

CHAPTER II.

THE HIGHER LAW OF PROPERTY, AS ILLUSTRATED AND DEMONSTRATED BY THE FACTS OF HISTORY.

The principle of property, then, — the higher law on which it rests, — is this:

First. The conscious in nature owns the unconscious. Matter is created as the necessary, natural, and inalienable possession of mind. Thus the inhabitants of the earth jointly own its material resources, and the people of any country are the sovereign owner of that country's wealth. But

Second. This wealth must be sub-possessed by individual owners — must be divided up and held according to ability and industry, in order to be fully utilized, which is the object and end of all matter, of all property.

Here are two opposite poles, two contending necessities, of the same thing. We have the principle in its integration, and in its disintegration. But we have

Third. The principle re-integrated in its higher and complete form, which includes and co-ordinates its opposing factors. This coordination is effected in what has been explained as "Natural Rent." Thus Natural Rent is the solvent in which both the indefeasible rights of society, in regard to property, and the indefeasible rights of individuals, perfectly coalesce. The law is complete.

And here, for a moment, let us turn to history. The laws of the Absolute are always enacted in the facts of life, and the test of their genuineness is their actuality.

As remarkable as it may appear to the general ignorance and prejudice of to-day, the tenures of property, in every primitive nation unearthed by modern research, decree the common ownership of a country's natural wealth by the people possessing and defending it.

A familiar illustration, as frequently read as infrequently considered and comprehended, may be found in the Bible, relating to the polity of the Jews, in the twenty-fifth chapter of Leviticus:

"And the Lord spake unto Moses, in Mount Sinai, saying, * * * the land shall not be sold forever: for the land is mine; for ye are strangers and sojourners with me. * * * Ye shall hallow the fiftieth year. * * * A jubilee shall the fiftieth year * be unto you. In the year of this jubilee ye shall return every man unto his possession. * * * If a man sell a dwelling-house in a walled city, within a full year may he redeem it. And if it be not redeemed within the space of a full year, then the house that is in the walled city

shall be established forever to him that bought it, throughout his generations; it shall not go out in the jubilee. But the houses of the villages which have no wall round about them shall be counted as the fields of the country; they shall be redeemed, and they shall go out in the jubilee."

Here we see that, among the ancient Israelites, the general redistribution of property took place every fifty years — the significant span of life allotted to each generation, — by the simple method of prohibiting the alienation of estates from the original families constituting the tribe. Among other primitive tribes and nations, the same result was reached by direct periodical redivision. All who stood as members of the community, — what we now designate as citizens — were thus placed, with each generation, upon a substantial equality of wealth, or rather of natural opportunities to acquire it.

In those early days, of course, the property of a people consisted mainly of agricultural lands and of flocks and herds. So the redistribution of land was virtually the re-distribution of wealth in general. The exception, under the Mosaic laws, of habitations in walled cities, was of no consequence. To those walled cities the people retired rather for safety in case of war, and to protect such of their possessions as could be gathered behind fortifications, than for any regular purposes of accumulation or subsistence.

Of late much careful and critical research has been devoted to the habits, the laws, and customs of the earliest historic peoples. Sir Henry Maine, Tylor, Emile de Laveleye, Professor Nasse of Bonn, and other eminent scholars, have certainly covered sufficient ground to render their conclusions certain. In his "Primitive Property," M. de Laveleye asserts, as the result of his own world-wide investigations, that, "in all primitive societies, the soil was the joint property of the tribes, and was subject to periodical re-distribution among all the families, so that all might live by their labor as nature has ordained. The comfort of each was thus proportioned to his energy and intelligence: no one at any rate was destitute of the means of subsistence; and inequality increasing from generation to generation was provided against." In reference to the Teutonic nations, the same exhaustive authority tells us that "freedom, and, as a consequence, the ownership of an undivided share of the common property, to which the head of every family in the clan was equally entitled, were in the German village essential rights."

In summing up this matter, still another well-known authority affirms that "wherever we can trace the early history of society, whether in Asia, in Africa, in America, or in Polynesia, land has been considered as common property, in which the rights of all who had admitted rights were equal." "This primitive adjustment," continues the historian, "still exists in more or less intact form, in the village

communities of India, Russia, and the Slavonic countries not yet, or not until recently, subjected to Turkish rule; in the mountain cantons of Switzerland; among the Kabyles in the north of Africa and the Kaffirs in the south; among the native population of Java and the aborigines of New Zealand; — that is to say, wherever extraneous influences have left intact the primitive form of social organization."

