LAND & LIBERTY

NOV. & DEC. 1979

BRITISH FOREIGN MINISTER LORD CARRINGTON

THE BIG SELLOUT

THE FERTILE LANDS of Zimbabwe once belonged to black farmers. European settlers dispossessed them, in the colonial era of lawlessness, and made a handsome living out ot the African soil. But the balance of coercive power has shifted. The international community imposed trade sanctions on Ian Smith's rebels. And the Patriotic Front has waged a guerrilla war which could be prolonged indefinitely. Now the Muzorewa-led Government wants military and constitutional peace. But the referee – British Foreign Minister Lord Carrington – insists that there is a price to be paid. White farmers should be "compensated" if any of their land – originally wrenched illegally from black tribesmen – is returned to the sons of the rightful owners. This is a sellout of moral principles, a fact which should not be forgotten in the search for a compromise. Can a just and lasting multi-racial society which meets the aspirations of all its citizens be built on morally indefensible foundations?

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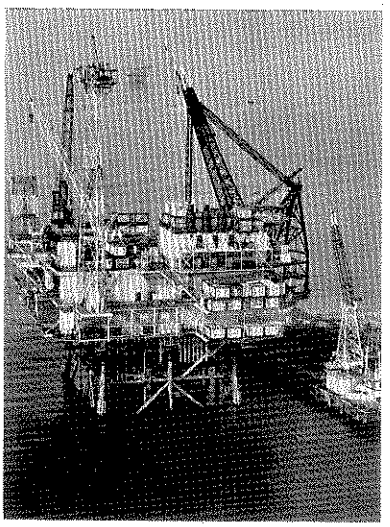

The seabed rent racket

WHO OUGHT to own the rental value of oil and gas beneath the world's oceans? The questions may be controversial, but the current facts are not: billions of pounds in rent are being pocketed by the oil conglomerates. National governments are failing to ensure that the surplus value of energy – income over and above the labour and capital costs of production – is shared out for the benefit of all. The scandal is investigated in the next issue of *Land & Liberty*.

RHODES did not have the thought of compensation in his mind when he led the white warriors northwards into the heart of Africa in the 1890s.

He had no compunction about helping the settlers to take land with the aid of a gun. And compensation was not paid to the black farmers for the loss of their livelihoods.

Why, today, should compensation to the white farmers be paid by the people on whom the wrong was perpetrated?

THE ZIMBABWE Rhodesia peace conference at Lancaster House, London, came dangerously close to collapsing in the second week of October over the issue of land compensation.

The Nkomo-Mugabe-led Patriotic Front (PF), which has guerrillas fighting in the field, opposed the compensation principle. But British Foreign Minister Lord Carrington wanted a guarantee written into the new constitution.

The central tension in the attempt to draft a constitution which is acceptable to all parties – instead of one which just suited the landowners[1] – turned on the conflict between morality and pragmatism, between history and realities which are still unfolding in unpredictable directions.

Carrington cast himself in the role of conciliator. He said:

"Had it been our task to devise a Constitution for a state with no history, no background of discord and civil war, it would no doubt have been easy to start afresh and to proceed on some other basis.

"But a Constitution for Rhodesia must take account of the circumstances which exist in that country. Our objective must be to agree a framework within which, against that background of conflict, a truly multi-racial society based on reconciliation and mutual confidence can exist."[2]

The PF would not have disagreed, but they did challenge Carrington's right to select those aspects of history which suited his purpose.

PF leaders wanted to retain the right of discretion over whether to pay compensation to an owner whose land was appropriated: history and justice might have dictated no compensation in certain cases.

COMPENSATION for the loss of land is a vexatious issue, central to the problem of land reform and one of the obstacles over

TAXING THE FARMER

A VIGOROUS dispute has arisen in the correspondence columns of the *Financial Times* over the effects of capital transfer taxes (CTT) on agriculture. Should farmers, who pay no rates on their land in the way that other landowners do, be treated as a special case? Mr. G. R. Williams, Taxation Secretary of the Country Landowners' Association, puts the case for farmers. Mr. Alister Sutherland, lecturer at Trinity College, Cambridge, presented the opposing view.

DOES THE PROSPEROUS AGRICULTURAL SECTOR DESERVE SPECIAL TAX CONCESSIONS?

G. R. WILLIAMS writes: Owners of farmland will have been surprised by the reference to a "notional" liability for capital transfer tax in Christopher Parkes' article of September 28. The possible liability of £54,000 in respect of a farm of 100 hectares would have to be met with cash. Failing this, the enforcement proceedings taken by the Inland Revenue would hardly be notional.

The suggestions made for dealing with the serious CTT problems faced by farmers show clearly that changes are needed. Perhaps, in theory, CTT can be saved by transferring a share in the land to a wife; but why should the survival of the business depend on the matrimonial status of the owner? The article suggests that a farmer of reasonable management ability should be able to pass, intact, to his heirs a farm of up to 400 hectares; are bachelors and widowers assumed to be bereft of such ability?

The possibility of financing tax liabilities through life assurance is canvassed, but the article points out that, in respect of a farm for which the liability would have been £18,000 in 1975, £54,000 would be needed now. What sort of policy effected in 1975 for a sum assured of £18,000 would produce £54,000 on a claim made now? Could a farm of only 100 hectares generate the income required to fund the premiums for such a policy, on a regular basis?

Agriculture is an illiquid, capital-intensive industry, which is particularly vulnerable to taxes based on the value of low yielding assets, such as agricultural land. The need to find cash to meet tax bills inevitably makes it harder for the owner to finance investment, and it must surely be wrong that management effort should be diverted into creating partnerships, or other business structures, for fiscal, rather than agricultural reasons. It is therefore vitally important for owner-occupiers as well as landlords to continue to press the Government for necessary changes in CTT – a tax rightly described in the Chancellor's Budget speech as being "oppressive, harmful to business and a real deterrent to initiative and enterprise."

A. SUTHERLAND writes: The letter from the taxation secretary of the Country Landowners' Association yields an unusually fine crop of misinformation.

Agricultural land is said, once again, to be a "low yielding asset." It is not. The income increase on the farm of average size in the FMS sample has been about 6 per cent, a year, in real terms, over the past decade. In addition there has been a capital gain of about 9.7 per cent a year, in real terms. The yield, from income plus capital gain, has been about 16 per cent a year, in real terms. (If Mr. Williams is thinking of the first-year return, he should perhaps refer to my letter of August 29.)

