

CHAPTER FIVE

THE SPECIAL IMPORTANCE OF LAND

THOUGH WE HAVE already given some attention to the special—in fact unique—status of land, we need to examine this aspect of our topic more fully in order to appreciate the particular implications that property rights in land generate. While it is easy to see that there are great differences between owning land and owning anything else, the consequences these differences make have been seldom understood. Of course, the history of the Common Law illustrates that there was an early appreciation of the importance of rights in land. Special privileges and considerations were granted to accord with these rights, but often the underlying rationale for such special treatment was lacking or misunderstood. Hence, it is not surprising that over the course of time many of the basic reasons for particular features of land law were forgotten, and as a result, subsequent legislation and adjudication of real property lost its connection with ancient tradition and understanding.

A clear illustration of this comes from considering the original form of tenure granted in England.¹ From the

¹For a concise history of land law see, Theodore F. T. Plicknett, A Concise History of the Common Law (Boston: Little, Brown and Co., 1956), pp. 505-623. Also, F. H. Lawson, Introduction to the Law of Property (Oxford: Oxford University Press, 1958) and A. D. Hargreaves, An Introduction to the Principles of Land Law, (London: Sweet & Maxwell, 1963).

battle of Hastings, when William became the undisputed conqueror and ruler of England, all land was held at the behest of the Crown. No person—whether nobleman or not—owned land outright except the King. Furthermore, even when he granted others the privilege of holding land, he retained the absolute right to seize the land once again. This even applied to the Church. In other words, the whole of England was considered to be the property of the Crown. Hence, all tenants were subject to feudal obligations, either directly to the King or indirectly by way of a lesser lord.

The tenant held the land under certain obligations to his lord which depended on the nature of the tenure. Failure to fulfill these obligations were grounds for removal. Some of the kinds of service that were demanded were: (1) tilling the fields and tending flocks, (2) furnishing and leading the knights in the King's army or even (3) filling administrative and ecclesiastical positions in the government and the Church. In this way the land tenure system of feudal England was the basis for wealth, power, and status in society. The feudal land tenure system has generally been misunderstood and misplaced in its importance. However, the principle that land cannot be owned without the consent of society as a whole—which is what the Crown symbolizes—is an important feature of the feudal system of government. To be sure, this principle has been abused many times, but it is the

theoretical basis of property rights in land nevertheless, and it deserves recognition as such. What must always be kept in mind is simply that land ownership guarantees powers that otherwise cannot be exercised. Ownership demands the performance of special duties or obligations commensurate with those rights.²

Anyone who has looked at a globe knows that land is limited in extent and varies enormously in quality and accessibility.³ Two-thirds of the world is ocean. And of the remaining one-third that is land, great portions of the earth are uninhabitable due to climate or geographical features. We tend to forget or overlook these simple facts. On the other hand, we also tend to underestimate the amount of land that there is. It is striking to think that the entire population of the U.S.—over two hundred thirty million—could all stand in the floor space of Manhattan! There would be no room to turn around, of course, but then there are many millions of people who can't do that now. What the illustration makes clear is that presently there is more than enough space for everyone. The problem is access not scarcity.⁴

²See, J. C. Holt, "Politics and Property in Early Medieval England," Past and Present, 57 (1972): 3-52.

³For statistics and graphs about the earth and its resources see, S. R. Eyre, The Real Wealth of Nations (New York: St. Martin's Press, 1978).

⁴A good recent treatment of land reform throughout the world is Russell King, Land Reform: A World Survey

Any objective examination of the question of property rights in land must come to the conclusion that the present distribution of land bears little, if any, relationship to merit, need, contribution or equality, and must therefore be the result of past status or contract. As we have seen, these two criteria of distributive justice reflect social, legal and communal rights and responsibilities, but they are not self-evident justification for ownership. Perhaps this is part of the reason why the actual ownership of land is such a secret here in the United States. If there were greater public awareness of the disparity in rights to land, greater pressure might be put upon those who control large tracts to fulfill their social and economic obligations. But somehow or other the large landowners--both individual and corporate--have avoided careful scrutiny and the actual distribution of land titles has never been surveyed.⁵

The story is told how Ralph Nader once asked the U. S. Department of Agriculture for information on the

(Boulder, Colorado: Westview Press, 1977).

