

## CHAPTER VII

### PRIVATE PROPERTY IN LAND

*"The primary error of the advocates of land nationalisation is in their confusion of equal rights with joint rights. . . In truth the right to the use of land is not a joint or common right, but an equal right; the joint or common right is to rent."*

—HENRY GEORGE.

MOSES and Isaiah and Herbert Spencer made their ages resound with the thunders of the moral law on the land question, and yet a groping world had to wait for Henry George to devise a *modus operandi*, and so

*Make channels for the streams of love  
Where they may broadly run.*

Asserting "the equal right of all men to the use of the earth," Herbert Spencer declared that "equity does not permit property in land." But, failing to see any alternative other than "nationalisation of the land," which was abhorrent to his philosophy, he later, while disavowing none of his former principles, proclaimed his intellectual despair and unconditional surrender in these words:

I cannot see my way toward reconciliation of the ethical requirements with the politico-economical requirements. . . . The belief that land would be better managed by public officials than it is by private owners is a very wild belief.\*

\* Letter to the *London Times*, November 6, 1889. See Henry George's "Perplexed Philosopher" (Doubleday, Page & Co., 1906), p. 77.

Coming upon Spencer's lost field, Henry George formed a new line of battle, changed the war cry of "equal right to land" to "joint or common right to rent," picked up the shepherd's sling of taxation, the familiar weapon which had escaped Herbert Spencer's attention, and gradually dispelling the mists of the old conflict, won the day.

It is my opinion that few men have been more misapprehended, misinterpreted, and hence misjudged, than Henry George, and this, too, not infrequently, by zealous friends. This is especially true of the interpretation of his ultimate views regarding land tenure.

Few people know of the distinction made by Henry George, by the science of economics, and by statute law between private property in land and private property in the things produced by labour, or between the private ownership of land and the private possession of land. Therefore, if you say that private property in land is unjust, or that private ownership of land is unjust, the tendency is to close many minds to further consideration of a statement which to them savours too strongly of confiscation. One may attack with vigour the private appropriation of ground rent (what land is worth for use), and be easily understood, while an attack upon private ownership in land is very apt to be misunderstood. Able men sometimes assert that the aim of the single tax movement is the complete subversion and overthrow of the institution of private property in land. This confusion arises partly from a lack of clear understanding as to the meaning of terms, and partly from applying to land the theory of ownership which in law applies only to other things.

Coming to an analysis of the different terms, posses-

sion, ownership, and property, used in describing the tenure of land, we find that while they are far from synonymous, they yet have much in common, and the terms are often used interchangeably. The "possession" of the dictionaries does not always imply ownership; but possession does imply the same physical dominion that belongs of right to ownership — which right the legal title to ownership grants and conveys. Henry George's proposal was to leave owners in possession of land, and to accord to that possession the legal right of physical dominion by means of a broad definition of the word, made to include the right "to buy and sell, bequeath and devise,"\* or, in the usual form of the real estate deed, "to give, grant, bargain, sell, and convey"— a right universally granted to ownership and property.

A title to land is a title to the rights and privileges that constitute its value, and that, largely at least, are created by the labour of the community. Title to the land itself, whether its value is one dollar or a million dollars, is necessary to security of improvements. Title to the annual value of land — ground rent — is not necessary to the security of improvements, which would be equally secure whether one-quarter or three-quarters of ground rent be taken in taxation. The dictionaries do not include land value in their definition of land. Land itself, deprived of the rights and privileges pertaining thereto — that is, land with a ninety-nine years' restriction of a tight and high board fence around it so that there would be no legal right of way to and from it — could have no market value. The value of land is in large part

\* "Progress and Poverty" (Doubleday, Page & Company), 1906, p. 403.

It is sometimes said that if land owners can rightfully claim ownership they are entitled to all the ground rent; that the common right to land and the common right to ground rent go together. How can this be true, when even under the land tenure of to-day, which is that of ownership, no one claims that land owners, as, for example, those of the City of Boston, are entitled to all the ground rent, but only to that part which is not taken in taxation. Their own claim falls short of "all" by the \$10,000,000 now yielded up in taxation. In case the demands of taxation should be twice as great, would they be any more than now entitled to "all"? It is not easy to see how ownership can carry with it as a necessary consequence the private appropriation of ground rent, because, while there has never been a denial, there has always been a recognition, of the sovereign power and right to tax the land.

Private ownership of land is no injustice to anybody to-day, nor has it been at any time. The untaxed private ownership of land value as it exists to-day is unjust. This does not mean that the ownership is unjust, but that not to tax it is unjust. An absolute ownership in land, such as Henry George recognises in the products of labour, would be unjust, but, says Mr. Edward Atkinson, no such "absolute ownership of land is recognised in the law books." Its tenure is always subject to taxation, and to the superior right of eminent domain. Feudal tenure would seem to have been a rude recognition of the principle that the beneficiaries of a government should pay the expenses of government.

