

Property Rights And the Power to Tax

By J. RUPERT MASON

PERHAPS the clearest explanation of "property rights" in a title-deed to land ever given by our Supreme Court, was enunciated over 100 years ago by Chief Justice Marshall in the Providence Bank Case, where the Court decreed: "Land, for example, has in many, perhaps all of the states, been granted by the government since the adoption of the Constitution. This grant is a contract, the object of which is that the profits issuing from it shall insure to the benefit of the grantee. Yet the power of taxation may be carried so far as to absorb these profits. Does this impair the obligation of contracts? The idea is rejected by all."

Obviously, should the power of taxation be directed at "absorbing these profits," it could and would absorb the full rental value of all land. Once this was so absorbed, there could and would remain no rent which an owner, as owner, could keep out of any land rent collected from a tenant or user, and since it is only the capitalization of any *net* rent (after taxes) which gives a so-called "market value" to any land, the many billions of supposed "private property rights in land", would melt away, without impairing any "obligation of contract"!

The Court ruled unanimously in the two famous Pollock cases (157 U.S. 429 and 158 U.S. 601) that a tax on ground rent is a direct tax, which cannot be passed along to a tenant nor anybody else. All economists now agree that taxes so demanded for the support of government, cannot add to the cost of production of any product of labor and capital, nor lessen consumer purchasing power, nor cause any rise in the cost of living. Since most taxes now imposed by the states and federal government can be and are shifted to consumers, this is a very important consideration.

The Minnesota Supreme Court (in *State v. Aiken*) recently defined the power of a state to demand the rental value of land, as a tax, in language that must have spread dismay among the great battery of attorneys for mortgage holding groups listed as counsel for the losers. The Court held squarely that the right of the state to take all of the rental value of all land is absolute, except as the Constitution of some states has been amended to impose limitations on the State's right. The recent drive in Florida to get such a Constitutional amendment is but one of a series of similar "putsches" all planned for many states. The Governor of Florida deserves much credit for vetoing the proposal.

If the leading "capitalists" were known to be behind propaganda aimed to amend the federal income tax law, putting a "ceiling" on the surtax rates Congress could impose, it would be far less of a move to "hamstring" the sources of

revenue needed to support government, than is the richly financed propaganda to reduce taxes on the "small home and farm owner," few if any of whom hold title to the really valuable lands in the cities, or the land containing the rich mineral resources, needed for national defense. It is both unjust and unnecessary to tax *earned* incomes and the products of labor, until the government has first exercised its right and duty to take the rental value of land (exclusive of improvements) from those now holding a title deed to it. By so collecting its revenues it would "impair no obligation of contract," and would leave to the producers the full product of their labor. By failing to utilize its power to so collect its needed revenues, it is forced to confiscate earned incomes and the products of labor and capital, which are our "private" property.

Freedom, equality of opportunity and democratic rights under the "rule of law" depend upon sound and just principles of taxation, without which totalitarian control of the individual is inevitable. But before we can restore a state of society where the advantages and privileges are again more widely shared by the people as a whole, we must more clearly mark the line between *public* and *private* property, and see to it that our federal and state officials mark it also. A reading of the Court decisions, above, is a good first step.

Wm. A. White on the Single Tax

IN his Kansas paper, *The Emporia Gazette*, William Allen White wrote the following editorial (August 20, 1941): "Congress is defining its powers so broadly that it is beginning to consider the regulation of rent — rent from land. Congress surely has the power to fix the rent that any person may appropriate. If Congress would subject the rental value of land to its taxing power, Congress could fix rent problems at the source. It could tax idle lands which produce neither guns nor butter into coming into whatever productive value they have.

"The Single Tax idea which gave Henry George his fame may be just around the corner. The idea has intrigued economists and social scientists for fifty years and more. It didn't seem then to have any constitutional validity, but our Constitution seems to be giving Congress such broad powers that it would not be surprising to see Congress assuming the powers that would establish Henry George as a major saint in the American calendar."

Our San Francisco correspondent, Mr. J. Rupert Mason, upon congratulating Mr. White on his editorial, received the following reply from the editor of *The Emporia Gazette*: "Thank you for your kind words about my editorial. I am glad it pleased you. There will be more of the same kind, I hope, later."

We hope so, too.