⁵Charles A. Beard, An Economic Interpretation of the Constitution (New York: Macmillan, 1913) is the classic treatment of the economic interests of the Founding Fathers. It is especially good on the extensive land holdings and speculative dealings of the Members of the Constitutional Congress. Gustavus Myers, History of the Great American Fortunes (New York: Modern Library, 1936) likewise is the classic treatment of the role of land speculation in the creation of American millionaires. Paul Wallace Gates, Frontier Landlords and Pioneer Tenants (Ithaca: Cornell University Press, 1945) is an excellent study of the early settlement of the West and control of land by a few even where it would seem that there should be land available.

percentage of people who own land in the country only to be told that no such figures were available. Then he asked if they were available for Gambia or Guatemala. Yes they were! When he pressed the issue and demanded to know why there was such information on land holdings abroad but not at home, he was told, "Because in some areas of the country, the concentration of land ownership is comparable to that of South America."⁶ Though the Constitution provides for a census every ten years, in order to distribute Congressional representation and government services according to population, there has never been a land census in the United States.

England has conducted two such surveys: William the Conqueror ordered the famous Domesday Book to be drawn up in 1086 so that he could know the extent and concentration of holdings in his newly acquired dominion; and a second Domesday Book was drawn up in 1873 in an effort to show a skeptical public that the aristocracy did not still hold their ancient tenures. Actually, however, the results were not very reassuring. The same families that held large estates in 1086 held them in 1873 almost 800 years later.⁷

The facts were startling: four-fifths of the land

⁶Sophy Burnham, The Landed Gentry (New York: G. P. Putnam, 1978), p. 83.

⁷Ibid., pp. 85-86

was owned by just over 7,000 people. Ninety percent of the peers of the realm owned sizable sections of the country, and about twenty 'super' peers owned land in excess of 100,000 acres. Not surprisingly, since then no further censuses of land ownership have been taken in Great Britain.

One explanation of why the question of land ownership has never been the topic of an actual survey in the United States is that until recently there was always plenty of freely available land for anyone with the impulse and initiative to settle, farm, and care for it. Certainly, this is a valid observation up to the turn of the last century. As Frederick Jackson Turner made so justly famous, the Census of 1890 contained an important announcement:

Up to and including 1880 the country had a frontier of settlement, but at the present the unsettled area has been so broken into by isolated bodies of settlement that there can hardly be said to be a frontier line. In the discussion of its extent, its westward movement, etc., it cannot, therefore, any longer have a place in the census report.⁸

In effect the whole of the vast continent had been settled. Land enclosure enclosed upon itself as it must inevitably do.

⁸Frederick Jackson Turner, The Frontier in American History (New York: Holt, Rinehart, and Winston, 1947), p. 1. The chapter "The Significance of the Frontier in American History" was first presented as a paper to the American Historical Association in Chicago, July 12, 1892 and has remained controversial ever since, but one does not have to accept Turner's thesis to recognize the importance of the statement from the census.

The promise and prospect of land freely available was more than just a psychological stimulus to the early settlers and later immigrants. It was the very source of their civil freedom. After all, with each family or individual able to settle their own site, there was no fear of involuntary servitude to unscrupulous entrepreneurs, for everyone could go out and establish themselves on their own. Numerous studies have shown how the availability of unclaimed land kept wages in America much higher than in Europe. Also, the easy access to land made Black slavery on the plantations and Chinese labor on the railroads 'necessary' since both groups could not easily run away and become lost in the crowd.⁹ Their racial features made them stand out even in the wilderness. Cheap labor cannot be had where land is freely and abundantly available. Some form of involuntary servitude must be established in order to exploit the worker where men and land are free. Once full enclosure of the land has taken place, however, men will be forced to work for the least they are willing to accept within the general standard of living of the community. No employer need pay more, for the worker without access to land has no place to go in order to earn his wages. Either he must accept what he is offered, or

⁹See, Marcus Cunliffe, Chattle Slavery and Wage Slavery (Athens, Ga.: University of Georgia, 1979) and also his Private Property: A Theme in American History (Atlantic Highlands, N.J.: Humanities Press, 1974).

he is left to starve. This is the simple choice.