The potential capital transfer tax liability on a farm of 100 hectares is put at £54,000 by the Milk Marketing Board, as reported by Chris Parkes on September 28. According to Mr. Williams that amount "would have to be met with cash;" "£54,000 would be needed now." It would not. Tax on businesses can be paid in eight annual instalments without incurring interest. The first year payment would be £6,750 – which is about twice the imputed rent – and inflation and real income growth would steadily erode the subsequent burden, while leaving further capital gain tax free in the heir's hands. (Since the trough of 1975, the capital gain on 100 hectares – not mentioned by Mr. Williams – has been about £240,000.)

One way of meeting the CCT liability is to take out insurance. "Could a farm of only [sic] 100 hectares generate the income required to fund the premiums for such a policy?" This farm is twice the average size. The sum required, allowing for the eight year spread, is about two-thirds of £54,000. A man of 45 could obtain a Whole of Life policy without profits for about £650 a year (less tax relief. With profits would be cheaper, but riskier.) That is £6.50 per hectare, i.e. about 5 per cent of the profit. So the answer is "Yes, easily."

"Why should the survival of the business depend on the matrimonial status of the owner?" On the evidence, "survival" is not in question, even on this large farm. Further, farmers are as able and willing to adopt tax planning as are other businessmen. Finally, the "family farm" is usually alleged to be the entity worth some concessions. Is the CLA against CTT relief for spouses?

In any event the MMB's calculation of a CTT liability of £54,000 on 100 hectares – which would be worth some £350,000 at £3,500 per hectare – appears to ignore all tax planning. Agricultural relief automatically reduces the taxable value to £175,000 – and £60,000, i.e. 17 per cent is the CTT on that amount. But if the farmer did split ownership with his wife the liability would drop to £36,500, i.e. 10 per cent. Further, if the farmer was in, or set up, an appropriate partnership to own the land, with a tenancy to himself and his wife, the liability would drop to £11,000, i.e. 3 per cent. A standard payer of CTT would have a liability of £168,000, i.e. 48 per cent on assets of £350,000 – payable in cash, not instalments.

The duty of lobbyists is to lobby. The rest of us have good grounds for urging that the "necessary changes in CTT" include some reduction in the large tax concessions currently enjoyed by one of the most prosperous sections of the community.

● BRITISH Property Federation President Nigel Mobbs has welcomed the plan to sell-off publicly owned land as "a very worthwhile exercise." But while condemning public land hoarding, he justified private land hoarding by blaming the planning authorities. "Cash is a compelling motive for the private owners to sell, while such an incentive often appears to hold less sway in the public sector," he says. But he failed to explain why private owners with planning permission to develop their land often sat on their property for many years before releasing it to builders.

IDEOLOGY AND AGRARIAN REFORM

ANTHONY HARRIS commented on the FAO-sponsored World Conference on Agrarian Reform and Rural Development (WCARRD) staged in Rome:

Agrarian reform means land for people; and that land at present often belongs to outsiders – individual or corporate. So land nationalisation is likely to play a part in agrarian reform; and that in turn tends to mean a row over compensation. It may be almost inevitable, but it is also unnecessary and confusing.

The confusion was beautifully sorted out by one of the smallest countries at WCARRD, the Seychelles; but it was promptly reconfused by everyone else, because for one reason or another they actually want the issue confused. Russia wanted to talk about capitalist exploitation, Guinea wanted to talk about colonial exploitation, and the developed countries wanted to use WCARRD to grind their old axe about compensation for foreign-owned industries.

These are all legitimate talking points, but have very little to do with agrarian reform. Guinea brought out one of the only important points.

Historical left-overs are one thing, and can be eliminated according to taste. But freely-entered contracts are quite another matter, and should be honoured.

That really disposes of the industry issues. Most developed countries would settle for the sanctity of contract, apart from the awkward question of what happens after a change of political regime – much too awkward for settlement here.

So much for the law. But the real issue is economic: and here only the Seychelles had anything important to say. Its central points were two.

First, some external owners neglect their land holdings and do not develop them. They hardly deserve the same compensation as an energetic cultivator and employers.

Second, land values may not be created by the owner. In the Seychelles, the building of an airport and some hotels has multiplied the value of adjacent land without the owners stirring in their sleep.

The Seychelles has just passed a law which solves both these problems.

Compensation value for land depends on the income the previous owner was generating. Simple, isn't it?

If nationalisation were the only issue, this would be the complete answer, in terms of economic justice, if not of politics.

There is an even more direct way to realise the use value of land. It was proposed by Marx's predecessor, David Ricardo, and has been preached for years at conferences like WCARRD by the great French agronomist, Rene Dumont.

It is an annual land tax.

This is a penalty for failing to cultivate land. It is a tax which doesn't raise other prices. [The Danes, about the most efficient farmers in the world, have had a land tax since 1926 – and it was the small farmers' party which insisted on it.]

It is a way of getting back socially-created values. That is why the Australians imposed a land tax after building the Sydney Harbour Bridge.

It is a tax which can be excused for smallholders, encouraging peasant agriculture.

It is a tax which reduces land prices, including compensation values, because a tax liability has a negative value.

And it is a tax which the rich countries can't object to. No country in the world allows outsiders a say in its tax policies, or pays compensation for new taxes.

It ought to be mentioned in the WCARRD documentation. Dumont would even make it a central proposal. But it isn't there at all.

The economic 'stroke' threat to New Hampshire

By RICHARD NOYES, Editor, *The Salem Observer*, N.H.

AS THE ONLY state left in the Union with neither a general sales nor a general income tax, New Hampshire is growing to beat the band, as Massachusetts residents and others to the south and west "vote with their feet" by coming to live with us.

New Hampshire has grown by 18.2% in the period 1970-78, while the other New England growth rates have been: Maine, 10.1%; Vermont, 9.5%; Massachusetts, 1.8%; Connecticut, 2.2%; and Rhode Island, 1.7%. Unemployment rates (2.6% in Keene, for instance) are favourable, and other statistics paint a rosy picture, but what has all this done to the price of land?

We have had 10 years of current use assessment (i.e., based on current use rather than market value; "open space" or "save the farms" legislation similar to that in other states). The best I can determine from statewide property tax base figures is the land is increasing at the rate of about 18.5% per annum compounded, or a little better, and has been for the past 10 years. And as current use assessment spreads, and the tax burden is taken off more and more vacant property, the land price rises will of course accelerate.

New Hampshire officials have been required since 1970 (as a result of legislation I helped fight for) to assess land and improvements separately, and to state the values on publicly available records. Land represented 22% of the state's property tax base in 1970. It has been gaining steadily since that year, and stood at 25.8% in 1977.

