

THE origins of private property in land—owned on a socially-significant scale—is still an obscure historical problem. I refer not to the surface facts (enclosures, Acts of Parliament, and so on) but to the social and individual pressures which resulted in a total transformation in emphasis from common to private property rights.¹ My thesis will be that the orthodox view—that this change was an essential precondition of, and was therefore stimulated by, capitalism (a view congenial to both Marxist and liberal theory alike)—is wrong, and obscures important historical realities.

To begin with, we must have in mind a simple model of early stratified societies which were able to produce more than subsistence incomes. Broadly speaking, these societies were divided into two groups: the peasants, who produced the food, and the elites which lived off part of the surplus income. The elites included the priests (who administered to religious needs), bureaucrats (who developed civilized skills such as writing and engineering), chiefs and kings (who dispensed justice) and the men of arms (who imposed peace). As a rule, these groups were *not* exploitative in that they paid for what they received in the form of important services rendered: for instance, the Oriental bureaucrats engineered the early hydraulic irrigation networks on which societies in arid areas relied. There are variants of this process of income redistribution, but they amount to the same thing. For instance, in Tibet, certain members of the community (such as astrologers and physicians) were supported by being allowed to hold lands which were exempt from taxes.²

Now, why—telescoped into 500 years, from the thirteenth to the eighteenth century—did private property in land arise? Why, given that all previous societies (with the influential exception of the Classical world) had recognised common rights in land, did Western Europe experience the dramatic change which provided a minority of individuals with total control over nature—the means of life?

It is assumed that this transformation was a reflex response to the needs of the markets associated with capitalism—first, the commerce which attracted entrepreneurs from the late Middle Ages onwards, then industry from the eighteenth century onwards. This, I believe, is a theoretically and empirically faulty explanation. Furthermore, it tells us nothing about which came first, and why: the capitalists' free market, or the privately owned land.

I shall use for my critique C. B. Macpherson's paper *Capitalism and the Changing Concept of Property*.³ In it we read that "with the rise of capitalism the idea of common property drops virtually out of sight and property is equated with private property." Macpherson is in no doubt about the causal connection; for, he argues, changes in the concept of property "were either required by capitalism or were a natural result of it." Private property in land, associated with the right to alienate it, "was exactly the

The Class that Lost its Cause

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kind of property right needed to let the capitalist market economy operate."

There are a number of ways of undermining this case. The quickest is to quote Macpherson himself on a fact of judicial history: "The right to alienate one's property in land, though inconsistent with the feudal principle of personal tenure, was indeed won in the thirteenth century, long before the emergence of modern capitalism. . . ."

Next, economic theory tells us that the Macpherson thesis is implausible. A market economy would require, as a necessary and sufficient condition, the ready transfer of *possessory* rights to land—enabling those who could use it in some optimal way to secure it. This process of reallocation does not require that a new class of people be created (as in fact happened) whose title deeds ascribed to them a share of the national product in return for no reciprocal services; nor does it necessitate (as in fact happened) the impoverishment of millions through the loss of *their* rights to land.

The necessary and sufficient condition—secure possession of land on which to invest labour and capital over a period of time, which enabled one to get a fair return on one's efforts—does no violence to the traditional principle that land rights should be based on use, and that all members should in some measure share in the natural resources of their community. Traditional rights to land could have been perpetuated in a market economy by the simple expedient of a centrally-administered land tax, which swallowed the whole of economic rent directly into the public coffers for expenditure on behalf of all citizens. This would have actually helped the advent of capitalism, for it would have prevented landowners from hoarding land when it was needed for job and wealth creation (hoarding for various reasons, such as wanting to "make a killing" by capitalising on scarcity values at some future date, or because their territory was good fox-hunting ground). Private property in land, far from facilitating capitalism, often proved a hindrance to it.⁴

Finally, a little exercise in linguistic analysis forces us to confront the sociological realities of history. Before the redefinition of the meaning of property, the concept—as Macpherson notes—"had in fact mainly been a right to a revenue rather than a right to a thing", i.e., "the right to a revenue from the land, not the land itself." Such rights, of course,

were related to a system of social obligations. Macpherson then goes on to insist that the change in the common usage of the concept came "with the spread of the capitalist market economy."

But what is the connection? Why should the barons and earls, if they were continuing to receive an income securely founded on tradition and service, enter the political and economic quicksands—placing themselves in conflict with monarchs and peasants—and attempt to redefine "property" if their feudal dues were not in jeopardy? This sounds an implausible hypothesis.