Of course, once men begin to see their predicament, they will strive to organize and exert collective pressure against those who control land and its natural resources. This leads to a labor movement, and the well-known, bitter struggle between the union and the management commences. We cannot go into any of the historical and philosophical questions that arise because of this conflict.¹⁰ Not only would such an endeavor distract us from our thesis, but it would not really solve the issue at stake: namely, how do we insure that land remains available to those willing and able to use it, while at the same time insuring that we do not violate the rights and privileges of those who already

¹⁰The tendency of even non-Marxist scholars to concentrate their attention upon this aspect of the problem has led to a confusion of the fundamental issues. Surely we can understand that unless the conditions for freedom are met, any balancing of interests or weighing of alternatives must be only approximate or temporary ways of achieving justice. For a general treatment of Marx's concept of property and freedom see, George G. Brenkert "Freedom and Private Property in Marx," Philosophy and Public Affairs, 8 (1979): 122-147. What should be evident upon careful reading is that Marx does not grasp the important difference between ownership of land and ownership of things. So taken was he by the enormous capacity of the new developments of the industrial revolution and the ability of capital to grind out products and grind down men, that he failed to distinguish between the forms of exploitation and alienation. On the other side of the issue, most proponents of private property rights also fail to understand the unique status of land in relation to all other things. Hence, the term property is used to speak about land as well as different forms of ownership. Gottfried Dietze, In Defense of Property (Chicago: Henry Regnery, 1963) never actually addresses the issue whether some things might not lend themselves to the characteristic of being owned. Indeed his use of the words 'property' and

control it? This is what any theory of property rights in land must attempt to resolve.

William Blackstone's acute psychological observation has often been cited in discussions of land ownership:

There is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the right of any other individual in the universe.¹¹

But seldom is any effort made to analyse why there is such a prevalent desire to own land. Perhaps the answer seems so obvious to many: control of land brings with it economic, political, and social opportunity, if not complete freedom. Once an individual has the right to exclude others from a plot of land, he gains a degree of independence that cannot be obtained by any other means. And since, generally speaking, control of land extends "up to heaven and down to hell"¹² there is enormous scope for possible activity. One can build, grow things, mine or otherwise put the land to use. Certainly there may be restrictions upon the uses or activities permitted on a

'goods' are so vague as to be practically meaningless in any real philosophical sense.

¹¹William Blackstone, Commentaries on the Law of England, 4 vols. (Oxford: Clarendon Press, 1766), 2:2

¹²Cujus est solum ejus est usque ad coelum et ad inferos is the legal expression.

given site because of zoning regulations, environmental protection legislation, or ancient covenants, but basically ownership of land, and most especially liberal ownership, gives the individual advantages that can not be matched by any other right.

One need not be an economist or political scientist to appreciate the significance of land tenure. One of the best cartoons to appear in The New Yorker showed two Pilgrims leaning over the side of what looked like the Mayflower. One is saying to the other: "My immediate goal is religious freedom, but after that I expect to go into real estate." Sadly, it is not clear whether most of those who laugh at the cartoon realize how accurate it is historically or how contradictory the two goals are philosophically. Perhaps many do, and their laughter is the nervous reaction to a truth too scary to be faced directly.

The fact is that ownership of land is often understood as an absolute right without any corresponding obligations. The Common Law does not see it that way,¹³ but in the popular mind, nevertheless, property rights in land are held to be inalienable and absolute.¹⁴ Unfortunately, while such a conception is not supported in the

¹³H. D. Hargreaves, "Terminology and Title in Ejectment" Law Quarterly Review, 56 (1940): 376ff. is a careful argument that English Common Law still knows no absolute ownership but only relativity of title. Also, his "Modern Real Property," Modern Law Review, 19 (1956): 14 ff.