But here's the clincher. New Hampshire has 4,862,233 acres after you take out 2% of the total area for roads, highways, school sites, etc., and another 793,303 acres for the White Mountain National Forest. But since 1970 several trends have eaten into that total tax base substantially. Current use, for one, has gobbled up 2,095 acres in Salem, trimming assessed value by $1.2 million. Current use is costing the town of Croydon about half its total acreage, and the town has gone to court over it. Conservation Commissions, which preserve such open space as wild life preserves, etc., have taken an unknown total. The town of Amherst calculates that about 5,000 of its approximately 30,000 acres has gone into such preserves in ten years.

There is no way to get an exact figure, but it is certain that there is less land in the tax base now than in 1970, and by a factor that could reach 10%. Yet the value of that diminishing supply is growing faster than the value of an *increasing* supply of homes, stores, factories, etc., at a time when we're building them twice as fast as any other state in New England, and during a period when construction costs are inflating. In other words, more is less and less is more, much more.

Little wonder, then, that the landowners' lobbying and promoting group called SPACE keeps urging people to put their land into the current use category, where assessments will drop from the $200 or $300 per acre which is the growing price for even the most remote backland to the $15 to $30 per acre which the state mandates as current use values for open or vacant speculatively held woodland.

The more land goes into current use – and the less there is remaining for purchase on the open market – the higher the price goes on those parcels SPACE supporters are ready to sell. Since "less" becomes "more", even less will be even more.

Land price rises could be the hidden, unsuspected "high blood pressure" that gives New Hampshire an economic stroke just in the prime of life – when everything seems so prosperous.

ALCHEMY ON THE NORFOLK BROADS

THE WAY that public expenditure enriches landowners is dramatically demonstrated by the plan to erect a flood barrier on the Norfolk Broads, *writes Fred Harrison.*

About 45,000 acres are used as meadowland at present, because of the periodic threat of salt-water floods.

Now the Anglian Water Authority proposes to build a surge barrier across the river Yare at Great Yarmouth to protect the 46 broads and the five linked rivers.

Farmers are pressing for action, because they say that this will enable them to turn meadowland over to wheat production: output would increase by 50,000 tons a year.

This increased output would not be reflected in lower food prices, but in higher rents.

Meadowland is at present fetching £500 an acre. Farmers agree that, as a result of a switch to wheat-growing, the land would be worth £2,000 an acre.

The capitalised value of those 45,000 acres, then, would rise from the present £22.5m to about £90m. – more than enough to do as the *Daily Telegraph* (12.10.79) suggested: "Why, since the farmers will benefit, are not the farmers paying?"

The barrier is unofficially costed at £20m. to build, 85% of which is expected to come from the Dept. of Agriculture.

The farmers, of course, will not be asked to finance the barrier out of enhanced land values. *What?* They will even be given grants to cover 85% of the cost of draining their meadowlands!

The ecological damage to wildlife on the Broads would be irreparable, argue environmentalists who oppose the barrier plan. But Paul Scheller, Great Yarmouth organiser of the Friends of the Earth, believes the decision will undoubtedly be made to proceed, because many members of the Norfolk and Suffolk Land Drainage Committee of the Anglian Water Authority represent farming interests.

zens in conflict

The whole of the planning procedure with its commitment to public participation is virtually on trial. Although Coin Street is a special case in view of its proximity to the West End and Waterloo Station, it clearly illustrates citizens in conflict over a land-use decision. There are no doubt many other examples of less significance in other inner city areas. Such cases pose considerable problems for valuers. In the absence of clear land-use plans and firm decisions the valuation process becomes highly speculative within the existing legislative framework. The Royal Town Planning Institute has recognised the problem but so far has concluded that the need for a margin of flexibility in plans means that "a measure of uncertainty" is bound to exist.[4] This gives little comfort to the valuer. And it does not excuse dilatory decision making.

BY PETER HUDSON

IN ADDITION to the vacant land issue and the other lack of clear decisions there are other problems confronting the valuers and land-use planners in the inner city. The economic structure of the inner cities is in transition. Nationally there is a declining trend in manufacturing industry, as well as a land-use trend towards green field sites offering better development and cost advantages with good access to the trunk road system. Even where planning authorities can offer inner city sites to potential developers with the objective of easing unemployment problems, the downturn in demand could result in lack of positive interest. In this connection it is significant that in some cases local authorities have bought, cleared and serviced sites at a cost greater than the disposal terms.

This process, known in the United States as the "writing-down" of land values, has subsidised historic owners at enormous expense to the taxpayer. This practice deserves the fullest public scrutiny and possibly some reconsideration of the compensation code as advocated by the RTPI.[5] To promote redevelopment through a public agency at a loss simply to improve the appearance of the environment or gain a few jobs or houses is an expensive economic policy if not complete nonsense. Maybe this truth is now seen by the Department of the Environment, as Mr. Heseltine has just turned down four London housing developments that would have exceeded Government yardsticks by 40 per cent.[6] Islington's Councillor Pryce was quoted as saying "The average price of an acre of land in this borough is £200,000. The King's Cross site is a small awkward one in an area of high land costs. Unfortunately it's only too typical of the majority of our inner city sites."

There is no doubt that in spite of a considerable loss of population from inner urban areas and an exodus of manufacturing industry, central business districts and the zones surrounding them still command very high site values. Beyond these central locations, however, where the property market is still active, there is a belt of mixed use land which frequently includes vacant or deteriorating industrial buildings, some slums, municipal and rent controlled housing and publicly owned vacant land awaiting financial or planning decisions.

In these areas property values may be in decline but this is not necessarily the view of the remaining private owners hoping for a brighter economic future. The property market is imperfect and it takes time for downward demand changes to be reflected. These parts of cities are in transition and the market has frequently been dominated by local authority compulsory purchase. It is in these areas that the future opportunities for re-structuring are to be found. The compulsory release of publicly held land as envisaged by Mr. Heseltine could promote new development – most likely in the form of housing for sale or housing association projects. Small nursery industrial units might also be attractive. This remains to be seen.

IN THE MEANTIME, however, under the urban programme for this financial year, the Government is providing about £100 million in direct aid to seven "partnership areas" and nineteen "programme authorities." The recipient councils have probably asked for much more – the programme was inherited from the Labour government and could be cut next year. There is no shortage of claimants for taxpayers' money but there are signs that the new government intends to exercise some restraints, unpopular though this may be in some quarters.