Rise of the State

Consider this: the emergence of the early institutions of the state in the twelfth century began to usurp the functions of the feudal class—functions which had until then legitimately earned them a revenue (their property rights). If the barons and knights no longer provided a service, their rights would have terminated, for there would have been no *quid pro quo* between them and the peasants. Does this not sound like the best reason for redefining the concept of property, to guarantee themselves an income even when they had been shorn of their public duties? This is my competing thesis, which I shall now develop.

Out of the ashes of the Roman Empire emerged a bastard system: feudalism, which was composed of surviving elements from both kinship systems and of the Classical world. The Middle Ages was a time of considerable unrest, and the peasants were glad of their knightly protectors, whose military services freed them to grow their daily bread. The lords presided over their domains; kept the peace and administered justice in troubled times, in a period when monarchs were remote and weak. In return, they were materially supported by the peasants who provided labour services (*corvée*) and/or part of their agricultural produce.

Property in land was still based on rights which were earned by actually *using* the land. Bloch states that "the word 'ownership', as applied to landed property, would have been almost meaningless."⁵ Disputes over land were settled on the basis of proving customary use of land.

Feudalism rested on a cosy personal relationship between lord and peasant. The rise of the state, in the form of reassertion of authority of monarchs,

ruptured this relationship. The power of the feudal lords, as a group, was threatened with extinction by the emergence—or re-emergence—of a strong, centrally-administered state. The kings sought to impose their wills absolutely on the people of their territories; they created their own standing armies and salaried bureaucracies and judiciaries, and in the process destroyed the *raison d'être* of the feudal barons. If the aristocrats could not be seen to be the protectors of the lives of cultivators, the settlers of disputes, how could they continue to legitimately claim part of the economic surplus? Economist Sir John Hicks was led to puzzle over this problem in *A Theory of Economic History* (OUP, 1973). The "tax" paid by peasants to the lords (= rent) should theoretically have been redirected to the state, the new protector of the soil. And yet Hicks recognised that strong undercurrents existed which were capable of distorting such a smooth exchange of power and allocation of surplus income. For, he writes, "the fact that supersession is possible does not necessarily mean that it will occur. It cannot occur without something in the nature of a revolution; a State may be strong, but it may not care for revolutions. Thus, even though the landlords have lost their function, they may remain. They may continue to draw the revenues which support them as an ornamental aristocracy, though it would now be possible to do without them."

The class which held power during the feudal era was doomed to extinction, its services replaced by judges out on circuit, civil servants administering the affairs of state, armies ensuring internal peace and integrity of territorial boundaries. In England, the seminal changes in this direction originated in the thirteenth century.⁶

To survive, the feudal lords had to acquire an independent material base. The solution was an obvious one: if the lords owned the land itself, they could levy rents without having to render reciprocal traditional (but increasingly redundant) services. This change in the definition of property rights would, at one stroke, accomplish two things: (a) secure them against the changes in the political institutions which were creeping in; and (b) enable them to argue that their rental income was in return for something which



they had granted—permission to work on *their* land.

But to guarantee their future, they had to lay firm foundations; this meant that their title deeds

had to be accepted as legal; and to achieve that result, they needed "legitimate" political power. And so the events up to the end of the nineteenth century can in part be seen as a struggle by the feudal aristocrats aimed not just at tempering the absolute power of kings in the names of justice and democracy, but of desperately seeking to preserve some vestiges of their former power.

What sorts of evidence would we need to support my thesis? The obvious—and perhaps best documented—is the political struggle in and around the growth of Parliament. The lords, the men of property, shrewdly shifted their battle ground from the fight in the field to the debate in the chamber: they ended up by using words to capture the minds—and pockets—of the citizens of the kingdom. The history of parliamentary enclosures in the eighteenth century, which finally terminated the ancient rights of land users, testifies to their immense success at this level of action.

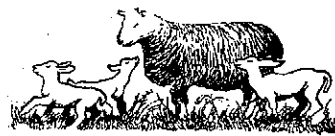
But this would not be sufficient, by itself. We would need to be able to show that people on the lower rungs of the feudal ladder were actively trying to avoid their obligations to their superiors once the latter were expendable. Bean states: ". . . if we are searching for signs of a desire to remove altogether the bonds which bound a feudal tenant to his lord, we would expect to find them emerging in the lowest reaches of the feudal hierarchy. But these have left very few traces in our record." Nonetheless, he notes, "The beginnings of such developments can be discovered in the middle of the thirteenth century."

