme involved: 1. expropriation of the improvement value of all land; 2. prohibition of any improvement (even in accordance with the land use plan) without government permission; 3. sale of improvement rights to one granted such permission. Unfortunately this experiment was discontinued, as a result of a change of government, before it had been fully tested in operation.

7. From 1954 through 1962 the reported invisible receipts from tourism in Greece grew from 25,325,000 to 75,986,000 U.S. dollars. During the same period the gross national income increased from 52,484 to 103,136 million drachmas and the net national

income from 49,696 to 97,518 million drachmas. The total percent of growth in that period thus was 200% for invisible receipts from tourism, 96.5% for gross national income and 96.2% for net national income. The average annual rates of growth were, respectively, 14.7%, 8.8% and 8.8%. All figures are adjusted for constant prices. Source: Statistical Yearbook of Greece, 1963, pp. 371, 389.

8. The law is no. 3250 /1924, as subsequently amended. There is apparently no question about the constitutionality of such legislation, even though the Greek Constitution, in art. 13, establishes the principle of equal treatment of aliens. The discrimination against aliens is justified by the requirements of national security. Whether a similar discrimination could be constitutionally supported on such reasoning as has so far been advanced against allowing aliens to acquire ownership of shorelands is not so clear.
9. See n. 3 *supra*.
10. This point, among others, appears in the letter from the Greek National Tourist Organization, cited *supra* n. 4, which decries «profiteering to the detriment of the owners, who are generally poor farmers...»
11. Thus a Greek writing in the English language Athens Daily Post of July 18, p. 2, col. 6, expressed the fear that «our country will become merely the summer resort and the servant of the other European countries». There is also a reference to acquisition by aliens «at humiliating prices» in the letter from the Greek National Tourist Organization, *op. cit. supra* n. 4.
12. It should be noted that it may not be easy to cheat

Greek peasants in land transactions. They are widely believed by Greeks to be very knowledgeable about values and excellent bargainers. In the course of this study some evidence to support this view emerged. One reported practice is for the peasant to sell a small piece at a low price, as a kind of teaser, and then raise the price sharply on the purchaser who, now committed, needs more land to complete his acquisition. It is quite possible that where cheating occurs it is the foreigner who is the victim.

13. This is the most commonly suggested remedy. Another is expropriation by the state of all valuable shorelands, with development allowed to licensees under long-term leases. Those who make this latter suggestion seldom indicate any awareness of the immensity of such an undertaking or the complex problems it would create.
14. The Ministry of Justice requested such reports from Recorders in October, 1962, and May, 1964. These reports cover transactions for the period January 1, 1960 - May 30, 1964. The Ministry has very kindly made these reports available for this study, and some of the information drawn from them appears in Table I, below.
15. The number of tourist arrivals in Greece in 1962 is reported to have been 597,924. The number for 1954 was 208,386. The annual rate of increase since 1958 has been on the order of 20%. Source, Statistical Yearbook of Greece, 1962, p. 301 and 1963, p. 311.
16. It has been suggested that some of the foreign exchange may never enter Greece but merely be deposited to the seller's account in some foreign bank.

If true, this would seem to be a problem created more by Greeks than by foreigners, calling for more effective formulation and enforcement of Greek monetary legislation.

17. This kind of mistake is also made in non-Mediterranean countries. Perhaps the classic example is the prohibition experiment in the United States. That attempt to stop people drinking had a number of notorious effects: the price of liquor went up, the quality went down, the liquor industry was driven underground, the criminals who exploited the situation made large profits which they used to finance other criminal activity, these profits escaped taxation, public officials were corrupted, gang warfare disrupted the peace, law enforcement and respect for the law degenerated, drinking acquired a glamour it formerly lacked and, in all probability, liquor consumption increased.
18. The writer, who is not an economist, is ideally qualified to provide such clarification. He fell easily prey to these illusions and fallacies and was patiently educated out of them by the combined efforts of Professors Kenneth J. Arrow, of Stanford University, USA, and G.C. Archibald, of the University of Essex, England, both of whom were guest scholars at the Center of Economic Research during the period of this study.
19. And in some official minds. In the letter, cited *supra*, from the National Tourist Organization there is reference to increases in prices which do not «correspond to... actual value» as obstructing «beneficial transactions» and forming a «barrier to investments». In the context, however, it is likely that the writer is thinking of tourist development as the

highest possible use, since he mentions certain areas in which «although... suitable for large tourist installations... there is danger of the... effort being frustrated because of the great demand for the land...».

20. It should be added that Greek financial institutions seldom lend money to finance purchases of land. Loans are made for land improvement and construction, but at a very conservative proportion of asset value. Aside from subsidized loans to build tourist hotels, which may reach 70% of asset value, the typical practice is to lend no more than 30 - 40%. Any «bust» following a boom in shoreland prices would probably have only limited reverberative effects on Greek financing institutions.
21. Law 4173/1929 as amended.
22. Decree Law of Aug. 16, 1923, as amended.
23. The only discussion the writer has encountered is the interesting article by A. Pepelasis, the Legal System and Economic Development of Greece, 19 J. of Econ. Hist. 173 (1959), describing some of the ways in which the new Greek Civil Code facilitates economic development.
24. The standard work is Ogden and Richards, *The Meaning of Meaning* (1959).
25. For a lucid description of taxation in Greece see Turvey and Break, *The Greek Tax System and Economic Development*, c. I (Center of Economic Research, Monograph Series, no. 10, 1964).
26. The process of assessing contiguous landholders for the cost of road construction was established by the Ordinance of December 31, 1836. The method of assessment was quite direct; for a road up to 10 meters in width the owners of adjacent property

on each side were required to donate up to 5 meters each. For broader roads 5 meters were still «assessed», and for squares 10 meters. In 1880 the road assessment was increased to 10 meters. It continues to exist today. Its inequity is obvious. In addition, a more general power to impose a tax on owners who had benefitted by public improvements was established by Law 5269/1931. This was replaced by Compulsory Law 1475/1950 and Compulsory Law 2079/1953, as modified by subsequent ordinances and decrees having similar objectives. This legislation is widely regarded by lawyers and by government officials engaged in its administration as both inadequate and unfair in operation. There are some grotesque examples of drastic incidence of both the 10-meter assessment and the taxes on increased value due to public works, but the basic complaint is inequity. Some people contribute more than their share and others less. Some insight into the administration of the laws reassessments on increased value due to public works can be gained by reading Decision No. 1106/1964, of the Greek Council of State.

27. The original legislation was Law 4225/1929, as modified by Law 1521/1950.
28. See n. 26, *supra*.
29. Law 2687/1953.
30. Whether such a law is, on balance, beneficial to Greece is beyond the scope of this study. It would be interesting to see an attempt at evaluation of its costs and benefits (including a realistic estimate of the leakage allowed by the lack of anything approaching adequate accounting provisions in the law itself). A growing number of respectable eco-

nomists regard tax incentives for foreign investment as «unprofitable».

31. It is a common failing, in adding up the costs of proposed reforms, to neglect the social cost of conceptually clear but factually obscure distinctions. They permit evasion, produce confusion and cause litigation. It is difficult to avoid their occasional use, but they are very expensive to maintain.
32. Turvey and Break, *op.cit.supra* n. 25 make similar recommendations on substantially the same reasoning.
33. In the case of gains by foreigners from Greek transactions, a flat rate structure may be justified by the difficulty of relating such gains to income taxed elsewhere.
34. For half a century after independence, almost the entire Greek budget was financed by a levy of one-tenth of land production, continuing the system established by the Turks.
35. Law 1642 /1919.

