

Further Comments on Dr Ward and the 'Rental Policy of the English Peerage, 1649-60'

By R W HOYLE

I AM reluctant to write further in opposition to Dr Ward but there are a number of points arising from his rejoinder which need to be quickly addressed. I shall restrict myself to major criticisms.¹

The first point to be made about Ward's rejoinder is that he appears not to accept that his analysis of events on the Yorkshire and Northumberland estates of the Earls of Northumberland is simply erroneous. The increases in rent receipts reported in his earlier paper were not the result of alterations in the tenants' tenurial arrangements. Having explained how Ward has mistaken the evidence, I am a little surprised to be criticised for making 'no effort to authenticate [my] alternative thesis'. A further case of Ward's way with evidence comes from his discussion of the mid-seventeenth century copy of the Chancery decree in *Northumberland v the tenants of Petworth* (Sussex) of 1596. Ward took this to be evidence of a further dispute over tenure in the later 1650s. His wriggling on this point is so supreme it deserves quotation in full:

I was perfectly aware of the 1596 dispute, but that does not mean that the 1659 disputes listed in Chancery records did not exist. Of course the endorsement 1659 might mean 1596, but there again it 'might mean' just about anything and as the Close Rolls [*sic*] reveal that the Earl was immersed in a number of disputes with his Petworth tenants during this period, it seems only reasonable to assume that 1659 means 1659. With regard to it being a subsequent endorsement, it might equally have been an endorsement 1659 [*sic*] made in the 1672 review of the estates. Leconfield in his study of the Petworth estates also seems to prefer this approach.²

Alas, at the end of it the manuscript is still a copy of the decree of 1596. Lord Leconfield at the

location cited offers no support for Ward's claims, and Dr Ward has been unable to supply me with references to either the 'Chancery Records' or the Close Rolls (*recte* Decree Rolls?) which he mentions.³ On this occasion Ward's canard seems to have been eaten by the fox.

As for the larger issue of the use of Chancery by the peerage in the 1650s, Ward offers figures for the number of cases launched by peers in Chancery and the Exchequer between 1649 and 1660 and says that there were fewer instances of peers being defendants than plaintiffs. Chancery was therefore a forum in which peers could launch an aggressive policy towards their tenants. I have consulted the appendix of Ward's doctoral thesis from which the figures were taken and I find there that 365 cases were brought by peers in Chancery, but 403 were brought against them. So on Ward's own figures they were more sued against than suing. But there is also a sleight of hand here. The figures are for *all* cases in Chancery in which peers were plaintiff or defendant, only a minority of which concerned tenurial matters. The figures amount to less than a case per peer per year and as only a proportion of these cases concerned landlord-tenant relations, the offensive against the tenantry in the equity courts was hardly large.

The second area in which I must express continued dissatisfaction with Ward's work concerns the whole question of the mechanism by which landlords converted copyholds to leaseholds. In my earlier comment I objected to Ward's failure to mark the distinction between copyhold for life and copyhold of inheritance. On this occasion he acknowledges but then appears to deny the importance of the distinction, a point of view which I find quite breathtaking.⁴ The problems faced by a landlord in clearing customary tenancies from his estates were quite different depending on the character of those tenancies. Ward says little of substance on conversion save for the comment that

¹ This continues the discussion of Dr Ward's paper ('Rental Policy on the Estates of the English Peerage', *Ag Hist Rev* 40 I (1992), pp 23-37) begun with my 'Some Reservations on Dr Ward on the "Rental Policy of the English Peerage, 1649-60"', *ibid.* 156-9 and continued by Ward in this issue of the *Review*, 176-8.

² Above, 178.

³ Pers. comm., 13 May 1993.

⁴ I read A W B Simpson, *A history of the Land Law*, second ed, Oxford, 1986, pp 164-5 as saying quite the opposite to what Ward believes.

'the conversion was almost invariably made on the abeyance of tenure'. This requires some explanation which again, Ward has been unable to supply.⁵ Are we talking of the extinguishment of the individual copy for lives or the finding in Chancery that the custom of inheritable copies on a manor was not good? If the former, then we surely have a process which extended over many years (which is what I originally suggested): if the latter, then no illustrative examples are offered. We are supplied with the instance of the tenants of Drayton who suffered the attentions of Sir Orlando Bridgeman, but we are not told what their tenancies were before or after the period being discussed.⁶ I am no wiser as to how Ward believes customary tenancies were swept away.

As for changes in the law, Ward will want to consider Dr Allen's recent suggestion that it was the development of mortgage law which allowed lords to extinguish copyholds for lives, for instead of being compelled to borrow from tenants by making disadvantageous grants, they could now borrow on the security of their estates. Allen, however, sees the disappearance of copyhold for lives as a protracted process.⁷ This brings us to the crux of one of my objections to Ward. We gain from his work no sense of the importance of the 1650s in the overall process of change. On the Seymour estates in Wiltshire the process had not gone terribly far by 1672, but as Dr Ward now stresses, they were exceptional. (Less charitably, one might say that when Ward offers evidence from *outside* his limited period, it does not support the case he makes of rapid change *within* his period.) The challenge for Dr Ward is not to show that conversion was taking place in the 1650s but that it *accelerated* in the 1650s either through greater economic need or a liberalisation of the law in favour of the landlord.

The third area of dispute between us is the most serious and the least easily bridged. In his third footnote Ward offers a long list of historians of whose work he approves. I am not sure what

relevance some of their writings have to the issues that concern us in this debate, but all are taken to support the view that the aristocracy was the pre-eminent class in the seventeenth century. Then we read that 'more recently the central importance of the aristocracy, politically, socially and economically has been asserted by John Adamson'. This rather gives the game away: we have here the application of a fashionable Cambridge perspective to agricultural history. I am not certain how numerous Dr Adamson's followers are, but I would not count myself amongst them. I would point to an equally large literature, unnoticed by Ward, concerning the disappearance of the small landowner and it is with this tradition, rather than the Peterhouse 'High Politics' school of writing, that my own sympathies lie.

There are a lot of assertions floating around in Ward's rejoinder. I am far from convinced that the power of the aristocracy or the landowning class, exercised through Chancery, was anything like as complete in 1660 as Ward assumes. Indeed, Ward's analysis seems to be broadly marxist: that in or from the 1650s Chancery acted as an instrument of class power on behalf of the peerage and that in a number of important respects, the law was altered to suit the needs of the landowning class.

Where Ward and I doubtless agree is that the character of landownership changed enormously between 1600 and 1800. I am sure that we both consider it to be an important task for the historian to discover how and why that transformation took place. But Ward and I approach the matter from completely different positions. Ward appears to believe that the transformation was achieved quickly by landlords who decided on a plan of action and used Sir Orlando Bridgeman and Chancery to terrify or bully their tenants into submission. I would hold that the consolidation of landlord power took place over a long period and was largely achieved through economic strength. The truth of the matter will only be found when someone marries the careful and reliable study of estate records with the wider experience of rural communities in both the equity and common law courts over a long period. For the moment Ward's claims remain, for this writer at least, grounded on assertion rather than evidence.

⁵ Pers. Comm. 13 May 1993.

⁶ Ward, 'Rental Policy', 31-2.

⁷ R. C. Allen, *Enclosure and the Yeoman. The agricultural development of the South Midlands, 1450-1850*, Oxford, 1992, esp pp 102-3.