We would also expect to find a shift in the nature of the bonds which tied men to each other—a shift from the personal relationships, which were based on reciprocal obligations, to impersonal ones which somehow gave the upper hand to the feudal lords. Bloch, in his classic study of feudalism in France,⁸ describes these changes which began in the middle of the twelfth century. "The transformation of the social structure which declared itself in the growing activity of the state and its courts was also at the root of the changes affecting serfdom." The status of the serf sank lower; and his attachments were seen as being redirected from other men to the soil. Thus, by capturing the soil—by redefining the nature of "property"—men were able to dominate men indirectly but just as surely as if they held swords over their heads. Where the feudal class were compelled by circumstances to make concessions, they did so from strength—by imposing a charge of one sort or another (as with manumissions, for example). For, as Bloch stated, "it was obviously quite unthinkable that the seigneurial class should submit to voluntary pauperism purely out of charity."

On Capitalism

Macpherson argued that the needs of the market dictated the origination of private property in land.

To sustain his thesis, he would need to tell us much more about the mechanism whereby the market arose *before* land became a saleable commodity in the market. He would also have to show that the landlords



were behaving as entrepreneurial farmers; in fact, these were exceptions. Writes Barrington Moore: ". . . the large landholder's contribution to the development of capitalist farming at this stage was mainly legal and political; it was usually he who arranged the enclosures. Lacking serfs to work the land, he generally let it out to large tenant farmers." The motive, I argue, was not the economic profit-maximising one so much as the desire to maximise political power.

But we need not rely on just discrediting Macpherson's argument. For it appears that there was a connection between the structure of the rural economy and the market—but that *the causal connection between these was the reverse of what Macpherson's argument suggests!* Bloch, in dealing with the French example, shows that the changes in the rural economy were the result of *internal* factors. And he makes two significant points.

(a) The disappearance of manufacturing services (in the rural sector) was everywhere complete by the beginning of the twelfth century; but this disappearance is much too early and too general to be accounted for by the development of commerce, still very much in embryo.

(b) The initial and unprecedented expansion of the market may itself need to be explained as a *response* to fresh seigneurial needs.

It seems singularly implausible that the changes in the vital customs which regulated the use and possession of land should be the result of early market forces. If my competing view is correct, then the economic part of this story must be seen as a by-product of the social and political dynamics of history. The feudal lords, to insure themselves, would have wanted the new land tenure system to be free of obligations, both to obscure their new position (i.e., functionless) and enable them to exact the best rents possible (which dictated relatively short-life leases and the change to money rents). Tenants, for their part, would have found that they had to grow cash crops to meet the preferences of their landlords.

And so it was that the lords of the land tussled with the monarchs and people. If the first great crisis which confronted this group (at the time they were hardly a class) was at the tail end of the Middle Ages, the second crisis was in the sixteenth century (see Lawrence Stone). After weathering the Civil War, they set to work to consolidate their power.

The Long Parliament had abolished the Star Chamber, as a result of which "the peasants lost their chief protection against the advance of enclosures", states Barrington Moore, who adds: "Through breaking the power of the king, the Civil War swept away the main barrier to the enclosing landlord and simultaneously prepared England for rule by a 'committee of landlords', a reasonably accurate if unflattering description of Parliament in the eighteenth century."

The seventeenth century was the period in which philosophers tortured logic and the facts of history in order to give respectability to the idea of dispossessing land from the tillers. In particular, John Locke—under the patronage of the Earl of Shaftesbury, one of the "lords proprietors" of Carolina—published his *Two Treatises on Government*, which sought to justify limitless land ownership. The eighteenth century saw the judicial consolidation of this historical process; the great land grab was called, less emotively, parliamentary enclosures.

On Methodology

Historians may be anxious about my methodological use of sociology to discern patterns from the past. But an interesting example of how historical analysis can go awry if it neglects the sociological dimension is contained in D. Brunton and D. H. Pennington's 1954 study of *Members of the Long Parliament*. They conclude that age explained the cleavage between Royalists and Parliamentarians (the former being generally younger). By searching deeper (see the critical appendix in Barrington Moore) we find that Parliament drew its strength from areas of high enclosure—whereas the king relied on marginal areas (the South-west, West and North) for his main support.

This division is of fundamental importance, and is explained by my theory. If there was to be a dispute over the economic surplus of the peasant producers, we would expect monarchs to want to (1) retain, in suitably modified form, traditional land tenure principles, (2) operate a system of direct land taxation, and (3) exclude a third party from interposing itself and carving up a slice of the surplus. This, in general terms, was the position of the English kings, who backed the peasants by trying to resist



the enclosures.

The third party—the feudal class—had the task of changing the prospective course of history by

creating a new political power base from which it could legitimate the theft of common lands and arrogate to itself the right to be consulted on taxation matters. This scenario is more suggestive than the generation gap hypothesis. It tells us why the king got his strongest support from the marginal areas; for it was here that the economic surplus (rent) was and is lowest due to the relatively poor soil fertility. Therefore it could support fewer idle aristocrats. The feudal class, then, would be weaker numerically and in terms of power, and conditions were more favourable for direct allegiance to the king.

