

Some reservations on Dr Ward on the 'Rental Policy of the English Peerage, 1649-60'

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A RECENT issue of the *Review* contained an article by Dr Ian Ward on 'Rental Policy on the Estates of the English Peerage, 1649-60'.¹ The purpose of the present note is to take issue with Ward's article, both to point out that it overestimates the ease with which the alterations in rental policy could be implemented and to show that, at a purely evidential level, the paper is marred by an unacceptable level of factual inaccuracy.

In the first place, it is none too clear what the article is about. Its starting point is a demonstration that at the beginning of the Interregnum, some of the wealthiest English peers were heavily indebted. Whilst they both sold and mortgaged lands, the solution to this problem is seen by Ward as lying on the income side of the aristocratic balance sheet rather than on the expenditure side. Retrenchment is never mentioned. The improvement of rental income turns out to be no more than the conversion of copyholds to leaseholds and it is with this that the remainder of Ward's article is concerned. By the end Ward has adopted the tones of the hired spokesman of the landowning class: 'by 1649 the copyhold tenancy was economically, socially, and legally untenable'. He is clearly not a supporter of peasant proprietorship. Then he continues, 'and with their minds concentrated by the particular economic and social pressures of the 1650s, the landowning peerage of England clearly had no compunction in laying it

[copyhold] to rest', a conclusion which is quite at variance with his own finding that in 1672, three-quarters of the tenants of the Seymour estates in Wiltshire, Somerset, and Hampshire *still* held by copy.²

Ward follows a long line of legal commentators on copyhold in failing to appreciate the fundamental distinction between copyhold for lives and copyhold of inheritance, and that the possibilities for improving copyhold tenure were contingent upon the character of the tenure by which the tenants held.³ In copyhold for lives, there was no obligation on the lord to make a new copy to the present copyholder's heir. A lord could, if he wished, allow the existing copy to expire and then make a lease for a fixed term, or indeed, for lives, to the sitting tenant or a stranger. A lord could also grant a copy or lease in reversion to a stranger rather than the heir. It was therefore very much in the interest of the sitting tenants, if they wished to retain a copyhold for lives in their family, to seek a new grant well in advance of the expiration of the one by which they held. There is every

² Ward, 'Rental Policy', pp 37, 32.

³ Cf the lack of any separate discussion in C Watkins, *A Treatise on Copyholds*, 2 vols, 1825. That not all copyholds conferred a estate of inheritance was recognized by Calthorpe in his readings on copyhold given in 1575-6, British Library, Harl. Ms 738, fos 290v-91v (of which I am preparing a new edition). For the distinction in practice, see Salisbury's instructions to Crown stewards, *Directions for commissioners with the steward of each manor to assess fines of copyholds* ..., 1608. For a modern discussion, E Kerridge, *Agrarian Problems in the sixteenth century and after*, 1969, pp 35-8; R W Hoyle, 'Tenure and the land Market in early modern England: or a late contribution to the Brenner Debate', *Econ Hist Rev*, 2nd rev, 43, 1990, pp 6-8, 12-15.

¹ *AgHistR*, 40, I, pp 23-37.

sign that lords were willing, if not actually eager, to encourage this practice, for it increased the frequency with which they received fines. They could also invite tenants to buy a copy in reversion of their tenements at times when they needed to raise money; this was to anticipate income in the same way as felling timber. It would not be too surprising if landlords carrying debts of the dimensions that Ward describes were not doing this in the 1650s.

The landlord's freedom towards a copyhold of inheritance was much more circumscribed. He could not refuse to admit the heir, nor could he demand a fine so large as to bar the heir from entering. Of course, it may be true that some lords successfully did both; but throughout Elizabeth's reign, Chancery would intervene to restrain the lord and protect the rights of a copyholder by inheritance on the tenant's petition. On manors where custom allowed the inheritance of copyholds, the lord's rights over his tenants were frequently defined in the century before 1640 either by private agreement or by suit in Chancery. Even before such a final step was taken, the lords of copyholders of inheritance had only the most limited freedom to amend the tenure by which their tenants held. This is well known.⁴ It is also appreciated that copyholds for lives were found in the south of England, in western England, and in a band running through Gloucestershire into Staffordshire, while copyhold of inheritance occurred in the rest of the country.