¹⁴Consider the warning from the President's Council

practice or theory of the Common Law, it still has a tremendous influence upon people's ability to understand the principles necessary for a just distribution of property rights in land. Unless there is an acknowledgement that no one can claim absolute rights regarding the ownership of land, and that furthermore, land is a special element in the creation in that it is essential for all human activities, there is no hope for a reasonable, workable system of land tenure within society.¹⁵

What men refuse to remember is: whether one follows Genesis or studies geology, the earth was here before mankind. It had to be. As a sheer fact a physical necessity we all require some access to land whatever our endeavors. Man is a land animal: he is also, fortunately, a rational and social animal. Hence, men can work together to reasonably allocate rights in land. The only obstacles are unreasonable fear and unnecessary greed. Throughout

on Environmental Quality in Fred Besselman, David Collies, and John Banton, The Taking Issue: An Analysis of the Constitutional Limits of Land Use Control, (Washington, D.C.: U.S. Government Printing Office, 1973): "Many people seriously believe that the Constitution gives every man right to do whatever he wants to do with his land, that foreign concepts like environmental protection and zoning were probably sneaked through by the Warren Court. Many more people recognize the validity of land use regulation in general, but believe that it may never be used to reduce the value of a man's land to a point that he can't make a profit in it."

¹⁵See, along with other papers cited already, A. I. Hallowell, "The Nature and Function of Property as a Social Institution," Journal of Political Science, 1 (1943): 115-130 and G. P. Wilson, "Jurisprudence and the Discussion of

history men have feared that there was not enough land for all, and so each sought to get his hands on his little bit. This encouraged even more greed, which in turn generated greater fear, and soon people were not able to consider the question objectively. Some simple statistics may help clarify matters:¹⁶ the total acreage of the United States is 2,264 million; of that, the Federal Government owns 761 million acres; State and Local Governments own 136 million acres; Indian Trust Lands are 50 million acres; and Private Parties own 1,317 million acres. In other words, about 58 percent of the total acreage is in private hands. Yet, further examination suggests that the apparent widespread distribution of American soil is an illusion, for only a mere 2 percent of the acreage is residential. And only 3 percent is classified as commercial, industrial, or non-agricultural. The remaining 95 percent of all private lands is ranch, farm, or forest land. While the 26.4 million acres of residential land are owned by some 50 million 'entities',¹⁷ the 40 million acres of commercial

Ownership," Century Law Journal, (1957): 216ff.

¹⁶A convenient and instructive compilation of data on present ownership of American land is Peter Meyer, "Land Rush: A Survey of America's Land," Harper's (January 1979): 45-60. All figures used here are taken from this report.

¹⁷The term 'entities' is used since there is no way of knowing whether specific tracts of land are owned by different individuals and corporations or not. It is common practice to list ownership under fictitious titles or dummy corporations. This is one more indication that some

are owned by about 3 million entities, and the remaining 1.2 billion acres of ranch and farm and forest lands are owned by another 7.5 million entities. At best, allowing for the most generous interpretation of the data, this means that 3 percent of the population owns 55 percent of all American land and 95 percent of all the private land. If all the public lands that are leased to individuals or corporations were added to this total, the concentration of control over land in the United States would be seen to be even worse.

When land is regarded as a commodity capable of being bought and sold like anything else, then the special significance of land is likely to be forgotten. Yet, because this significance stems from the very nature of land itself, at least two special characteristics of land must always be reckoned with in any system of land tenure.¹⁸ First, and

people feel the need to hide the concentration of ownership.