Henry George said, in 1879, in "Progress and

Poverty," Book VIII., Chapter II., "I do not propose . . . to confiscate private property in land" but "to appropriate rent by taxation." "It is not necessary," he says, "to confiscate land; it is only necessary to confiscate rent." And again, "People are led into confusion by assuming that we propose to take land from its owners." Yet again, in 1892, in his chapter on Compensation in "A Perplexed Philosopher,"\* Mr. George says: "*The primary error of the advocates of land nationalisation is in their confusion of equal rights with joint rights. . . In truth the right to the use of land is not a joint or common right, but an equal right; the joint or common right is to rent.*"

The appalling distress and havoc consequent upon tenant eviction in Scotland, Ireland, and even in New York City, would be abolished if the evictors had to pay as much for land to be held idle as the evicted are willing to pay for it to use, and Mr. George's prediction that the users of the land would eventually become the owners would be realised. An unjust ownership would give place to a just ownership. The wrong is not in a just ownership, but in an unjust, because untaxed and hence monopoly, ownership. What Mr. George plainly aimed at was to destroy the latter while conserving the former.

Mr. George perhaps never had an abler or fairer opponent, or one more analytical in his treatment of the issue, than Mr. Edward Atkinson. Mr. Atkinson, early in his argument at Saratoga in 1890, in order to limit their discussion to their differences, proceeded to eliminate their agreements, chief of which, to his mind, was that land should remain private property.

\*Doubleday, Page & Co., New York, 1906, p. 242.

Mr. George, although he immediately followed Mr. Atkinson, made no attempt then or later to contradict Mr. Atkinson's representation, nor did the other principal speakers in opposition, Professors Andrews, Clark, and Seligman, charge Mr. George with advocating the abolition of private property in land.

Mr. Atkinson said:

Mr. George and myself concur in one point: namely, that there is no absolute property in land in any States which are founded on the English common law. In fact, there is, I believe, no absolute property in land anywhere. Conditional property in land — i. e., peaceful individual possession of specific parcels of land — is admitted to be necessary to its use by Mr. George and myself. . . . Mr. George holds throughout his argument to the absolute necessity of giving conditional ownership, or complete, full, and peaceable possession of land to those who may chose to take it under the new condition; and he has justified this *ownership* in many ways, not only in fact, but in words. He says, "In applying to public use the power of drawing on the general wealth which pertains to the ownership of land, we discourage ownership without use." In that phrase he admits the *ownership* which he later justifies in the following words: "It (i. e., ownership) arises from the necessity which comes from the highest use of land of giving individual possession, and comes from the difference in the capacity of land." And, finally, after advocating the single tax on land valuation, he justifies it only in these significant words: "Under such conditions, men would not care to hold land which they did not want to use; and users of land, where their use was more than transient, would become the legal owners, having the assured privilege of peaceable possession and transfer as long as the tax was paid." . . . What is the right of transfer except the right of purchase and sale? What is peaceable possession and legal ownership, except a grant of property in land by the State? . . . Mr. George sustains the necessity of private

ownership of land, in the most positive terms; and he is right. . . . To haggle about the difference between possession and ownership of land is mere word-catching. But Mr. George uses the term "ownership" (i. e., *private ownership*) in the most positive way. Neither he nor myself sets up absolute ownership. Therefore, it follows of necessity that the only ground of difference between the advocates of the single tax system, who concur with Mr. George in admitting the absolute necessity of private ownership of land, under suitable conditions, to which all shall be subject alike, is as to the *conditions* under which that private ownership and possession shall be granted, and under which peaceable possession through all time and through all transfers shall be sustained by the whole power of the State. . . . In the present discussion, it has appeared that Mr. George and myself agree:—

1. That there is no absolute ownership of land under the English common law. We agree that what individuals now possess is "*an estate in land*," which is subject to many conditions. These conditions may be varied. . . .

2. We agree that the individual possession of land is necessary to productive use, in order that humanity may be sustained; in other words, that the land must be impropriated.

And so, with Henry George, we insist that the real controversy in hand is not over the question whether private property in land is right or wrong, but whether in law and in morals private ownership of land should or should not include the private appropriation of ground rent, the annual value of the land and—if it should—what ought to be the limit of such appropriation.

The contention of the single tax advocate is that this limit is to be found in the dictates of justice rather than in the letter of any ephemeral statute. On this point, above the utterances of agitators and economists,

let there be heard the voice of the Christian Church, as found in the doctrine of St. Thomas Aquinas when he says:

Human law is law only in virtue of its accordance with right reason, and it is thus manifest that it flows from the eternal law. And in so far as it deviates from right reason it is called an unjust law. In such case it is not law at all, but rather a species of violence.

