

RETURN TO THE COMMON USE

THE Commonwealth of Pennsylvania condemned" (i.e. expropriated) "a portion of property upon which a gravel pit was located. The landowners attempted to show that the value of the property was \$382,000 before the taking and \$90,000 thereafter. They valued the sand and gravel apart from the land and attempted to show the future profits which they might derive from the excavation thereof. . . . The Commonwealth acknowledged that it was required to pay at least the \$65,000" (i.e. the value of the mere land) "determined by the Board of View. On appeal the Commonwealth's position was upheld."

I take these lines from *The Appraisal Journal*, January, 1961. The decision was given by the Supreme Court of Pennsylvania, re *Sgarlat Estate v. Commonwealth*, 158 A. 2d. 541.

Why did the Supreme Court reject the claim for compensation in respect of the "hidden treasure", i.e. the not yet excavated sand and gravel? Listen to the Court:

"The Commonwealth does not condemn an owner's business acumen or its results expressed in value. It condemns his property, which one man may use exceedingly well, another ill, and a third not at all. The use of one's talents is a private, not a public matter. *If we own part of the common earth, we risk having to return it to the common use*, and what we may expect to get for it in compensation is the common value. We so admire industry and ingenuity that the obverse of the appellant's picture is easier to see fairly.

"If his fields contained diamonds and he never raised his hand to take them, he could not expect to be compensated after condemnation for all of his estimated diamonds at Tiffany prices.

"No more should the owner expect it who does make ado to realise them and sell them: he has done so while he owned them, but when the public needs his land for the general good, he may not hope to be paid thereafter for what he may no longer realise. All he can get is the value of his land as affected by an idea that may appeal to the general or average buyer."

Mind those words! "*If we own part of the common earth, we risk having to return it to the common use.*"

So far as I know, this is the first time that a supreme court acknowledged the principle according to which this good earth is a common earth, the value of which belongs as of right and by its very nature to the community, so that, consequently, the legally protected owner risks having to return it to the common use.

As a matter of course, in a country governed by the rule of law the land will never be taken from its owner but by due process of law and for a just price. The price must be the same as the market value at the time of taking. If the government (and not only the supreme court) had recognised and accepted the fundamental truth that "God gave the land to the people",

they would have acted on the strength of this truth and, by way of land-value taxation, reduced the market price of land so much that the Commonwealth of Pennsylvania would have been ordered to pay, say \$650 instead of \$6,500!

The above quoted revolutionary judgment involves two other points of general interest.

Firstly, there is the sentence: "It condemns his property, which one man may use exceedingly well, another ill, and a third not at all." This does not imply that the compensation paid for expropriated property would be the same for a well improved property as for a poorly or not at all improved property. You have erected a skyscraper on your plot, haven't you? Well, they will pay for the skyscraper, too. But whether your skyscraper stays empty or is occupied by industrious and enterprising people, makes no difference, unless its value (as estate) is affected thereby.

Secondly: "Dust thou art, to dust returnest." Whatever came from the dust, will be returned to dust, our body, man-made things, diamonds But not man's immortal soul! And if this soul didn't come from the common earth, we also do not "risk having to return it to the common use."

Soul—this means genius and creative power, too. If it cannot be expropriated, it should also not be taxed. "The Commonwealth does not condemn an owner's business acumen or its results expressed in value The use of one's talents is a private, not a public matter."

But, in fact, genius is subject to taxation. The imbecile doesn't pay a penny, though he enjoys the same common earth, the same common civilisation, the same protection. He owns lands — and sells them at a profit, if you and I and the whole crowd enhance their value by our common labour and toil.

Now take Bernard Shaw. He was a true genius, and he was industrious, too. Thus his own hard work and his own ingenious writing brought him lots of money, and he had to pay income tax thereon "in the highest brackets"! In the last decade of his life he wrote and published far less than before. Why? Did his genius come to the end of its tether? Not in the least! Shaw confided the reasons: the income tax authorities were not entitled to allow him the deduction of all his actual expenses and other outgoings. Thus, the sum of these expenses and the taxes exceeded the actual gross earnings! That means: every new book written by Bernard Shaw entailed a net loss. But Shaw was a wise man, so he refrained from writing new books in order not to suffer a loss.

Don't say that minor amendments to the law could remedy the situation. What is wrong is not the one or other technicality, but the principle. Genius, business acumen, creative power and talent ought to be liberated from taxes. Land "is part of the common earth", and "we risk having to return it to the common use", by way of taxation or by way of expropriation. But your soul did not come from the dust and shall not return to it, neither by way of expropriation nor by way of taxation.

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