On the positive side the public land schedules would be even more welcome if they were to be the first step in making a national cadastral survey of land ownership. A new Domesday Book is long overdue. The advocates of land reform should now take the initiative in pressing the government to extend its land inventory proposal to all vacant land earmarked for development. This is the first essential step towards a comprehensive land valuation. The way would then be open for more positive property tax reform.

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1. *Vacant Land, Inner Area Study: Liverpool,* Department of the Environment, 1976.
2. *Land Values and Planning in the Inner Areas,* Royal Town Planning Institute.
3. *Planning,* April 6, 1979.
4. *op. cit.,* 2 above.
5. *op. cit.,* 2 above.
6. *Municipal and Public Services Journal,* Aug. 31, 1979.

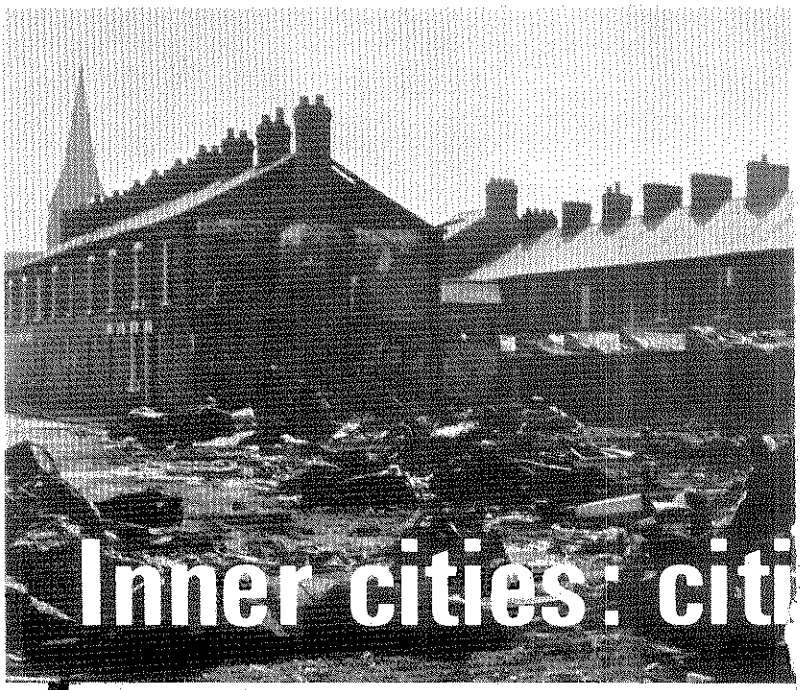
happens to our equal rights to that heritage? Will they not be violated? Spencer showed how to avoid violating those rights. If Nozick does not like the Spencer-George solution, what does he suggest as an alternative *that will still protect those rights*? How else can we make a reality of the Jefferson principle "Equal rights for all – special privileges for none"?

Consider what has happened as a direct result of our failure to protect our equal rights to our common heritage. A class of privileged landholders came into existence that are able to live off the ground rents charged others for the use of "their" land. The sums paid for the use of valuable sites can be enormous. Can anyone seriously claim that such payments are in exchange for a *service*? Does Nozick call this "distributive justice"? If not, what does he propose to do about it?

I hope I have not been to harsh in my criticism of a very small part of Nozick's book. It is a great book in spite of what I have said. I admire the thoughts of this deep-thinking individualist – particularly his repeated emphasis on the importance of not violating the Lockean proviso and his defiant attitude toward any state that violates men's rights. *That shows his keen sense of justice.* That his theory of property needs tightening is a minor thing by comparison. And I feel certain that when he re-examines Spencer – as Nock suggested – he will find the coherent, workable value-added scheme he badly needs to strengthen the philosophical foundation of his minimal state.

REFERENCES

1. John Locke *Of Civil Government – Second Treatise*, Chicago: Henry Regnery Company, 1955, p. xl
2. Robert Nozick *Anarchy, State, and Utopia*, New York: Basic Books Inc., pp. 174-182
3. Herbert Spencer *Social Statics*, New York: D. Appleton and Co., 1870, first published 1850.
4. William Penn suggested the same thing in 1693. He said: "If all men were so far tenants in common to the public that the superfluities of gain and expense were applied to the exigencies thereof, it would put an end to taxes, . . .". See Penn, *Fruits of Solitude*, Part II, p. 222.
5. Henry George, *Our Land and Land Policy*, 1871, later expanded to become *Progress and Poverty* (1879)
6. For the benefit of libertarians who look upon *all* forms of taxation as legalized robbery committed by the state, it should be pointed out that a distinction needs to be made between a tax on the rental value of raw land and a tax on wealth produced by man. The former is really a *quid pro quo* – not a tax. It is a payment to all of us, through the government, for the right of exclusive use of part of our common heritage. Such a payment is necessary to prevent what would otherwise be the robbery of all citizens by a few, i.e., the private pocketing of the rental value of our common heritage.
7. To avoid any misunderstanding I should point out that George did not appropriate Spencer's theory of property. He arrived at it independently. There were also many others who arrived at the same principle long before Spencer. See George R. Geiger, *The Philosophy of Henry George*, New York: Macmillan, 1933.
8. Spencer, *op. cit.*, p. 144.
9. Spencer, *The Man Versus the State*, Caldwell, Idaho: Caxton, 1946, p. VII.
10. Nock looked upon Spencer's theory of property and George's adaptation thereof as "irrefutable". Of George's second "missionary journey" through England and Scotland he wrote: "On this whirlwind tour of incessant propaganda, he had two main objectives in view. The first was to make unmistakenly clear his attitude towards all the works and ways of collectivism. He did this in so aggressive and workmanlike a style that one wonders anew at Spencer's ludicrous error in classing him with the collectivist. He preached straight individualism by day and by night, in and out of season. On the Marxians, led by the brilliant and able Hyndman, he declared open war, no quarter, and no prisoners taken. Socialists and near-socialists of whatever breed or brand went into debate with him only to die a horrible death under torture of the rack and thumbscrew. Never was he worsted, never forced to a tactical retreat. Never had the world seen such a powerful, popular exponent of uncompromising individualism, nor has it seen another like him since his day." Albert Jay Nock, *Henry George*, William Morrow and Co., 1939.
11. Nozick, *op. cit.* p. 178.