This is reiterated in the teachings of the Catholic Church, notably in the Encyclical of Pope Leo XIII. on the Condition of Labour, and is referred to in the following quotation from a prominent Catholic priest:

As to all property, land included, the Pope lays down the law of the Church in this comprehensive sentence: "The right to possess property is from nature, not from man; and the State has only the right to regulate its use in the interests of the public good, but by no means to abolish the right to possess it altogether. The State is, therefore, unjust and cruel, if in the name of taxation, it deprives the private owner of more than is just."

It follows from this declaration that if the single tax theory as presented by its advocates aims at no more than to "regulate" the right of property in land "in the interests of the public good," and not "to abolish it altogether," or to take away from the private owner of land, "in the name of taxation," more than is just,\* surely such a proposal is not condemnable on ethical grounds.

Now, if I understand the aims and claims of the Single Tax League, it clearly recognises the right of private or individual ownership of land. It proposes only to levy such a tax upon land as will support the government; thus throwing the burden of taxation on that part of the value of the land which is not the result of the owner's foresight, intelligence, or labour, but is the result of the collective labour, growth, and development of the whole community.

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\* Henry George, in his Open Letter to the Pope, apparently did not advert to these words, "more than is just," and hence his reasoning is open to the charge of lacking that complete justice which was his highest aim.



In considering, therefore, a tax on land values, we must bear in mind that it is a fundamental teaching of the Church that the common good of all mankind is an end that must be kept in view; that the community is the overlord of the landlord; that every individual holds whatever land he possesses subject to the high and supreme title of eminent domain.

"If I thus correctly interpret your aim and object, I do not hesitate to say that your system of taxation is not condemned by the Catholic Church, nor is it contrary to her ethical teachings." \*

To the foregoing there should be added the following words of the Rev. Edward McGlynn in his statement to the authorities of the Church of Rome† regarding what he broadly conceived to be the right of eminent domain with deductions therefrom:

The organised community through civil government must always maintain the dominion over those natural bounties, as distinct from products of private industry, and from that private possession of the land which is necessary for their enjoyment.

The increasing need for public revenues with social advance being a natural God-ordained need, there must be a right way of raising them — some way that we can truly say is the way intended by God. . . . By a beautiful providence, that may be truly called divine, since it is founded upon the nature of things and the nature of man of which God is the creator, a fund, constantly increasing with the capacities and needs of society, is produced by the very growth of society itself, namely, the rental value of the natural bounties of which society retains dominion. The justice and the duty of appropriating this fund to public uses is apparent in that it takes nothing from the private property of individuals except what they will pay willingly as an equivalent for a value produced by the community, which they are permitted to enjoy. The fund thus

\* Extract from an address by the Rev. Robert J. Johnson, Rector of the Gate of Heaven Church, South Boston, at a reception and dinner given by the Massachusetts Single Tax League to the Catholic Clergy of the Archdiocese of Boston, December 3, 1900.

† For Dr. McGlynn's complete statement as presented in Italian to Mgr. Satolli, December, 1892, together with English translation, see Appendix D.

created is clearly by the law of justice a public fund, not merely, because the value is a growth that comes to the natural bounties which God gave to the community in the beginning, but also, and much more, because it is a value produced by the community itself, so that this rental value belongs to the community by that best of titles, namely, producing, making, or creating.

To permit any portion of this public property to go into private pockets, without a perfect equivalent being paid into the public treasury, would be an injustice to the community. Therefore the whole rental fund should be appropriated to common or public uses.

In the desired condition of things land would be left in the private possession of individuals, with full liberty on their part to give, sell, or bequeath it, while the state would levy on it for public uses a tax that should equal the annual value of the land itself, irrespective of the use made of it or the improvements on it.

The only utility of private ownership and dominion of land, as distinguished from possession, is the evil utility of giving to the owners the power to reap where they have not sown, to take the products of the labour of others without giving them an equivalent.

Thus it should be clear that what people need to see in order to incline them to the single tax is not so much "the wrong of private ownership" — a phrase which often both violates and confuses their moral sense — but "the wrong of the private appropriation of ground rent" — a phrase which does neither.

It does not necessarily follow from this characterisation of a doctrine as morally sound, that what is right in principle may not be wrong in method. As to method, Dr. McGlynn was in accord with Henry George in his mature conclusion, given in his own words\* that "*we can only accomplish the change we seek by the slow process of educating men to demand it. In the very nature of things it can only come slowly, and step*

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\*"Saratoga Discussion," 1880, p. 78.

*by step. We do not delude ourselves on that point, and never have." And again: \* "But in thinking of details it should be remembered that we cannot get to the single tax at one leap, but only by gradual steps, which will bring experience to the settlement of details."*

Neither of them concerned himself with specific ways and means. Neither thought of interpreting the statement that all ground rent ought to be taken for public use to mean that the whole of it ought to be taken and at once. But both, recognising that a right thing may be done in a wrong way, insisted that a right way ought to be found to do a thing that ought to be done. This book, *The A B C of Taxation*, is a search for that right way.

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\* *Century Magazine*, July, 1890, p. 401.