Yes, at the sunrise of history, the evident and necessary principle, that men stand equal in the fundamental right of access to material nature, was clearly recognized and established. But, at the same time, we are not to forget that the sunrise of history was also the dawn of civilization — the first light of a new day rising from a night of chaotic savagery. Society was only organized in families and tribes, or, a little later, in nations growing out of families and tribes; and no one nation recognized the right of another to any thing whatever that the stronger could take. Each regarded itself as the structure of a "sacred" or "chosen" people, under the special government and favor of heaven; and all other nations as under the domination of false gods, or devils, the children and worshippers of which were proper food for war and spoil. So, while certain essential rights of man were perceived and asserted, every separate people denied them for all but themselves.

Then commenced, through battle and pillage, the assimilation of nations and races. The powerful conquered the weaker, and extinguished or absorbed them; and the absorbed generally lost all rights whatever; they were merely granted the privilege to live, and to serve their foes as slaves. It is the same old story — India, Egypt, China; Chaldea, Persia, and Palestine; the Medes, the Syrians, the Phoenicians; Arabia, Tartary, and Thibet, — the same old story, with some variations of circumstance and enlightenment. The main divisions of Asia and the most prominent parts of the African sea-coast settled finally into something like acquaintance with each other, and respect for territorial limits. And, during lulls in war, trade arose. Then Rome lifted her head on the Seven Hills, and waved her sword until the whole known world bowed under her triumphal yoke. Rome was the mother of human affiliation, as she was afterward the foster-mother of human brotherhood. Her birth was a rejection of tribal narrowness and theological snobbery. Pelasgic, Sabine, Etruscan, she was the daughter of amalgamation. Her history is a grand reception, in which she introduced to each other, as her own subjects, all varieties of mankind. And Rome conquered the world simply because she was the best friend the world had.

In her youth, she bore the hereditary marks of preceding barbarism. Her patricians and their clients — composed of the three original tribes — were a new and more generous form of the primeval patriarch and his kinsmen. But her plebeians — her conquered Latins — were incorporated as freemen, so far at least as they had been free when subjugated. She took in the various peoples as they were, only denying to them, at first, what she considered the high, sacred, yet dangerous powers of

citizenship. But this limitation brought internal strife, through which, for 500 years, she grew wise, strong, and trustful of human nature. Little by little, distinctions of birth and blood passed away, until at the first defeat of Carthage and the closing of the temple of Janus, thirty-five different nations were counted as Roman tribes, standing substantially equal with those of the original three.

And what of Rome in relation to property?

She started with nothing new, nor was it possible to start with any thing new. A walled town for a fortress and storehouse; a dwelling, land a piece of ground for each citizen; the common lands of the state — all that the state could conquer and hold; — this, we have seen, was the general condition of every primitive nation. Or, as Henry George puts it, "when the future mistress of the world first looms up, each citizen had his little homestead plot, which was inalienable; and the general domain — 'the corn-land that was of public right' — was subject to common use, doubtless under regulations or customs which secured equality, as in the Teutonic mark and Swiss allmend."

The distinctive spirit of early Rome was patriotism. The ambition of her heroes was to achieve honor in the service of the state, and the greed of personal wealth was accounted beneath their dignity. When Cincinnatus was called to save his country, he was found at work on his little farm of less than three acres. Nearly two hundred years later, when the Samnites sent their embassy and their presents to Dentatus, — finding him cooking his own dinner, — what said the haughty soldier who had conquered every foe, and had thrice served as the head of his country? It was for him "not to possess riches, but to rule the rich"!

It was this spirit that became incorporate in the Licinian laws, which established limits to the occupation of the public domain, stayed the growing encroachments of creditors upon debtors, and prevented the secession of half the population.

