

child, sympathy had never been his portion, and the love of a mother who only a short time before held him in her arms, had all been forgotten in the whirl of wheels and the awful silence of a din that knows no respite.

"There were dozens of just such children in this particular mill. A physician who was with me said that they would all be dead, probably in two years, and their places filled with others—there were plenty more.¹ Pneumonia carries off most of them. Their systems are ripe for disease, and when it comes, there is no rebound—no response. Medicine simply does not act—nature is whipped, beaten, discouraged, and the child sinks into a stupor, and dies."

If it is God's purpose to let us discover in ourselves the depths of our depravity—the stench of our social stinks—the degree of hardness in our hearts—the verity of our vanity in improving upon the laws of Nature—the pomposity of our professorial piffle—the banal ballyhoo of our stuttering statesmen—the petrified culture of our pretentious aristocracy—if all these discoveries are His purpose then our stupid slowness in awakening to our inhumanity o'er tops all other weaknesses, greed and avarice, poll-parrot pretensions and self-centeredness which consumes our days from birth to death.

Occasionally there is a commotion among the well-battered faces of those who cling tenaciously to things-as-they-are. Occasionally someone takes up the battle in behalf of the economic slaves who dully look with suspicion upon the pioneers who would save these slaves who have been led to believe that "the poor ye have always with you" was a command, not a warning. Occasionally a Luther, a Savonarola, an Emerson, a Garrison, a George, a McGlynn has stepped forth with vehement protest against this economic servitude only to be classed as a renegade by those who believe that poverty is essential to dividends and to "capital".

In 1900 the superior race envisioned by Aristotle, nearly twenty-five centuries before, easily could have marshalled, in one small area of this nation, "twenty thousand pigmy bondsmen, half naked, half starved, yellow, weazened, deformed in body, with drawn faces that show spirits too dead to weep, too hopeless to laugh, too pained to feel." Today ten or fifteen millions of fathers and mothers, maturing sons and daughters, easily can dwarf in numbers these twenty thousand pigmies as they form an army of unemployed—dwarf them in numbers, but not in shame, as the victims of a vicious tax system which buys the so-called culture for a vainglorious aristocracy which proudly bears a coat-of-arms in the sign of the almighty dollar.

The sweat-shops of Hester Street—the depravity and degradation of Whitechapel—the Ghetto of Venice—the mines of Siberia—these have been the incubators of Aristotle's superior race.

Rent in Jurisprudence

By JACOB SCHWARTZMAN

ALL Georgeists know—or should know—the law of rent as formulated by Ricardo, and since accepted by all economists of note. In *Progress and Poverty* the law of rent is stated thus:

"The rent of land is determined by the excess of its produce over that which the same application can secure from the least productive land in use."

In this article, I intend to discuss not the law of rent, but the law *on* rent, i. e., the definitions and functions of rent as interpreted and decided by authoritative legal minds.

The definition of rent as given by Henry George is as follows:

"Rent is that part of wealth which is given for the use of land."

The following are the definitions of rent by accepted authorities of the legal profession:

"Rent (Lat. *reditus*, a return). A return or compensation for the possession of some corporeal inheritance. A certain profit, either in money, provisions, or labor, issuing out of lands and tenements, in return for their use.

"The compensation, either in money, provisions, chattels, or labor, received by the owner of the soil from the occupant thereof." (Bouvier's Law Dictionary)

The late Professor John H. Easterday, in *The Law of Real Property I*, 1932 edition, pp. 51-52, defines rent as follows:

"A rent is a right to a certain profit issuing periodically out of lands and tenements.

"A rent may be created either by conveying land to another person and reserving the rent to the grantor or his heirs, but not to a stranger, or by granting the rent to another person and retaining the land. . . .

"Care must be exercised by the student at all times to note the exact sense in which the term 'rent' is used. The right to demand a profit should never be confused with the profit itself."

Formerly, it was possible not only to sell land, and thus to realize capitalized rent, but also to reserve a perpetual rent in the land conveyed. Such rent inhered in the land, and was forever payable to the original grantor, his heirs, or to any person or persons to whom such an everlasting right was sold. It is interesting to note that while the New York State Constitution abolished such rent, so far as agricultural lands are concerned, this rent in perpetuity may still be conveyed in the cases of city structures or lots, mining lands, etc.

A tenant's liability for rent is not affected by condemnation of part of the leased premises; but where the estate

of both landlord and tenant in the entire premises is extinguished by condemnation, the obligation to pay rent ceases. (*Corrigan v. Chicago*, 144 Ill. 537.)

