Insecure Property and the Origin of Capitalism

To assert that capitalism throve on unjust expropriations is a monstrous and malicious slander. Security of property and tenure answered capitalism's first and most heartfelt need. Where insecurity reigned, it was because of the absence, not of the advent or presence of capitalism.¹

As Eric Kerridge's impassioned plea suggests, the question of the security of property tenure during the transition from feudalism to capitalism has in the past raised tempers among historians. The answer to the question has implications for the way we view the nature of capitalism. Was the transition to capitalism facilitated and characterised by a progressive increase in the security of the holdings of peasants and farmers following the decline of serfdom and the removal of arbitrary feudal prerogatives? If so can we therefore view the transition as a healthy break from feudalism in which the polarisation of landholdings and the removal of the vast majority of the people from the land was the result of an innocuous process institutionalised by a fair land market of legally secure individuals? Or was the transition to capitalism facilitated and characterised by an increase in the insecurity of the holdings of peasants and farmers following the decline of serfdom, an insecurity which was instrumental in a deliberate and even forceful process involving particular class interests in the dispossession or expropriation of landholdings from the majority of the population?

i Tenurial Security Versus Tenurial Insecurity

Kerridge, writing a few years before the beginning of the original Brenner Debate, took it upon himself to ensure that the word ‘capitalism’ and the phrase ‘security of property’ were inextricably coupled, and furthermore to argue that the security of property was key to the transition to capitalism. In order to do so he had to firmly rebut the work of R.H. Tawney whose major study, The Agrarian Problem in the Sixteenth Century, had been very influential.² Until recently, Kerridge’s intervention seems to have been successful because

¹ Kerridge 1969, p. 93.
² Tawney 1912.
the majority of historians cited in this present work have either passed over Tawney or dismissed him.

To Kerridge’s exasperation, Tawney had firmly identified the transition to capitalism with the insecurity of land tenure. Tawney saw villein tenure, even with its hated disabilities, as secure from eviction because it was in practice heritable and, in spite of what Bruce Campbell has argued about its sub-economic value to the lord, it played an important part in the reproduction of feudal lordship on the basis of controls on both people and land and the cultural and ideological aspects of class position and display that these controls represented. Tawney regarded those land tenures that developed after the decline of serfdom in England, namely leaseholds and copyholds which developed from villein tenures, as insecure tenures because, unlike villein tenure, they were generally not heritable. Even in the cases where they were heritable, aside from illegal, forcible evictions that are well known for the late fifteenth and early sixteenth centuries, he found that where customary tenure was strong this would induce evictions through more persistent persuasion, intimidation and manipulation of the law and its lawyers, and that this would have implications for freehold tenure as well.3

In addition to his evidence for the above Tawney argued that the transition, which required the development of consolidated capitalised farms and the binding of production to the market, would hardly have been possible without this insecurity, and he pointed to the rebellions against enclosure in the 1530s and 1540s which for him undoubtedly expressed the genuine grievances of those already dispossessed, and of those who perceived that their holdings and way of life were under threat. He demonstrated brilliantly, and at great length, how political divisions and policy contradictions in the state government ensured that while some institutions such as the court of requests at Westminster were set up to give peasants under threat of dispossession a hearing, and laws were passed at the end of the sixteenth century to provide customary or copyhold tenants with a chance to retain or pass on their holdings to their offspring when old terms ended, the tide was relentlessly on the side of the capitalist encloser, whether lord or farmer, and not on that of the traditional small and middling peasant. The great landowners in the government’s leading body, the privy council, and, by the end of the sixteenth century, the monarchy itself, found their future interests too closely entwined with

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3 Tawney 1912, pp. 231–310. As he says on page 250: ‘We cannot, in fact, be content with a mere summary of the legal position, for the law is not always strong enough or elastic enough to cope with shifting economic forces. Or rather its arm is short, and can only grapple with those conflicts which are sufficiently violent to force their way to Westminster’. 