But how could a nation that was grasping the world avoid the shadow of her own career? What should her citizens feed on, when her purpose had been accomplished? As she became powerful and rich, the spirit of public aggrandizement, which had been the virtue of her leaders, turned inward upon her own vitals. As her generals and statesmen had carved up the world for their mother, so now they carved up the mother for themselves. The patricians and plebeians were no more; for they were one; but out of both combined had sprung the greedy and aristocratic optimates, who coveted both the whole wealth and the whole power of the republic, while their military commanders, as mercenary as themselves, sank to the selling of battles and the bribes of Jugurtha. The Licinian laws were overborne, and became practically obsolete. The great public "corn-lands" were sliced up, and drawn into private property. The rich

landlords absorbed the small proprietors, driving them into the army, pushing them to the outskirts of civilization for new homes, or permitting them to slide down into the rabble of proletarians and bondmen.

It was then that Tiberius Gracchus, looking through Etruria, and seeing the waste plains, the cattle and the slaves of a few monopolist proprietors, where once a population of contented farmers had held their hundreds of blooming fields and blushing vineyards, — it was then that the elder Gracchus saw that Rome must fall, or the lust of wealth among her leaders and rulers must be cut short.

But the "agrarian laws" of the Gracchi were no untried step in advance; they were only the revival of the early Roman constitution, as applied to property. Nearly two centuries and a half had passed since those Licinian rogations of Stolio and Sextius had presented the same agrarian principles, which, after a discussion of nine years, had been established as law. It was law violated, rights trampled out — it was the illegal encroachments of the rich upon the common property of all Roman citizens — which Tiberius Gracchus, advised by Scaevola, the greatest lawyer of his age, attempted to remedy. His statute, limiting the holders of land to three hundred acres and compensating them for improvements, was merely a return

to the original custom under which the citizens of all nations had lived for hundreds, if not thousands, of years. And the subsequent plans of the younger Gracchus to relieve the poor by distributions of corn at the lowest possible rates was nothing but an assertion of their right to receive such restitution as the state could afford them for the robbery of their birthright to land, and so of the means to produce corn for themselves.

But "the mother of the Gracchi" lost her sons. The filthy wealth of Rome, without one scruple of manhood left, without one spark of true ambition, murdered the last of her citizens whom her gods had honored with a Roman conscience. Well might the vulgar Opimus pay for the head of the great young Caius its weight in gold; it was the last head in the republic that held the conception of any worth greater than material value.

The Gracchi dead, Rome lived on, and, in the culmination of her destiny, she produced even the vast executive brain of a Julius Caesar. But Caesar lived for Csesar, not for Rome. The mistress of the world could no longer give birth to godlike men, but only to active and powerful human swine. The royal boar, Mark Antony; his queenly sow, Cleopatra — these were now the the picture of those who led world.

It was "the great estates," said Pliny, that "sent Italy to perdition." When at last Rome counted her population at a hundred and twenty millions, the masses of her freemen, who had no other property to sell, sold their votes; and her legions of soldiers, who owned only their swords, sold what they had to the highest imperial bidder. And

underneath the forty millions of such citizens and such soldiers there groped and grovelled eighty millions of slaves.

Thus, when Attila proclaimed himself the "scourge of God," and his Huns swarmed out of Pannonia to toss rotten, shameless Rome into the sloughs of chaos, he had exactly the right conception of the greatest need of his epoch. The sordid, disgraced, divided empire had become filled with a population like lice and fleas; the more of them that lived the worse for the world.

But the old annals are too familiar for repetition. The Hun, the Goth, the Vandal, the Frank — they were all unkempt and unrestrained barbarians; but in their veins was new and hopeful blood. They were freemen. When they worked or fought, they worked or fought for themselves. Their kings were their leaders only because they were competent to lead. Every tribe was a democracy to the core, the Germans consulting even their women in all important matters, as Tacitus has left the record. They suffered no monopolies, no oppression. If freemen at all, they were equals in all natural opportunities, and only not equal, as so created, by reason of different abilities.

They trampled on Rome from end to end. They crushed her out; but they blended with her people. Born of this blending was the system of feudalism.

\ Feudalism was the settling-down of roving, conquering armies into permanent camps, each army holding its own ground as firmly as possible, but always quite ready to subdue and take in the camps of its neighbors. At the beginning of the eighth century the camp of Charlemagne had taken in nearly all the rest in Europe, and its chief was crowned "Emperor of the West."