¹⁸Here is a summary of some of the more obvious special interests that the character of land generates: "There are many rights in land that are not found in goods or that differ in some particular from those that are; and naturally they often last longer. An easement is a simple illustration; it is a right enjoyed by the owner of land over the land of another. For example, since land is immovable its position cannot be changed to make it accessible; if its owner is unable to get to it without having to cross somebody else's land, he needs to have a right of way over that other land, and this right must last as long as his surrounded by land in other othership. Then again, because land cannot be carried off and fraudulently hidden or disposed of, it becomes particularly useful as security for a loan or for the performance of some obligation without handing over its possession, as is necessary when movable property is pawned. The rightful owner of land can

most obvious, it is immovable. (In both French and German the word for 'real estate' accents this point—Immobilier.) Transference of property rights in land requires that men move, for there is no way in which the land can be moved. Nor can land be held or handled in the same way that other things may be possessed. We belong to the land more than the land belongs to us. Second, it is permanent. It cannot be 'destroyed.' We can ruin the land by pollution, defoliation, or erosion, but it cannot be reduced in size any more than it can be changed in location. The first Domesday survey of the land in England was of the same land that the second survey 300 years later referred to. Men have parcelled out the land in countless holdings over the years, but no one has been able to divide what God first joined together. One can hope for new neighbors but not for a new neighborhood.

These two characteristics have inevitably influenced the very nature of land ownership. This is equally true whether the ownership is viewed as absolute (Roman, dominium;

always lay his hand on it, unlike the owner of a watch or horse or motor-car which may be stolen and never seen again. Because land is everlasting it can be made the subject of future interests or even a series of future interests, and mortal man has never ceased to exercise his ingenuity in inventing means to ensure that his land will forever be used in accordance with his wishes, be it for the continued support of his family or as a lasting memorial to himself and a projection of his own personality long after his death. It is this capacity of land to carry future interests, combined with man's desire to perpetuate his line or memory, which has led to many of the involutions of land law." S. Rowton Simpson, Land Law and Registration (Cambridge: Cambridge University Press, 1976), p. 6.

Contential, allodium; Islamic, mulk) or as limited (as in the Common Law). In Common Law an owner is called a 'tenant in a fee simple' because this tradition recognizes only estates or interests in land and not ownership of the land itself. (In practice, it must be added, 'fee simple' certainly is ownership of the most liberal sort, especially after Bradford Corporation v. Pickles.)¹⁹ Unlike the case with chattle, the law was forced to acknowledge the impact of ownership of land upon the whole society from the very beginning.

Lawrence M. Friedman conveniently summarizes the influence and effect of the Common Law regarding land:

Land law was the kernal and core of common law. More exactly, real-property law was the core. Real property meant much more than land; the term applied to that cluster of privileges and rights which centered

¹⁹This case—a literal watershed case—found that selfish or malevolent motives behind a legal action could not thereby render such an action illegal. Moreover, property rights protected one from seeking the public good unwillingly. Pickles had percolating water on his land and sought to deny Bradford from benefiting from this in order to cause it to buy the land at an exorbitant price. Bradford Corporation v. Pickles (1895), A.C. 587. Applied. Longbrook Properties v. Surre County Council (1969), 113 S.J. 983. American law, fortunately, has never gone so far in separating private and public interests. See, Golden v. Planning Board of Ramapo, 334 N.Y.S. 2d. 138 (1979): "Every restriction on the use of property entails hardship for some individual owners. Those difficulties are invariably the product of police regulation and the pecuniary profits of the individual must in the long run be subordinated to the needs of the community." Also, Richard R.P. Powell, "The Relationship Between Property Rights and Civil Rights," Hastings Law Journal, 15 (1963): 137-152 outlines some ideas about property and civil

on land, or on the exercise of power which had a geographical focus. In medieval England, rights to real property meant jurisdiction as well as ownership. The lord of the manor was a little sovereign as well as an owner of houses, land, and growing crops. Only people with land or land rights really mattered: the gentry, the nobles, the upper clergy; land was the source of their wealth and the source and seat of their power. Well into modern times, power and wealth were concentrated in the hands of great landlords. The social system turned on rights in land.²⁰

The most important point to realize from this description is that the very nature of land generates this power. It is because land is what it is that makes it so valuable. No law, no political system, no economic plan can alter the importance of land: all they can do is distribute its benefits more equitably and widely.