Now Ward does not admit this elementary distinction. But his argument that copyholders could be converted to leaseholders more or less at whim, and with substantial gains in rental income, appears to be based on examples from those parts of England where we would expect to

find copyholds for lives. His account is only applicable to a limited region within England, but his failure to acknowledge this suggests that he believes that this freedom was general. It was not, and to suppose it was is merely to mislead. Moreover, there seems to be the assumption that copyhold could be broken at will and that the reform of estates could be achieved within a very short time-span. If this was so, it rather begs the question of why lords had not undertaken this modernization before, and it further raises the problem of how lords interrupted their copyhold tenants' tenancies in the middle of their terms and obliged them to accept new tenancies which were grossly disadvantageous. On these general grounds alone, Ward's case cannot be accepted.

Evidentially, the article is extremely weak. It is littered with unsupported claims.⁵ We do not see a single tenant exchanging his copy for a lease at a higher commercial rent. Nor does the paper offer rental evidence in support of Ward's contention that this was actively going on. That such a change was afoot is inferred from the rent receipts from estates, which as Ward admits, are an extremely 'treacherous source'.⁶ In the case of the earl of Northumberland's estates, the figures cited are not rents received (which is not the same as rental), but are a consolidated figure for rents and arrears of rents received. The inclusion of arrears makes the figures — if they were in any case

⁴ Kerridge, *Agrarian Problems*, chs 2-3, *passim*; Hoyle, 'Tenure and the land market', pp 12-15. The frequency with which tenants sought the aid of equity and with what success is the subject of the writer's current research.

⁵ So, we read 'a Chancery action brought by the Petworth copyholders to preserve their tenancy rights in 1659 suggests that [the earl of] Northumberland was trying to enforce a transfer to leaseholds' (p 35). This is a remarkably weak and inexact statement even if it were correct. Ward is unaware of the long dispute between the ninth earl of Northumberland and his copyholders at Petworth which resulted in the confirmation of their copyhold in Chancery in 1596 (described at length by P Jerrome, *Cloakbag and Common Purse*, Petworth, 1979). The printed description of the document cited offers no support for Ward's inference, but this description is itself erroneous: the document is a copy of a copy made in 1659 of the decree of 1596. (I am grateful to West Sussex Record Office for supplying photocopies of the manuscript.) So are canards erected.

⁶ Ward, 'Rental Policy', p 36.

correct – quite unsuitable to prove the case Ward tries to make. It is simply not possible to distinguish between any secular trend in rental, and fluctuations in the gross sum received, because of arrears in the limited time span that Ward employs. But even figures for rents received net of arrears cannot be used to demonstrate changes in tenancy. Increases in rent receipts may also arise from increases in the rents of those sections of the estate, his demesnes, where the lord had the discretion to charge a market rent, or through the leasing of lands previously kept in hand, for instance, parks, or perhaps from the commercial development of the estate, for instance, mines. The evidence presented in the paper does no more than suggest that tenurial change may possibly explain some of Ward's figures, but this cannot ever be conclusive until confirmed by rentals, surveys, and leases.

If the quality of the evidence is generally unsatisfactory, that offered from the estate of the tenth earl of Northumberland is untrustworthy. The Yorkshire estates of the earls have been the subject of previous work (not cited by Ward) by, amongst others, Professors Bean and Batho, and the central estates were treated at length in a pioneering thesis by Dr E J Fisher. The first point to be made is that these estates never knew copyhold. In the sixteenth century they were held by a custom called the custom of Cumberland, in effect a form of tenancy contingent upon the life of the lord and the life of the tenant. It has already been described in the literature how this customary tenancy was superseded by twenty-one-year leases granted c 1590 by the ninth earl of Northumberland. He recorded that these leases were made at undervaluations at a time when he was desperate for income to pay debts, but when they were renewed in 1609–11, the opportunity was taken to charge rents at a market valuation. The

tabulations offered by Dr Fisher suggest that the rents current in the late 1650s, after, in Ward's analysis, a period of tenurial reorganization, had actually been achieved by 1618.⁷ There was no conversion to leasehold on these estates during the 1650s.