Payment of rent has become a sacred ritual. Rent must be paid on the day it is due, and courts are very strict in enforcing this rule. No day of grace is given to a tenant. In *Walton v. Stafford*, 162 N. Y. 558, the New York State Court of Appeals affirmed a ruling that rent falling due on a legal holiday other than Sunday is due on that day.

An unconscious recognition of the fact that wealth must be produced before a division thereof goes to the landlord as rent is indicated in the case of *Smathers v. Standard Oil Co.*, 199 App. Div. 368, affirmed 233 N. Y. 617; where the Court said:

"In construing the lease before us, it is also important to recognize the rule that the presumption is that rent is not payable until after it has been earned, and that, in the absence of an express agreement to the contrary, rent is payable at the end of the term, and not in advance."

In *Smith v. Barber*, 112 App. Div. 187, the landlord's holy right to rent has been further perpetuated, this time without any regard as to tenant's actual earnings on the land. The Court there decided that the obligation of a tenant to pay rent after the beginning of the term does not depend on his possession of the demised premises. If he acquired perfect title thereto by virtue of the lease, which would include the right of possession, he is liable for rent under his covenant to pay the same, regardless of whether or not he actually obtained possession.

Thus it is seen that while the definition of rent is vague, and includes the return for the use of tenements and furniture, the Courts have, none the less, insisted that the payment of rent is a natural act, and have in every way enforced it.

To come back to the definitions, we see Professor Easterday cautioning the student to be careful in his use of the word "rent," and yet, in the same passage, he further defines rent as "the right . . . against realty to receive from it some compensation or rent" (*Van Rensselaer v. Read*, 26 N. Y. 558, 564.) He himself has fallen into the error of including in a definition the thing being defined, in this case, *rent*. It is like defining land as consisting of air, water, and land.

The foregoing authorities, in discussing the origin and the definition of rent, are united in the assertion that rent must consist of profit. They do not define what profit is, but use the term in its common meaning, as defined by Henry George: "Profit is the amount received in excess of an amount expended." Now, by what stretch of imagination, legal or otherwise, could it be said that rent is an amount received in excess of an amount expended? What amount was expended to create land?

If it could be claimed that certain individual landlords

have worked as wage-earners nearly all their life, stinting themselves of all pleasures, working, slaving, and saving enough to buy a share of the infinite universe, the answer is that firstly, in political economy, which deals with a community generally, we are not interested in individual transactions, and that as a whole, the class of landlords did not derive its claim to land by exchanging the result of hard labor for real estate. And secondly, were it possible that every landlord today actually did purchase land by means of wealth accumulated at the expense of daily toil, it still would not change the fact that title to that which cannot be owned cannot be passed, irrespective of the good faith or the honestly-possessed wealth of the purchaser. Ironically, the rule just quoted is a legal axiom so thoroughly ingrained in the annals of the law, that it is never even questioned by gentlemen who prattle about legal rent and profits.

Unfortunately, we live in a world where the acceptance of status quo is tantamount to the acceptance of truth, so earnestly searched for by the ancient philosophers. In a world where mental garbage passes for impenetrable—and therefore, deep—thought, all such ambiguity is appreciated, as faithfully summarizing the chaotic nonsense existing in the present order. Scholastic pulpits impress upon us the value of ten-syllable words; lawyers, carefully splitting thin hairs into infinitesimal principles of law, pompously clothe such principles with all the parasitic medals with which this world abounds. Questions like "Are you still beating your wife?" and "How many angels can stand on top of a pin?" are earnestly debated; and the fury exerted to discover who swindled whom in what, trains the mind to waste itself in futile endeavor.

By-products of Education

By WILLIS A. SNYDER

AT the Henry George Centenary last September, I "scraped acquaintance" with a banker who spoke disparagingly of the effectiveness of the Henry George School extension class he was conducting. Perhaps it has been excessive modesty on my part, but I myself have been so discouraged at the number who break their promises to join our classes, at the number of others who drop out, and even those who "complete" the course and then seem to feel no concern to help spread the doctrine, that I wonder if other Extension Secretaries of the School do not share my sense of frustration.

I have been encouraged to persist partly by the instances of indirect results that have occasionally come to my notice, some of which I would like to pass on for the encouragement of others who may be tempted to abandon their work or deterred from starting a class by the scarcity of tangible results.