We cannot go into all the multiple uses of land nor discuss all the possible forms of wealth that come directly from it, but we should spend some time considering how land values reflect communal development as well as natural resources. No one can deny that the owner of a particular site enjoys all the advantages of the site irrespective of any contribution he may have made. In other words, the site comes with all its advantages neatly packaged together.

freedom which have been incorporated into present law.

²⁰Lawrence M. Friedman, A History of American Law (New York: Simon and Schuster, 1973), p. 202.

If there are mineral or other natural resources on the site, having full property rights generally gives the owner exclusive control over those assets. And if the site is centrally located in a great urban community, even if there were mineral deposits underneath, the value of the site comes from its location and the surrounding community. In fact, except in the rarest of circumstances, the location of an urban plot of land is due almost solely to the community and its advantages. This is why urban land sells for such enormous prices, oftentimes measured in square footage.

In highly developed societies, population centers generate much more wealth per square foot than rural communities. This is a natural consequence of industrialization and economic development. Because of the importance of trade, commercial centers become places where huge volumes of goods are exchanged or sought, and quick profits are made in tightly packed markets. Credit and loans are much more readily available at the same time. All these factors make central sites highly desirable for the entrepreneur. It does not take a study of the history of urban civilization to demonstrate how interrelated land values are with population.

But the problems that come with concentrations of populations are also many. There is a tremendous need for social and communal services of all kinds: e.g. fire and police departments, public transportation and roads,

sewerage and other environmental protection agencies, health and hospital facilities, schools and educational institutions, etc. The great question is, How should these services be paid for? Some form of taxation is needed, but which form is best is not so clear.

Property rights immediately become involved, for all taxation takes away some wealth from someone.²¹ How much and from whom are the two questions. We shall explore these questions in a separate chapter below, but here it needs to be said that property rights in land illustrates better than anything else how intimately tied together are the benefits and burdens of living in society. All communities are geographic in nature. Though it is possible for portions of the earth which are distantly separated to be united under one government, it is more than likely that such an arrangement will be relatively shortlived or that there will be some form of semiautonomous government in the colony. The example of British India comes to mind. Absentee landlords have never been heralded even among their fellows, for men sense that there is a connection

²¹Chief Justice John Marshall's dictum in McCulloch v. Maryland (1819) is as well known as it is true: "The power to tax involves the power to destroy." Sometimes it is suggested that taxation is inconsistent with property rights, but surely this can only be asserted if we forget the social origin of property itself. See, J. R. Kearl, "Do Entitlements Imply That Taxation Is Theft?" Philosophy and Public Affairs 7 (1977): 74-81. Also, Chapter Seven, "Site Value Taxation," below.

between the rights and privileges of real property and the duties and responsibilities of being a real member of the community.

When the issue is looked at economically, we see another side of the coin. Since favored sites, whether urban or rural, bring greater benefits to the individual per unit of work, it only seems natural that a greater burden be placed upon holders of such property in proportion to their especial advantage. Neither the fertility of the soil, the presence of any natural resources, nor the central location of the site can be traced back to the efforts of any individual. They all accrue to the site from factors beyond individual control or manufacture. This is plainly seen in the case of natural resources. But it also must be seen in the case of centrally situated sites. As we have already noted, population creates increased site value because land becomes even more productive through the presence of the community. This phenomenon has long been observed by economists, and the increased productivity of the favored sites has been labeled the 'economic rent' or 'ground rent'.²²

Adam Smith first perceived that ownership of land was essentially a nonproductive function in economics. "The wood of the forest, the grass of the field, and all

²²A standard work on economic rent is Richard T. Ely and George W. Wehrwein, Land Economics (New York: Macmillan, 1940).

the natural fruits of the earth"²³ cost the laborer nothing other than the effort in gathering them if the land is held in common. Further, in and of itself, the appropriation of land as private property does not improve its productivity; all it means is that now one man can demand with the support and approval of the state a portion of whatever is harvested on the land in rent, and as Smith himself observes, he may reap "where [he] never sowed."²⁴ Of course, a landlord may improve the productivity of his site through more efficient methods or advanced technology. But the underlying truth remains, ownership of land in and of itself yields no economic benefit.