Yet Ward has offered us figures in his Table 4 which show absolutely spectacular increases in rent receipts between 1645 and 1660. Now collectors of curiosities will notice that none of the columns of this table add up to the figures for total receipts offered at the bottom, but whilst the receipts from the seven named manors are approximately the same as the total receipts for the years after 1656, in 1645 they account for only £562 out of £3456 (16.2%) and in 1654 £1693 out of £3760 (45.0%). The figures for gross receipts overall show no substantial increase. What, then, is going on? An inspection of the manuscripts cited by Ward reveals (as was previously mentioned) that the all figures offered (errors of transcription apart) are for rents and arrears and therefore fluctuate from year to year. Moreover, the figures in Ward's Table 4 under the head of 1645 are actually taken from the book of receipts of 1646, where they are clearly marked as being a list of compositions with the tenants of these manors for arrears. They are not a list of rents at all. The figures for 1654 have met an equal mishap: the figure for total receipts given is for receipts at Lady Day and Michaelmas 1654; the figures for the indi-

⁷ J M W Bean, *The estates of the Percy Family, 1416–1537*, 1958, pp 62–4; G R Batho, 'The finances of an Elizabethan nobleman, Henry Percy, ninth earl of Northumberland', *Econ Hist Rev*, 2nd ser, 9, 1956–7, pp 431–50; E J Fisher, 'Some Yorkshire Estates of the Percies, 1450–1650', Unpublished PhD thesis, University of Leeds, 1954, a copy of which is available in the library of the Yorkshire Archaeological Society, Leeds; and most recently, Barbara English, *The Great Landowners of East Yorkshire, 1530–1910*, 1990, *passim*. G B Harrison, *Advice to his son by Henry Percy, ninth earl of Northumberland*, 1930, pp 82–3. Rents over a long period are shown in Fisher, 'Some estates', II, conclusion, graph B.

vidual manors are for rents received at Lady Day *alone*.⁸

Having discovered this distressing shambles, it seemed appropriate to look at the figures that Ward offers for the earl's manor of Tynemouth (Northumberland). This was a Crown manor until its sale to the earl in 1636. Here Ward finds an increase in rents from £581 in 1656, to £695 in 1657, and £1006 in 1658. It has escaped Ward's attention that the Crown confirmed the copyhold tenure of the tenants of the manor in 1610, and so if copyhold was converted to leasehold in the 1650s, we need to discover how it was possible.⁹ No such explanation is necessary. Ward's sources show that the rents and arrears of Tynemouth ran at around £600 between 1655 and 1659; there was no obvious increase. The improvement that Ward has noticed is quite simply that his figures for 1657 and 1658 include exceptional payments of £264 and £240 for fines, and that there was an increasing income from mining royalties and the rent of a colliery. In

1655, £539 was received from rents and arrears, in 1658, £654 was received from rents and arrears and £352 from fines, mine royalties and the colliery rent: in 1659 the figures were respectively £569 and £124.

There are good grounds for being sceptical of Ward's case. It assumes a wholly improbable discretion on the part of lords. The particular instance of the Northumberland estates turns out to be plain wrong: an improbable structure has been erected on a foundation of misread figures which in any case cannot be used to deduce alterations in tenure. Ward and I would agree that the conversion of customary tenures paying fines and ancient rents to rack-rented leaseholds is of the utmost importance. But the restraints on lords did not permit them to make this change by *force majeure* or within the space of a decade or less. Conversion clearly occurred over a long period of time — indeed, we tend to forget that copyhold survived into this century — and there is no evidence in Ward's paper or elsewhere that it accelerated during the 1650s. Ward's paper is too unsound to make any contribution to our understanding of a central but neglected issue in English agricultural history.

⁸ Alnwick Castle, MSS of His Grace the Duke of Northumberland, C. 1. 3a, seen as British Library, department of Manuscripts microfilms 365-6, with the kind permission of His Grace's solicitors, May, May, and Merriman.

⁹ H H E Craster, ed, *Northumberland County History* 8, Newcastle-Upon-Tyne, 1907, pp 239-40.