

LIBERTY VS. RUGGED INDIVIDUALISM

By GEORGE A. BRIGGS

The system of laws underlying our democratic institutions contains a large admixture of pre-democratic paternalism. Then too, strangely enough, the sanctity-of-contract clause of the constitution often has been construed as applying to grants of sovereign power to individuals. To these confusing and contradictory legal tendencies are due many of our economic maladjustments.

This theme is developed with clarity and skill in "Public and Private Property," by John Z. White. (Beaver Press, Greenville, Pa. \$2.00.) "Sovereignty," we are told, "is the supreme mastery, dominion or power of the whole people acting unitedly." To surrender any part of it to private parties for private profit, even by majority vote, is an act of democratic suicide because destructive of liberty and of equal opportunity.

Administration of sovereign power of course may be and indeed must be delegated to individuals or groups of individuals. The police power is an example. To farm out this power for private profit, however, would be manifestly intolerable.

The same rule applies to highways, although, unfortunately, in granting franchises to public utilities we have permitted private profit to be derived from this exercise of sovereign power. Still more unfortunately in our system of landholding we have never discontinued pre-democratic practices.

In this connection it should be obvious that police power, landholding and franchises are functions of sovereignty. No other agency is competent to institute and maintain them. If economic values are created by the exercise of these functions, they are essentially public values. They should accrue to the public for public purposes.

If they are not absorbed, then government must seek revenue by taxing the legitimate results of private productive efforts. Thus private initiative is discouraged, the normal balance between production and consumption is disturbed, privileged persons grow rich, and the unprivileged have little economic opportunity and no economic security.

On the other hand if values created by the exercise of sovereignty were taken for public purposes, while business and all other private economic activities were freed from taxes and restrictions, then our boasted freedom would have a chance to function.

In the meantime the "rugged individualism" of reactionaries is based chiefly upon the hope of private profit to be derived from the exercise of

public power. It does not rest for example upon desire for security in the tenure of land. On the contrary it does rest in part upon the hope of profit to be derived from mere ownership of land, without reference to profit legitimately derived from its use.

The author traces the reasoning of the Supreme Court through several crucial decisions which support the aristocratic ideals of the so-called "rugged individualists." Among the cases reviewed are *Fletcher vs. Peck*, the Dartmouth College case; *Providence Bank vs. Billings*, and *Munn vs. Illinois*.

Because of fuzzy notions concerning the nature and use of sovereignty, the august tribunal was forced to seek justification for several fuzzy decisions. The author very respectfully and very courteously operates deftly upon these decisions as with a scalpel. He challenges the open-work logic of many supreme justices from the times of John Marshall down almost to the present day.

The book is a brilliant piece of work and is thoroughly delightful entirely apart from its importance in showing how and why our strivings for freedom so often have been abortive.

THE BUILDERS

In his baccalaureate sermon to the 1935 graduation class at U.C.L.A., Dr. Charles H. Rieber said: "The world is still essentially good. It no longer needs wrecking crews, but constructive engineers. It is much easier to be destructive than constructive—and it is for you graduates to take the harder path."

"All the strife and trouble in the world may be just the ground swelling of a new civilization that will be more beautiful and more peaceful than was ever dreamed of on the old order."

BAD TAXATION

Just as the human body can sustain life for a long time upon poor food, taken irregularly, at wrong times, and in wrong proportions, so government can be sustained for an indefinite period upon bad taxes, oppressive, unjust, badly collected, and in many respects injurious. But, as bad food breaks down the health and shortens the life of the body, so bad taxes destroy the health and sometimes even the life of the state.

THOMAS G. SHEARMAN, "Natural Taxation."

Poor old Uncle Sam! All his nephews clamor for hand-outs and then blame him for extravagance.—*Tacoma Ledger*.

The warning spread by an anthropologist, that the American blond is passing, is no help. He doesn't say which way she went.—*Atlanta Constitution*.

The back-to-the-land movement may not please everyone, but at least it's better than the back-to-the-wall movement.—*Judge*.