

THE UNITED STATES SUPREME COURT An Adverse Ruling of Grave Significance

THE EDITOR, *Land & Liberty*

Sir,

I regret to advise that the U.S. Supreme Court has made an about face from its previous interpretation of the powers belonging to the Federal Congress, and now holds that it lies within the authority of the Federal Government to relieve private holders of land from the taxes lawfully due and payable on the value of the land, to a State or one of its local governments, such as a county, city or district.

Although the court has always held that the Federal Government is permitted to tax land values only subject to strict limitations, which are so stringent as to make it practically impossible for the Federal Government to collect any revenue from the holders of idle land, no matter how valuable the location, now the rule is that the Federal Government can permit private persons to retain possession of land, even though they have failed, refused or neglected to pay the taxes lawfully payable to a State, and although the State law provided that title to the land must be forfeited to the State, if the taxes were not paid within a certain period after they became legally due. Therefore, although the Federal Government is without effective power to tax the value of land, it now has the power to release persons from having to pay taxes due to a State. Do not the two add up to "mortmain"?

I have been fighting against this, on numerous "fronts" for ten years, in many courts, and have taken many test cases to the Supreme Court of the U.S.A. In 1937 that Court in 298 U.S. 513 held squarely that the Federal Government possesses absolutely no such a power. Then some new justices were appointed, and the Constitution has since been interpreted and construed to mean the opposite from what that Court had invariably ruled, for over 150 years prior to 304 U.S. 27. Unfortunately the change over by the Court is not easy for the layman to detect, and few tax reformers have waked up to its implications.

The landlords in Germany were more direct in their scheme to reach the same "island of safety." On 30th January, 1934, the Reichstag passed a simple statute declaring that the sovereign powers then belonging to the States were thereby transferred to the Reichstag. This simple statute made what the world now thinks about as "Nazism" a possibility. The States, which had jurisdiction over the tenure of privately held land in their boundaries, and the right to tax such land, were without those powers, after 30th January, 1934. A somewhat similar act was passed by your Parliament in 1660 in 12 Charles II, c. 23, exempting land from taxes formerly payable.

Hence, our hope for any effective application of land value tax principle in the U.S.A. has suffered a set-back, which cannot but become very clear through the years to come, although it is now not even suspected by more than a mere handful of its most ardent advocates. Heretofore, if a State enacted a law requiring those holding title to land to pay annually the full

rental value to the State, whether the land was in use or held idle, the Federal Government simply had no more authority or jurisdiction in the premises than it would have had over a similar law enacted in another nation. It could not have "saved" the absentee landlords who were not permitting the land to be used, and who would not pay the taxes. Now it can save them, and has done so by recent decisions. The rights of those now landless to "life, liberty and the pursuit of happiness," were given little if any consideration, by the Court. In *The Federalist*, Essay No. XXXII by Alexander Hamilton, it is stipulated that the authority of the STATES to tax the value of land was to be "independent and uncontrollable" by the Federal Government, in "the most absolute and unqualified sense."

DR TEMPLE AND THE LAND

MR HAROLD SUDELL, of Philadelphia, has sent us a copy of the following letter he has written to the Archbishop of Canterbury:

"I am glad to see from the speech you recently delivered, which was fully reported here in the *New York Times* of 27th September, that the English Church is at last beginning to realize the serious importance of the land question.

"You say that our treatment of land and buildings strikes you as being perfectly topsy-turvy. It is, but in another aspect it is far worse than that, for, denying as it does to the masses everywhere their God-given heritage—their right to the use of the earth—"the earth have I given to the children of men"), it is iniquitous to the last degree.

"Since you speak of taxing land values you apparently realize that there is a better way of righting this wrong than by land nationalization. That would be an improvement on our present treatment of land but it has many and serious defects. These can all be avoided by the use of the Henry George plan of the collection of the full economic rent of land by taxation. This plan is both simple and effective, and I trust that you and your Church will join with those who for the past half century have urged its adoption, so that a long-time wrong might be righted.

"The writer is an American citizen of English birth and it rejoices his heart to see, in his native land, evidences of a start toward the wiping out of the present land system. He, of course, regrets that the war has brought such disaster to your loved town and its Cathedral."

DR TEMPLE'S DECLARATION

The statement to which Mr Sudell refers was that published in advance of the meeting at the Albert Hall, London, 26th September, which however the Archbishop of Canterbury had to condense in his spoken address because he found himself short of time. The full text of the passage appeared in the first edition of the pamphlet *The Church Looks Forward*. It was printed in several newspapers and in his letter to *Land & Liberty*, November, 1942, Dr Temple, having explained the circumstances, made it clear that he stood by it.

In June, 1934, the Supreme Court of Spain declared invalid a law similar to the California Irrigation District law, which had been enacted by Catalonia. The *Christian Science Monitor* of 14th June, 1934, reported that Catalonia was going to enact another law similar to the one that the Supreme Court at Madrid had declared invalid the week before, on the ground that it was "not favoured by the central government because it would split Catalonia into small farms, advantageous to small holders." This event, it is claimed was the "straw that broke the camel's back," and was the spark that ignited the so-called civil war in Spain. The pattern is very similar. Similar economic results follow similar basic causes, whether operating in Italy, Germany, Spain, Japan or U.S.A.

Yours, etc.,

J. RUPERT MASON.

San Francisco, 13th November, 1942.

The statement is of such importance that we are glad to give it renewed publicity:—

"There are four requisites for life which are provided by nature, even apart from man's labour: air, light, land and water. I suppose that if it were possible to establish a property claim upon air, somebody would have done it before now and made people pay if they wanted to breathe what he would then call 'his air.' So too of light. But it has not been found possible to do this.

"Unhappily it has been found possible in the case both of land and of water, and we have tended to respect the claims that have been made by owners of land and the water flowing through it or beneath it, in a way which subordinates the general interest to the private interest of those owners.

"I am not myself at all persuaded that the right way to deal with this question is by the nationalization of the land, but I am quite sure that we need to assert the prior interest of the community in respect to land and water with a vigour of which our recent political history shows no trace.

"Here supremely the principle of the old Christian tradition holds good, that the right of property is a right of administration or of stewardship, never a right to exclusive use.

"Our present treatment of land and of the buildings placed upon it strikes me as peculiarly topsy turvy. If a landlord neglects his property and it falls into a bad condition, which is an injury to society, the rates upon that property are reduced; while if he improves the property and so does a service to society, the rates are increased.

"But if the rates were levied upon the land itself and not upon the buildings placed upon it, there would always be the inducement to make the property as good as possible in order that the best return might be received from it."

6d. RATING AND TAXATION IN THE HOUSING SCENE. By F. C. R. Douglas, L.C.C., M.P. No. 8 of the Design for Britain pamphlets, published by J. M. Dent & Sons, Ltd.