By superb persistence, the feudal class which had been threatened with extinction—the class that lost its cause—turned the tables on the state and took it over. To quote Zagorin: "The aristocratic order survived, but in a new shape, for money more than birth was now its basis. And Parliament itself became the instrument of landed capitalists, Whig and Tory both, and their connections and allies, whose interests the state now unswervingly pursued."¹⁰

Could it be that I rely too heavily on a class conspiracy theory? Let us rephrase the question, and ask: Were the feudal lords capable of clamping down on anyone who threatened to do them out of jobs? We shall cite two examples to show that the feudal lords were as well aware of the threat of redundancy as any factory worker today who fears that his skills might be rendered obsolete by the invention of new machines.

A challenge which came from below is described by Bloch in *Feudal Society*. Peace movements between the eleventh and thirteenth centuries on the continent arose among the peasants and artisans; often laced with religious flavour, they sought to end feuds and brigandage. An admirable objective, one might think. But the barons and lords were "jealous of their rights"—for did not these movements commit men to "defending themselves, instead of looking for protection to the regular powers"? The last major effort of this movement, notes Bloch, began in 1182, initiated by a carpenter from Le Puy. His peace brotherhood spread rapidly outwards from Languedoc, but "it was not long before their spontaneous efforts at law enforcement began to cause anxiety in seignorial circles." The end was predictable: "Crushed by the combined forces of the barons, the bishops, and the robber-nobles . . ." The feudal powerholders were not going to be displaced without a fight!

And so across to Ireland, where the threat to the territorial lords came from above: Elizabeth wanted to extend regal rule right across the country, which necessitated the extension of military and administrative machinery which displaced the authority hitherto exercised by the descendants of Ireland's Norman conquerors.¹¹ The old English lords protested to the Queen, who was not unsympathetic. But the march of the state could not be halted. The strategy which was adopted for dealing with this

delicate situation was advanced by Sir Henry Sidney; it can be seen as a shrewd attempt at strengthening the hand of the lesser gentry through the creation of state institutions modelled on the English counties. Once again, however, the feudal class resisted—their efforts, it would seem, being in proportion to the amount of power they stood to lose.

Despite the foregoing, it might still be thought that my thesis relies too much on a consciously-coordinated strategy which has not been adequately documented with empirical evidence. More research is needed. But my hypothesis concerning the pressures which impelled the transformation of property rights in land in a specific direction is more likely to yield fruitful results than the view that the changes occurred in response to the requirements of the impersonal forces of a free market.

1. For present purposes, it is sufficient to define "common" rights as complex, multi-dimensional, in which the possession of land gave rise to social obligations. "Private rights" were those shorn of social obligation, the possession

- of which enabled owners to freely alienate land without reference to the needs and claims of others.
2. Pedro Carrasco, *Land and Polity in Tibet*, Univ. of Washington Press, 1959.
 3. In: *Feudalism, Capitalism and Beyond*, eds: E. Kamenka and R. S. Neale, Edward Arnold, 1975.
 4. For example, cash accumulated from non-agricultural enterprise from the late Middle Ages onwards was often invested in land; this investment yielded returns lower than what could have been secured in commerce—yet capital was sunk into land for reasons of social status. The same misallocation of resources was still occurring in the seventeenth century, and continued through the nineteenth century—when the *laissez-faire* market was allegedly at its height and capitalist motives at their most acute. See Henri Pirenne, *Economic and Social History of Medieval Europe*, RKP (1972), and Lawrence Stone, *The Crisis of the Aristocracy*, Oxford University Press, 1974. This behaviour is the opposite to what we would expect, if Macpherson's thesis were correct. Readers will have no difficulty in appreciating that this process of investing resources into "sterile" (i.e., non-job/wealth creating) form—tying it up in land purchases—is still going on today.
 5. Marc Bloch, *Feudal Society*, RKP, 1975.
 6. R. Ergang, *Emergence of the National State*, Van Nostrand Reinhold, 1971.
 7. J. M. W. Bean, *The Decline of English Feudalism 1215-1540*, Manchester U.P., 1968, Ch. 1 (ii).
 8. Marc Bloch, *French Rural History*, RKP, 1966.
 9. B. Moore, Jr., *Social Origins of Dictatorship and Democracy*, Penguin, 1974.
 10. P. Zagorin, "The English Revolution 1640-1660," *Journal of World History*, vol II, 1955.
 11. N. Canny, *The Elizabethan Conquest of Ireland*, Harvester Press, 1976.