Inner cities: citi

IN 1976 THERE were about 1,200 acres of vacant or unused land in the City of Liverpool.[1] It is suspected that similar situations exist in other urban areas throughout the country although the statistics are not available. The new Secretary of State for the Environment, however, intends to find out exactly how much vacant inner city land is held by local authorities and the nationalised industries. Mr. Heseltine's initiative in this matter will be welcomed by many people including the Royal Town Planning Institute which strongly advocated similar action in a draft report circulated in 1978.[2]

Having at last ascertained the facts about public land banks, the next step should be to value them. Privately held land should also be included. A requirement to value such land should have the effect of focusing the minds of both developers and local authority planning committees. Where conflicts of interest exist Mr. Heseltine and his officials should take swift action to sort things out. An excellent example of conflict of interests is currently being considered in London at the Coin Street public enquiry.

The Coin Street debate is about the use of a major development site on the Thames South Bank close to the National Theatre. Most of the site is owned by the Greater London Council. Numerous applications for development are being considered by the inspector. The local planning authority, Lambeth, supported by strongly voiced community action groups favour fairly low density predominantly residential, open space and community uses. The developers are seeking permission for offices, hotel and some high density residential uses. It has been estimated[3] that the site-value for residentail purposes is about £3 million under the present compensation code (say £15,000 a unit) while the value of commercial use of the land could be £11-13 million.

Of course, if the planning philosophy was to exploit the highest potential use of the land there would be only one logical outcome of the enquiry. Whether Mr. Heseltine will take this view remains to be seen. The case presents extremes of option for public policy planning in a field where many people feel that the decision should be left to the market place. Others raise their voices at the mere thought of such considerations being held to be paramount.

'PROVISO'

ing *enough* to be attainable, but not all equally *good*, by what rule must each man choose?"

Spencer then put forward his own theory – a theory that made it possible to justify each man's right to the wealth he produced while at the same time protecting each man's equal right to the earth. His solution was simple and straightforward: he agreed with Locke that God gave the earth to mankind in common. Therefore, he said, every landholder should pay into a public fund to be used for public purposes the rental value of the land he holds.

"... in doing this, he does no more than what every other man is equally free with himself to do – that each has the same power with himself to become the tenant – and that the rent he pays accrues to all. Having thus hired a tract of land from his fellow-men, for a given period, for understood purposes, and on specified terms – having thus obtained, for a time, the exclusive use of that land by a definite agreement with its owners, it is manifest that an individual may, without any infringement of the rights of others, appropriate to himself that portion of produce which remains after he has paid to mankind the promised rent. He has now, to use Locke's expression, 'mixed his labour with' certain products of the earth; and his claim to them in this case valid, because he obtained the *consent* of society before expending his labour; and having fulfilled the condition which society imposed in giving that consent – the payment of rent – society, to fulfil its part of the agreement, must acknowledge his title to that surplus which remains after the rent has been paid."

The significance of Spencer's theory can not be over-estimated. What he did was to show the interrelationship and interdependence of our natural rights. By acknowledging mankind's equal right to the earth, we can protect each man's right to keep and enjoy – *free of taxation*[4] – all the results of his productive activity. By acknowledging and protecting our common right to that which mankind did not create (the earth), we can protect each man's right to that which he does create. By acknowledging and protecting that which is rightfully common property (land), we can protect that which is rightfully private property (labour and capital). If we fail to protect the first right, governments – lacking an adequate means of support – will have to violate the second right by taxing labour and capital. The two rights are interdependent.

Spencer's method was modified 21 years later by Henry George.[5] Instead of having the Government involved in the leasing of land, George suggested having taxes on land increased to the point that they equalled the rental value of 'Nature's gift' and remove all taxes on labour and capital – *thus protecting the right to private property in that which man creates.* In other words, tax – or make common – that which ought to be common property (the rental value of land), and refrain from taxing that which ought to be private property (the wealth produced by man). Then, and only then, would we have a tax system that would be consistent with an ethical theory of private property.[6]

GEORGE'S more practical application of Spencer's theory of property[7] resulted in a growing clamour for reform. Repercussions were inevitable.

Spencer's carefully reasoned theory of property rights were so clearly stated and so irrefutable that George's followers reproduced it in large quantities to aid the reform movement. But the man who in earlier years had said "Equity sternly commands that it be done"[8] *changed his position without giving any justification for so doing.* The resulting attack on Spencer was very distasteful to him. Albert Jay Nock – in a footnote to the introduction to Spencer's *The Man Versus The State* – commented on this change of heart:

"In 1892 Spencer published a revision of *Social Statics*, in which he made some minor changes, and for reasons of his own – reasons which have never been made clear or satisfactorily accounted for – he vacated one position which he held in 1851, and one which is most important to his general doctrine of individualism. It is needless to say that in abandoning a position, for any reason or for no reason, one is quite within one's rights, but it must also be observed that the abandonment of a position does not in itself affect the position's validity. It serves mainly to raise the previous question whether the position is or is not valid. Galileo's disavowal of Copernican astronomy, for example, does no more, at most, than send one back to a re-examination of the Copernican system. To an unprejudiced mind, Spencer's action in 1892 suggests no more than that the reader should examine afresh the position taken in 1851, and make his own decision about its validity, or lack of validity, on the strength of the evidence offered."[9]

NOZICK presumably knew about Spencer's attack on the Lockean proviso, his tightly-reasoned theory of property, his later recantation and Nock's comments about it, because he listed Spencer's first edition of *Social Statics* and the Caxton edition of Spencer's *Man Versus The State* in his bibliography.

Yet he did not consider Spencer's original position worthy of refutation. Why not? Was it because of his (Nozick's) stated belief that "any such scheme presumably would fall to objections (similar to those) that befell the theory of Henry George"? If so, that is not adequate. That would be making the unwarranted assumption that the objections to George's theory were valid.

If that is actually what Nozick thinks, one wonders how well acquainted he is with George. Not *one* of George's books is listed in Nozick's bibliography. Has he ever made a serious attempt to understand George? Or did he make the mistake of accepting the verdict of other scholars whom he respected? If the latter is true, what about Nock,[10] whose razor-edged mind and passion for individualism are well-known to all libertarians? And what about such intellectual giants in their field (economics) as Alfred Marshall, A.C. Pigou, and John R. Commons? They all agreed George was right *but they thought it was too late to do anything about it.* Too late? Too late for men to establish a state that protects their rights? That is what they said. But surely a philosopher cannot take such a position?

The most puzzling thing of all about Nozick's position becomes apparent when he makes the following statement, which is consistent with Spencer's theory of property and George's practical application of that theory:

"Someone whose appropriation otherwise would violate the proviso still may appropriate provided he compensates the others so that their situation is not thereby worsened; unless he does compensate these others, his appropriation will violate the proviso of the principle of justice in acquisition and will be an illegitimate one."

