

Liberty and Property

A. J. CARTER questions the logic and assumptions of Professor D. R. Denman in his approach to the rights of property and the liberties of the individual as contained in his article in *Economic Age* July/August, 1970 entitled "The Land Commission and Private Property."



PROFESSOR DENMAN'S article deserves close examination for two reasons; first, because its author is a man whose opinions on land carry weight; and secondly because the relationship between the individual and the community as it affects land is one of the most fundamental aspects of social organization.

Professor Denman regards private property in land as an essential safeguard of our individual liberty, and, by demonstrating the monstrous character of the Land Commission, he is able to subtly influence his readers into sharing that belief. It is a polished presentation, and was, one suspects, even more persuasive in its original form as a lecture than it is in print when the structure can more easily be inspected for faults. Although much of the edifice is sound in itself, it is made to lean sharply to one side by an enormous crack in the foundations.

The principle, ascribed to John Locke, that men are endowed with a natural right to property because every man should enjoy the right of property over his own body is a valid one, and it follows that the right of property must extend to the tangible results of the use made of the body's faculties: what a man makes is his own. Land, however, exists independently of the use of any of man's faculties: it was not created by man nor can man yet destroy it: by the exercise of his faculties man merely changes its form, converting natural resources into wealth which embodies his labour and is therefore a proper object of individual ownership, but gaining no right of ownership over the land itself.

CRUCIAL OMISSION

The author mentions the widely held conviction of an earlier age that God had given the bounties of nature to all men, but makes no attempt to elaborate or refute that conviction. This omission is crucial, for if it is true that the bounties of nature are available to all men, and that all men have equal rights to land, the expression of the community's interest in land is not a bureaucratic outrage but an indispensable means of establishing the rights of individuals. If this interpretation is correct it significantly modifies the next stage of the thesis.

"We live," writes Professor Denman, "in an age when mass man, the common man in every man, and every

man in common, has become personalized. The community is referred to as a person with rights and moral claims."

At a time when national and local organs of government and other public agencies are intervening increasingly in the lives of citizens, the Professor is right to identify this personalization of the community as something to be watched and feared, and to emphasize that it is not only under a dictatorship that individual freedom can be infringed. A democratic form of government can and often does mask an increase in collective power which, because it is exercised in the name of the people, is difficult to challenge.

LAND AND MASS-HYPNOSIS

These ideas of "the personalization of mass man and the subjugation of real man" have widespread application today. The fallacy lies in applying them to the one area where they do not necessarily apply. If the community's interest in land is genuinely to establish the rights of all its members, it is acting not for "mass man" but for real men; only its method of doing so may be the work of "mass man."

Professor Denman seems enraged by the attitude that there is a "folk-title" over land—"the British people," he complains, "are submitting themselves to the suggestions of mass hypnosis"—and protests that there is no such attitude to other forms of property such as motor cars, clothes, and jewellery. People do have a tendency to believe anything they are told if it is repeated or implied often enough, as witness the absurd fad for indicative planning or the obsessive commitment to a fixed exchange rate, but I would suggest that "mass hypnosis" has nowhere been more evident, over the last few hundred years, than in the propaganda that private property in land is as sacred as is private property in wealth produced by man.

The assumption of a folk-title over land has its dangers—it could lead to demands for nationalization of land, which would certainly put our liberties at risk—but in itself it may represent only a growing realization that private ownership of land does not have the moral justification of private ownership of wealth. The energies

of those who want to defend and strengthen the independence of the individual should be utilized in preserving private possession of land rather than private ownership. Secure private possession, with maintenance of the occupier's freedom to do what he likes with his land



(subject only to a planning framework), could be accompanied by the imposition of a tax on land values which would establish the equal rights of all men to land and also provide a stimulus for its improved use.

The value of land is a natural community revenue, the collection of which would not only combine the community's interest in land with the private possession needed for its optimum development but also allow a corresponding reduction in other kinds of taxation which are an interference with the right of ownership in wealth created by human exertion. In addition, a tax on land values would have a beneficial effect on problems such as the shortage of available land, inflated prices, and the lack of incentive to put land to better use.

MISGUIDED RESPONSE

On the other hand, the Land Commission and betterment levy were completely the wrong prescription to cure Britain's land problems, which they have aggravated. Professor Denman, while diligent in his attack on the Commission and the levy, shows no awareness of the problems to which they were a misguided response, perhaps because many of those problems are direct consequences of private land ownership. His line of criticism (with which many people will wholeheartedly agree) is that the commission, with its far-reaching powers of compulsory purchase, was an instrument of injustice which was already a danger to the individual and could ultimately threaten wholesale nationalization. "The Land Commission is the first public authority in Britain endowed with arbitrary power to take land. . . The established convention is to specify in the enabling statute the purposes for which compulsory purchase can be resorted to and to require the authority publicly to state the purpose prompting its action," but the Land Commission was merely required to give its reasons which it could think up for itself. The Land Commission Act also provided for use of the vesting declaration—a device to avoid the normal process of conveyancing—and for the Minister to make an order denying owners of land the customary opportunity for making objections if he considers it "in the public interest"—a phrase that the Professor strikingly describes as "so porous as to absorb

any interpretations of despotic intent." Moreover, in order to match the special powers given to the Commission, the powers of the planning authorities have had to be extended and the authorities have also been authorized to use the vesting declaration in some circumstances.

These several increases in the powers of expropriation must cause anxiety to all who value freedom under the law, and they would be as menacing to private possession of land as they are to private ownership.

RIGHTS RECONCILED

Professor Denman accepts the need for compulsory purchase for selected purposes and suggests that when the purpose of the acquisition has been fulfilled the land could be handed back to private owners where this is feasible. He also suggests that there should be more consultation with land owners when land is acquired and that (to make this possible) there should be official schedules and maps showing ownership of land. Compulsory registration of land and the compilation of these records are prerequisites of a tax on land values and therefore measures which all who advocate that tax would support.

In summary, there are two main comments to be made on Professor Denman's article. The first is that one must disagree with his assumption that the private ownership of land has the same moral sanction as the private ownership of man-made wealth. The second is that his strictures on the Land Commission are justified and would be equally valid if, instead of private ownership, there were a system of private possession of land combined with payment of a tax on its value. Such a system, accompanied by reductions in other forms of taxation, would establish the equal rights of all individuals to land and at the same time respect every man's right to his private property; it would meet the needs of natural justice while keeping collectivism at bay and fortifying the liberties of the individual.



"Now I want you all to come forward with your land. As an inducement, the moment you do, I shall hit you over the head with this club."