Building upon Smith, David Ricardo carried the analysis of economic rent further. Ricardo pointed out that rent is not affected by the price of products in the marketplace, but rather is a function of the supply and quality of useful land. Since some sites inevitably are more fertile than others, to use only an agricultural example, the differential between what the least productive sites in use and the more productive sites constitutes the economic rent of the land. In other words, some land is going to be only marginally productive, while other land is bound to be exceedingly productive. Land that yields

²³Adam Smith, The Wealth of Nations, 1776, edited by Edwin Cannan (London: Methuen & Co., 1904), p.59

²⁴Ibid., p.61

less than the margin will remain out of use unless total land enclosure forces men to live at a mere subsistence level. The marginal land is that which provides an acceptable level of earnings according to the standards of the community. The more advantageous land provides a higher level of earnings with the same amount of effort because of its increased fertility or other natural qualities. Hence, someone who owns the more advantageously situated site can, if he wants, lease the land to another and let the tenant keep his earnings which would be equivalent to what might be had on the marginal sites. The owner would be able to collect the economic rent for himself and thus live off the excess productivity of the land without making any contribution at all. Consider this, for example: Two farmers each have 100 acres of land, but one farm is twice as productive as the other. Thus, from his 100 acres, Farmer Brown reaps 1,000 bushels of wheat, and from his 100 acres Farmer Jones reaps 2,000 bushels with the same investment of time, skill, and effort. Clearly, if Farmers Brown and Jones were to exchange farms (which is rather unlikely, to be sure), Farmer Brown would reap the 2,000 bushels and Jones would have only 1,000. Hence, if Brown's farm is the least productive in use, then the economic rent on Jones' farm is 1,000 bushels. Obviously, Jones could lease his acreage to Farmer Smith for 1,000 bushels of wheat, and he would live as well as Brown and Smith without doing anything merely because he owned the better

land. Tenant farming works according to this principle.

If we move to the city, then the situation is really the same, even though the cause for the difference in productivity of urban sites is not the same. Again, two sites of equal size, say $\frac{1}{4}$ acre, will be more or less productive according to their location within the community. Two shops selling the same merchandise will have very different volumes of sale depending where they are situated. Shop A which is located near mass transit facilities will generally have a higher volume than shop B which is off the beaten track. This fact will, of course, be reflected in their respective leases. Monthly rent can vary as much as tenfold in a given business according to the location of the shop. The difference is due to the advantages of centrally located sites, particularly in commercial businesses though it also applies to other areas. Accessibility generates increased productivity for a number of reasons. First, it reduces costs of production, such as transportation charges, communication and distribution costs, etc.; second, it allows for greater access to a larger and better skilled labor force which themselves are more productive; third, it generally benefits from better technology and recent improvements in manufacturing or merchandising; fourth, it means higher volume and hence less cost per item; and fifth, credit and financial arrangements are more competitive and comprehensive in urban centers. It should be clear that none of these advantages

can be claimed by the owner of the site as due to his efforts or presence. He will, nevertheless, want to pocket the increased value of his site for himself if left to his own devices.

Thomas Malthus was the first to see the tremendous influence population played upon the productivity and increased value of land. That his suggestion that population increased geometrically while productivity of agricultural land increased only arithmetically is false does not detract from his essential insight: as land is finite and population is expanding, those who control the land are bound to benefit according to the leverage they have over a scarce resource. Henry George combined the insights of Smith, Ricardo, and Malthus in his classic text, Progress and Poverty, and he thereby sought to explain the origin of all inequalities of wealth. In his Chapter II of Book V on "The Persistence of Poverty and Advancing Wealth" he wrote:

But labor cannot reap the benefits which advancing civilization thus brings, because they are intercepted. Land being necessary to labor, and being reduced to private ownership, every increase in the productive power of labor but increases rent—the price that labor must pay for the opportunity to utilize its powers; and thus all the advantages gained by march of process go to the owners of land, and wages do not increase. Wages cannot increase; for the greater the earnings of labor the greater the price labor must pay out of its earnings for the opportunity to make any earnings

at all.²⁵

Later in the same chapter he adds:

In all our long investigation we have been advancing to this simple truth: That as land is necessary to the exertion of labor in the production of wealth, to command the land which is necessary to labor, is to command all the fruits of labor save enough to enable labor to exist . . .