Is that not precisely what Spencer and George said? Spencer would have each landholder pay rent to society as a whole. George thought it would be simpler to have each landholder pay taxes equal to the rental value of the land he wished to use. In either case society – all of us – would be compensated by every landholder and no person would have his situation worsened by the private use of part of our common heritage.

How does Nozick propose to compensate the others? He says it must be done. Of course it must. But how is he going to do it? Can he suggest a simpler way than that which George suggested? And if Nozick doesn't wish to have his minimal state recover – via taxation – the rental value of our common heritage for public purposes, what

NOZICK and LOCKE'S

IN THE INTRODUCTION to John Locke's *Of Civil Government – Second Treatise*, Russell Kirk said:

"... we are beginning to see what Locke took for granted, that freedom of every sort is founded upon the security of private property."[1]

Yes, and one of the main threats to freedom stems from our unawareness of the inadequacy of Locke's theory of property. Nozick's treatment of this subject[2] is a good example of this, as will become apparent. Locke's theory is stated thus:

"Whether we consider natural reason... or Revelation... 'tis very clear that God... has given the earth... to mankind in common."

It follows, therefore, that every man has an equal right to the earth and its natural produce. Locke agreed:

"... all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature:..."

But this gives rise to the problem of determining the best means of assuring the efficient use and cultivation of the earth and its produce without violating the aforesaid rights. Locke's solution:

"Though the earth and all inferior creatures be common to all men, yet every man has a property in his own person; this, nobody has any right to but himself. The labour of his body and the work of his hands we may say are properly his. Whatsoever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature placed it in, it hath by this labour something annexed to it that excludes the common right of other men. For this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, *at least where there is enough, and as good left in common for others." (My italics).*

That part of the last sentence is obviously essential to Locke's theory. It is called "the Lockean proviso." He relied heavily on it, and referred to it again and again. For example:

"Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, *since there was still enough and as good left; and more than the yet unprovided could use." (My italics).*

Nozick also stressed the importance of not violating the Lockean provisio:

"The crucial point is whether appropriation of an unowned object worsens the situation of others."

"Locke's proviso that there be 'enough and as good left in common for others' is meant to ensure that the situation of others is not worsened."

"Once it is known that someone's ownership runs afoul of the Lockean proviso, there are straight limits on what he may do with (what it is difficult any longer unreservedly to call) 'his property'."

"... an owner's property right in the only island in an area does not allow him to order a castaway from a shipwreck off his island as a trespasser, for this would violate the Lockean proviso."

But – important as is the proviso to Locke's and Nozick's theory of property – a theory which underlines most of our existing laws dealing with property and the taxation thereof – it is hopelessly inadequate. Nozick himself expressed some doubts about it:

"Why does mixing one's labour with something make one the owner of it? Perhaps because one owns one's labour, and so one comes to own a previously unowned thing that becomes permeated with what one owns. Ownership seeps over into the rest. But why isn't mixing what I own with what I don't own a way of losing what I own rather than a way of gaining what I don't?... Why should one's entitlement extend to the whole object rather than just to the *added value* one's labour has produced?"

Those are all very provocative and important questions – far too important to be ignored. Yet Nozick, after raising them, proceeds to remove them from his mind by making the surprising statement:

"No workable or coherent value-added property scheme has yet been devised, and any such scheme presumably would fall to objections (similar to those) that befell the theory of Henry George."

The fact is that Herbert Spencer,[3] faced with questions similar to those of Nozick's regarding Locke's theory of property, did precisely what Nozick asserted has never been done. He devised a "workable or coherent value-added property scheme" – one that is infinitely more workable than that devised by Locke and endorsed by Nozick.

ROBERT DE FREMERY (left) analyses *Anarchy, State, and Utopia,* a thought-provoking book by ROBERT NOZICK, Professor of Philosophy at Harvard. Nozick proclaims the sacredness of the rights of individuals. His analysis of the right to property is of particular significance. Nozick depends to a great extent on John Locke, whose theory of property was analyzed by Herbert Spencer in 1850. This critique of Nozick, Locke and Spencer indicates that Nozick is a Spencerian rather than a Lockean without being aware of it.

SPENCER attacked Locke's theory of property mercilessly:

"If inclined to cavil, one might in reply to this observe, that as, according to the premises, 'the earth and all inferior creatures' – all things, in fact, that the earth produces – are 'common to all men,' the consent of all men must be obtained before any article can be equitably 'removed from the common state nature hath placed it in.' It might be argued that the real question is overlooked, when it is said, that, by gathering any natural produce, a man 'hath mixed his labour with it, and joined to it something that is his own, and thereby made it his property,' for that the point to be debated is, whether he had any right to gather, or mix his labour with that, which, by the hypothesis, previously belonged to mankind at large. The reasoning used in the last chapter to prove that no amount of labour, bestowed by an individual upon a part of the earth's surface, can nullify the title of society to that part, might be similarly employed to show that no one can, by the mere act of appropriating to himself any wild unclaimed animal or fruit, supersede the joint claims of other men to it. It may be quite true that the labour a man expends in catching or gathering, gives him a better right to the thing caught or gathered, than any one other man; but the question at issue is, whether by labour so expended, he has made his right to the thing caught or gathered, greater than the pre-existing rights of *all* other men put together. And unless he can prove that he has done this, his title to possession cannot be admitted as a matter of *right*, but can be conceded only on the ground of convenience.

"Further difficulties are suggested by the qualification, that the claim to any article of property thus obtained, is valid only 'when there is enough and as good left in common for others.' A condition like this gives birth to such a host of queries, doubts, and limitations, as practically to neutralize the general proposition entirely. It may be asked, for example – How is it to be known that enough is 'left in common for others'? Who can determine whether what remains is 'as good' as what is taken; How if the remnant is less accessible? If there is not enough 'left in common for others,' how must the right of appropriation be exercised? Why, in such case, does the mixing of labour with the acquired object cease to 'exclude the common right of other men'? Suppos-

Taxation, the Law & Economic Slavery

THE LAND Compensation Act of 1961 consolidates the law relating to the assessment of compensation on compulsory acquisition of landed property. It provides for compensation for injurious affection resulting to other land nearby of the same owner caused by the project. But Section 7 makes a rule which provides, broadly speaking, that if an owner retains adjacent land – the value of which is enhanced by the development to be carried out by the scheme – the betterment is to be set off against the compensation otherwise payable.

The rule has the hall-mark of justice and reason, for it ensures that whilst payment is made for loss, it takes into account unearned gain made at the same time. But it also highlights substantial general injustice on a scale far beyond the individual case.

