

Winning case for de-enclosure

MY PROPOSAL for surplus land involves minimal expense and planning changes. I propose that a modest amount of "de-enclosure" should now take place in England and Wales, by means of appropriate Acts of Parliament.¹

The Inclosure Acts² of the 18th and 19th centuries cut off rural people from their land, deprived many of them of the opportunity of earning a living and thus obliged them to seek employment in the towns and cities, often in the most squalid circumstances. De-enclosure would put right this historic injustice, although I am not suggesting de-enclosure on anything like the scale of the enclosures, which may well have doubled the amount of land held by the big landowners.

Specifically, de-enclosure might be at the rate of one acre in fifty, perhaps covering half-a-million acres, or slightly more, in all. There are at present about 1½ m acres of common land in England and Wales, but legal public access is limited to about a fifth of the total. Legislation is now being proposed to give the public legal rights of access on all common land. Not before time, it may be thought, considering the long-standing campaign for better public access to the open countryside. De-enclosure would thus add about a third to existing common land, but all de-enclosed land would provide legal public access from the outset. Ownership could remain with the current owners; all commons are, in fact, owned by someone, although some commons are owned by local authorities or other public bodies.³

Of course, there will be calls for compensation. These should be resisted. There might be exemption for landowners with less than 50 acres, so that this measure would not affect the smallest farms anyway. *In principle, if land is deemed surplus to farming requirements then of what use is it to a farmer unless he intends to speculate in land values?*

From a legal point of view, there is no absolute private ownership of land in English law anyway; the state can either acquire land by compulsory purchase or decree what use may be made of land. The latter power is the basis of Town and Country Planning. Indeed, farming has hitherto been largely exempt from planning restrictions but, in view of the damage farmers are now doing to the landscape, this exemption is unlikely to remain.

From a fiscal point of view, it should be said that landowners progressively escaped the land tax which was part of the constitutional settlement in 1680, this tax, at 4 shillings in the pound (on annual rental value) representing a cash payment in lieu of the traditional feudal duties of landowners. The land tax had become negligible by the 19th century, because the landowners resisted re-valuations. Moreover, since 1929, farm land has been exempt from rates, a very valuable privilege.

From a political point of view, farmers, and hence landowners, have enjoyed enormous subsidies from other taxpayers in the post-war years, and also privileges such as substantial relief from Capital Transfer Tax. Adding in administrative costs and agricultural research, the total value of subsidies, tax relief, grants and other benefits, may be as much as £5,000m. a year to farmers and landowners.⁴

The privileges have not been conditional upon good husbandry and respect for the countryside; indeed, the subsidies and grants have worked in the opposite way, encouraging farmers to destroy hedges and trees, plough up ancient monuments, mine the soil and pollute rivers. Marion Shoard's book provides a wealth of facts on this destructive agricultural activity.

Farmers have not fulfilled their self-professed role of guardians of the

● A recent editorial in *Land and Liberty* pointed out that effective reform of the Common Agricultural Policy would lead to large areas of land becoming surplus to farming needs. This prospect has not escaped landowners. The President of the Country Landowners' Association suggests that surplus land be used for recreational purposes, such as golf courses.

● Agricultural correspondent John Young says that "a positive land-use policy is preferable to neglect", but takes the C.L.A. line that recreational use will involve investment and planning permission, either of which might prove an obstacle (*The Times*, July 28). Mr Young says that few other practical suggestions have been made.

● Farmers in the U.S.A. are paid by the government to keep their land out of production, but this has not yet been accepted in Britain. Economist ALEX HARDIE of Exeter University describes an alternative strategy.

countryside satisfactorily, and de-enclosure should be registered as an appropriate response.

USES for de-enclosed land spring readily to mind. Land beside roads might be left as rough ground, and sites of a suitable size might be available for camping or caravanning, probably under the aegis of the local authority. Even if there were restrictions on the number of families using the site, or on the length of stay, this measure alone would greatly expand the freedom of visitors and travellers.

Local authorities could, at the same time, fulfil their legal obligation to provide sites for gypsies. Many thousands of sites could be provided, so that pressure on individual sites need not be great.

Footpaths and adjoining hedge could also be turned into common land, so protecting them permanently. A strip just over five yards wide could allow for a footpath and hedge (even a hedge on both sides perhaps), and would only take up an acre if it stretched for half a mile. Using 100,000 acres of the "new commons" in this way could protect 50,000, or more, miles of footpaths with hedges, and include a fair number of hedgerow trees as well.

The benefit of this measure to walkers and nature-lovers is quite clear. People would have guaranteed access, and birds, small mammals, insects and plants a safe habitat. There would, of course, be no spraying of pesticides on these areas.

Copses, woods, ancient pastures, poorland, downland, marshes, river banks, streams and ponds, might also be included in the "new commons". Farmers would probably be keen to get rid of these, rather than cultivated land. If at all possible, Nature Reserves and Sites of Special Scientific Interest should be taken in preference to other land. At present farmers are quite free to drain or plough these sites, thus destroying their ecological value.

Archaeological sites, especially the "unscheduled", and therefore unprotected ones, should also be included. De-enclosure should not, of course, be seen as a way to preserve large areas of land; additional National Parks would probably be needed for this, or large-scale purchase by conservation groups. The "new commons" would be relatively small sites, often protecting individual features of the land-

REFERENCES

1. There are no commons in Scotland.
2. In law, "inclosure" merely means the physical process of enclosing land; "inclosure" means doing this with legal authority, in such a way as to extinguish former common rights.

3. A useful book is I. Campbell, *A Guide to the Law of Commons, Commons, Open Spaces and Footpaths Preservation Society*.
4. Marion Shoard, *The Theft of the Countryside*, London: Temple Smith, p. 31.



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Interestingly, de-enc was still enclosed, as enclosure should not b reintroduction of land t

● Dr Hardie is a lecturer in Theory (to post-graduate le really cannot explain why m am quite sure that Econom