The great cause of inequality in the distribution of wealth is inequality in the ownership of land. The ownership of land is the great fundamental fact which ultimately determines the social, the political, and consequently, the intellectual and moral condition of a people. And it must be so. For land is the habitation of man, the storehouse upon which he must draw for all his needs, the material to which his labor must be applied for the supply of all his desires; for even the products of the sea cannot be taken, the light of the sun enjoyed, or any of the forces of nature utilized, without the use of land or its products. On the land we are born, from it we live, to it we return again—children of the soil as truly as is the blade of grass or the flower of the field. Take away from man all that belongs to land, and he is but a disembodied spirit. Material progress cannot rid us of our dependence upon land; and hence, when land is monopolized, it might go on to infinity without increasing wages or

²⁵George, Progress and Poverty, p. 283. The best treatment of George is George R. Geiger, The Philosophy of Henry George (New York: Macmillan Co., 1933). Also, see, Steven B. Cord, Henry George: Dreamer or Realist? (Philadelphia: University of Pennsylvania Press, 1965) and Charles Albro Barker, Henry George (New York: Oxford University Press, 1955), though the latter work is better for its presentation of the life of George than for its understanding of his philosophy.

improving the condition of those who have but their labor. It can but add to the value of land and the power which its possession gives. Everywhere, in all times, among all peoples, the possession of land is the base of aristocracy, the foundation of great fortunes, the source of power. As said the Brahmins ages ago--

"To whomsoever the soil at any time belongs, to him belong the fruits of it. White parasols and elephants mad with pride are the flowers of a grant of land."²⁶

The only ways in which the economic squeeze that results from the total enclosure of land can be avoided is either that new land is discovered and opened to settlement or the holding of land out of use for purely speculative purposes is made unprofitable. Obviously, the first way is no longer available,²⁷ so we are left with the problem of determining a fair and reasonable method whereby the second way may be put into effect. Of course, there may be some who believe that it is just an unfortunate fact of life that some will have access to land while others will not. Instead, it is thought incumbent upon those who enjoy access to share their good fortune by providing opportunities for work and livelihoods to as many individuals

²⁶Ibid., pp. 294-6.

²⁷This is not to say, as noted above, that all available land is now being fully utilized, but only that all land throughout the world is fully enclosed.

that are economically feasible. That such a view is indefensible on the grounds of justice does not seem to bother its supporters. We shall deal with it in the next chapter when we look at the various justifications of property rights in land, but for the moment it is worth remembering that whatever values are held supreme determine what seems worth doing and what does not seem worth the trouble. If we consider economic prosperity as superior to liberty, then we are bound to find certain arrangements more attractive than otherwise. But if the highest priority is liberty, then we may be much more willing to sacrifice certain apparent (though not necessarily real) opportunities for economic development in favor of individual and social freedom.

Since we are bound to have some system of land tenure in society, it is of the utmost importance that we understand the ramifications of whatever systems are considered before entering into a social arrangement embodying one form or another. Yes, it is too late to change the system in place without major disruptions, but it is not, therefore, too late to modify it or even apply it equitably. Indeed, it is hoped that we will come to see that fundamental changes in the present system of land tenure are entirely within the realm of possibility, and, furthermore, that we may create conditions under which access to land is expanded significantly and fairly.

Certainly, the scarcity of land as well as the

attraction of collecting the economic rent make private ownership of land extremely popular. The philosophical question before us, however, is: Can any reasonable argument be made which would justify the private collection of the economic rent for personal gain? Or to formulate it more generally, Which system of land tenure satisfies the various conditions of the criteria for justice best? But before we can attempt to answer these crucial questions, we must first examine the traditional arguments in favor of ownership of land.