Most landed improvements benefit other land in the locality. The improvements may be private or public, but the works of the public authorities usually provide the wider benefit.

LET US assume that the improvement in a particular case is the provision of a road.

The owner who loses part of his land under compulsory acquisition receives compensation under Sec. 7, as described above.

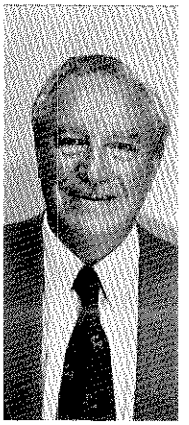
In addition, an owner who does not lose any of his land, but feels that the value of his property has been injuriously affected, can also claim compensation (Sec. 10, Compulsory Purchase Act 1965).

But what about the owners whose land along the road has *increased* in value? They receive unearned benefit, without paying for it – the community cannot claim "compensation."

Wherever people congregate and work a value arising from their activity and co-operation is reflected in the value of land in the locality. The greater the numbers of people and activity, the greater the value. Land not counting buildings and other improvements upon it in the centre of London is valued in millions of pounds an acre. That value does not stem from any activity of the landowner, nor anything in the soil – it is amenity value made and paid for by the whole community.

Compare the value of that London acre with that of an acre in the depths of the country, and ask why the difference. Cogitation on that difference is enlightening.

Because all wealth is produced by natural resources (which includes land) with labour applied, obviously to the extent that the benefit of that wealth is taken as a toll for access to land, the wages of work people are diminished; and the fewer the landowners owning all the land, the nearer the labourer comes to being an economic slave.



By Edgar Buck

THE AUTHOR IS CONSULTANT TO A FIRM OF CARDIFF SOLICITORS

The principles thus enunciated have been publicly recognized for years. The 1947 Town & Country Planning Act was an attempt to right the wrong. The attempt has had a chequered career and led to many changes in the law. All attempts through the statute book to right this fundamental economic wrong have suffered from one central fault, namely, that the levy or tax to recoup to the community some part of the unearned amenity value was imposed *at the point of development.* The consequence was that land was held back from development by its owners, causing an extraordinary artificial scarcity which, then and now, penalizes those who have to buy a home or factory or office in which to live and work.

The true remedy is to take the amenity value back to the community who created it, by way of taxation – in the process replacing taxes on effort and production. The tax would fall upon land only, so that buildings and improvements which are earned would be exempt. It would fall on all land according to its value – vacant, under-used and fully developed – thus at last bringing land into orderly development and cheapening it, and at the same time taking the amenity value back to those who created it.

So whilst Sec. 7 ordains justice and reason in relation to the person whose land is taken, it is not justice for him to be singled out to pay for betterment while others receive betterment and do not pay. The rule should remain but there should be other legislations to apply the same principle to all land by way of taxation on the basis I have endeavoured to describe.

SOMETIMES it is sought to condemn landlords and attack their moral attitude in taking advantage of their privileged position and in the process impoverishing their fellows. This is a mistake. If a landowner for moral reasons were to dispose of his land at less than its market value he would merely pass on the privilege to the recipient. There would be nothing to prevent that recipient selling on and taking the difference between the purchase price and the market value for himself. The toll would still be taken from those who provide the capital and those who work on the land and economic justice would not have been achieved.

Moral considerations would, of course, arise if the landowner, knowing the economic detriment to his fellow men, were to resist the reform I have outlined. For he would then consciously be standing between providence and the true inheritors, and in the process taking part of other peoples' wages for nothing.

crucial advantages.
(1) The economic benefits of land ownership are transferred to the whole community through the Exchequer.
(2) Idle land, of which there is a great deal in Zimbabwe, would be brought into immediate use.
(3) Skilled white farmers would be encouraged to continue farming. Agriculture is the most important sector in the Zimbabwe economy, and this option offers the prospect of creating an efficient rural sector.

● A compromise on Henry George's solution would be a discriminatory tax policy.

Owners who bought their land 20 years ago or more have fully recovered their capital outlay, in the form of imputed rental income. In a regime of rising values, this is generous compensation for the original purchase price, in fact.

So these people could immediately start paying tax on unimproved land values at a rate of 100%.

Owners who can prove that they bought land within the last 20 years could be taxed on a sliding scale. Thus, someone who paid for land 10 years ago can be assumed to have recovered half of his original capital outlay: he could be charged at the rate of 50% of the current annual value of land.

Someone who bought land five years ago would pay at the rate of 25%, and so on until everyone has recovered his original outlay and is paying the full rental income to the community.

● A variation on the cash compensation approach, which has been used by a number of Third World countries, is to give bonds to the dispossessed owners.

To defend this solution as equitable in the eyes of owners, however, the interest payments on the bonds would have to equal their rental income.

A huge on-going financial burden is imposed on the developing country, but it at least removes the need to raise enormous sums in ready cash at the outset.

This solution is of dubious value from everyone's viewpoint, however.

If, as is normally the case, the value of land is rising, the increase in rental income accrues to the community if land value taxation is adopted, or to the new landowner if land value taxation is eschewed, in which case one set of landowners have been merely replaced with another set.

With inflation, the value of the bonds decline. This is another way of

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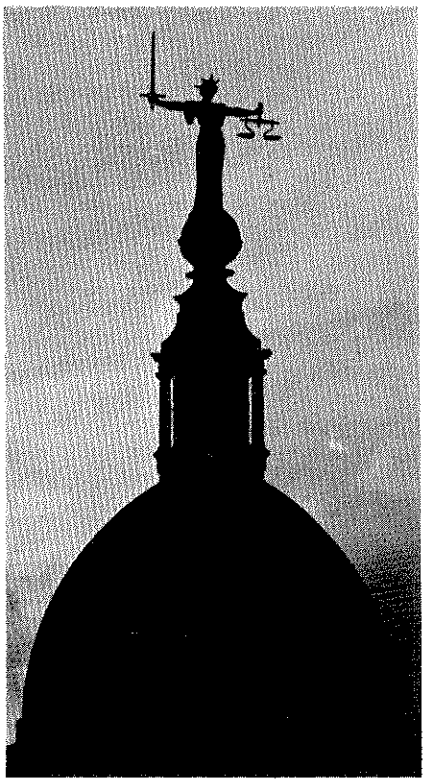
JUSTICE
Is She Blind?
THE LAW
How It Is Rigged By The Lawmakers

BY P. E. POOLE



IN A RECENT Lands Tribunal case, a Welsh houseowner successfully won £1,600 from Mid Glamorgan County Council as compensation for the noisy construction work on nearby Cardiff Airport. The value of his property, he contended, had been adversely affected.

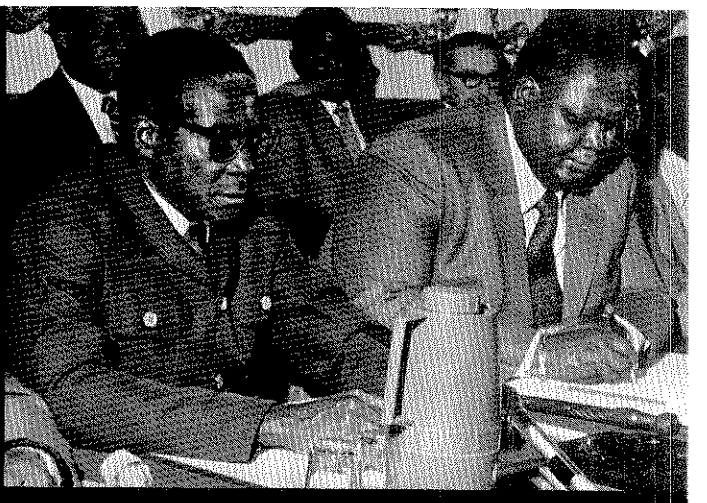
But what happens when the value of land is *increased* by public expenditure? There is no equivalent right by the taxpayer to claim "compensation" from beneficiaries.

The scales of justice are tipped in favour of landowners, even to the point of determining who – in law – has the right to breathe oxygen. For there is a common law rule which dictates *cujus est solum ejus est usque ad coelum et ad inferos* – "to whom the land belongs to him it belongs all the way to the sky and to the infernal regions." Thus, those who do not own land can only claim legal access to light and air vertically over publicly-owned land!

The belief that we are all treated equally before the law is a grave error. People cite Magna Carta (1215) as evidence to support the belief. But this states (clause 39) that everyone is equal before "the lawful judgment of his peers *or by the law of the land*". But what if the law-making political system is dominated by a sectional group? The law is liable to treat people unequally, the practical effects of which are obscured by the belief that "we are all equal before the law." Magna Carta was a political document more than a statement of law, and its main aim was to protect the interests of landowning barons.

The judicial system on which we pride ourselves treats everyone equally in the sight of promulgated laws. **But justice depends on who is writing the laws!**

● MRS. THATCHER'S Government has announced its intention to amend Part I of the Land Compensation Act 1973, to remove the time limit for making claims for compensation for depreciation in the value of property caused by public works. But there are no plans to finance public projects out of the increase in land values created by such undertakings.



"The basic objective of struggle in Zimbabwe is the recovery of the land of which the people were dispossessed. This dispossession, always without compensation, is not a thing of the distant past; it is something which in most cases is within the memory of people now living. And even more immediately, there has been during the present war the most widespread use of punitive communal confiscation and destruction of property.

This is the problem with which the Government of the new Republic of Zimbabwe will have to deal. That Government must have the right to acquire any land in the public interest, compensation being in the discretion of the Government.

The British provisions convert the freedom from deprivation of property into a right to retain privilege and perpetuate injustice. They are unreasonably restrictive as to the purpose for which land can be acquired and the stringent provisions as to compensation are designed to maintain the status quo.

The British propose . . . . to permit the remittance to any country outside Zimbabwe of compensation paid for land acquired from a citizen or permanent resident. To encourage citizens and permanent residents to expatriate their capital is quite iniquitous; far from encouraging a spirit of reconciliation it accords to the wealthy a privilege which is normally accorded only to foreigners. It could also have disastrous consequences for the economy."

The Patriotic Front

which past attempts at redistributing land have stumbled.

In Zimbabwe, the maldistribution is evident from the figures. Over 34m. acres are held by barely more than 6,000 white farmers, while 39.5m. acres are held by 3m. black peasants who live on the arid tribal trust lands (TTLs).[3]

Last January the Government admitted that there were 2.5m. too many Africans living on the TTLs. "About 75% of European-held land is needed for 410,000 extra African plot holders," wrote Prof. Claire Palley.[4]

But the question of who should receive compensation is by no means unambiguously resolved. The PF would argue that it was the landless blacks who should now be compensated for the loss of their traditional rights of access to land, the loss of which reduced them to penury and perhaps irrevocably destroyed significant parts of their culture.

> **In other words, white farmers should freely relinquish land to blacks in penance for the havoc wreaked by the first settlers!**

As with all ex-colonial powers, however, Britain chose to ignore the moral issue, for a re-examination of the historical facts would have revealed a blemished record.

There is, in addition, another reason for not turning over the past: it would call into question the foundations of property ownership in the mother country, where the same technique of land dispossession was employed centuries earlier – a process of internal colonisation.

CARRINGTON eased the row by suggesting that compensation would be paid by international sources, not the citizens of a newly-legitimised Zimbabwe.

Nkomo and Mugabe found this solution acceptable; indeed, they actively promoted it.

The sums unofficially canvassed at the conference varied from £100m. from Britain to £250m. from the USA. Washington has declared itself willing to finance an international effort,[5] thereby easing the conference over the impasse.

This, however, does not alter the nature of the problem: it merely shifts the financial burden onto the wage-earning descendants of those who were rendered landless in Europe and North America!

But before any conclusions can be reached, all the policy options need to be spelt out.

● Dispossession without compensation is attractive because it rights an historical wrong, returning land to the original possessors.

But there is a serious problem with this. In Zimbabwe, dispossession would result in the loss of skilled white farmers who could not be replaced in the short term with blacks of equivalent ability.

So the national product would drop alarmingly, and the blacks would also suffer through the loss of employment.

In other words, this is a crude way of meeting the moral case, for it inflicts further wounds on some of the people who were originally dispossessed: for not everyone could have economically-viable tracts of land for their personal use.

● Henry George, in *Progress & Poverty,* advanced the case for not paying a penny in compensation.

He took the extreme view based on the unarguable moral basis that the concept of compensation in this context violates reality. For the people who should be compensated are the landless and their children – not the expropriators.

On the other hand, capital improvements on the land – fences, drains, buildings – belong to those individuals who created that wealth. They are entitled to compensation for the unexpired value of improvements.

The smoothest method for achieving this complex goal is a simple fiscal mechanism: an annual tax on the market value of land in its unimproved state. This offers three

NEWS ANALYSIS BY VIC BLUNDELL AND FRED HARRISON