As feudalism was the only system of society possible to the times, it was necessarily the best one. It was partial quiet and security after complete uncertainty and destruction. It was rest, under terms imposed by soldiers, for the weary people who had long had no rest under any terms. Some one of those strong soldiers, called king, or prince, or duke, established himself in a country or province, and divided it up among his captains and lieutenants, they holding their counties or estates under tenures of military service to the donor, their chief.

Under such a system — early feudalism — titles to property were necessarily not fixed and permanent, but dependent on the ability of the holder to serve his lord and keep the peace of the people. The barbarian conquerors of Rome, — every tribe of them, — brought into the empire the original Asiatic, the original European and Roman idea, that the land of a country is the common property of its possessors. A king among them was their military and executive head for the maintenance of this right and all other rights. But when these same tribes moved out of their own lands

and subjected other countries, this conception of common property in land assumed the form of graduated military regulation. They took the new country in the name of their king, as their common heritage. But, to hold it over another people, it was necessary to portion it up according to the rank and power of those held responsible for its security. So the rights of a whole people became directly vested in the sovereignty of their chief leader — their "absolute monarch" by necessity, and thus their king by "divine right."

Remembering that in an army every right and every power centres in the general, and remembering also that for a thousand years Europe was nothing but an assemblage of armies attempting to become stationary, — remembering these two points, the chief features of feudalism became perfectly clear and intelligible. We perceive at once, why the most arrogant despots ruled the most pugnacious and incorrigible of freemen, with their hearty consent. We see why the common property, possessed by people who had always so claimed and held it, passed into the ownership of their sovereigns, and was thence distributed, under life tenures, to subordinate commanders made responsible for its safety and prosperity.

But the great thieves of Rome — those who had gradually stolen the common lands of the people and had finally murdered the Gracchi — this class, having at last obtained their way, had sanctified their larcenies by forms of law, and converted the fruits of their unlawful greed into unquestioned hereditary possessions. They had even upset the early history of their country, and blackened the fame of her noblest, wisest sons, in order to confuse the moral sense of mankind. They had succeeded; and the world to-day has not opened its eyes to their frauds, or outgrown their false pretences.

Roman custom and Roman law doubtless had much influence in changing life tenures to property under early feudalism into hereditary titles. But the natural selfishness of mankind was enough in itself to accomplish the result. Given, a monopoly for a day, and no one ever ungripes it until it is wrung out of his hands. Yet it took a thousand years for the new conquerors of Europe to forget the laws and customs of their original homes. They hedged in hereditary ownership of land with wardship, control of female vassals, and countless oaths, forms, and establishments, enforcing public service in compensation for individual possession of what they knew to be the national and common estate. A duke, with the army of his duchy, must stand ever ready to defend his sovereign at need. A count, with the force of his county, must sustain the duke; and the lower vassal must marshal the retainers of his estate to the support of his count. Their services to the nation were the pay for the nation's property which they held.

In the meantime, bodies of freemen combined, under something much like their

ancient customs, for agricultural purposes, and other bands of freemen joined together and built up the great towns of commerce and manufacture.

The Christian church held enormous possessions and wielded vast influence — undoubtedly for good, and the greatest good then attainable. The little sect started by the devout, sweetminded young Nazarine, Joshua, whom the Greek Jews called Jesus, — a sect of no account in Jerusalem, but which the fiery zealot, Paul, had saved by carrying it among the Gentiles,— this meek, humble, yet all-hopeful sect, which in the tumbling of Rome had preached and prayed for the " kingdom of heaven," had now clothed itself in the theology of Asia filtered through Greece; had taken the statues of Jupiter, Hercules, and Venus into its uses; had melted the hearts of both Roman emperors and barbarian kings; and its traditions had become the religious and moral cement of the occidental world. Jesus himself would never have recognized the results of his work; but, in spite of all its husk and trash, the Christian religion' had managed to preserve the central and only vital doctrine of its founder, the fatherhood of God and the brotherhood of man. In the midst of gory, dripping feudalism this church, which threatened eternal hell to men who feared nothing else, and which promised a peaceful heaven to poor souls whose earthly life was a chronic curse, — in such a state of society this church had none too much power, none too much influence. It was a part of every state, — the part which taught the inquiring, checked the powerful, cruel, and greedy, encouraged the rising poor, clothed the naked, and fed the hungry. It was based on national lands and property. Its benefices and revenues were held in trust for the common good; and the trust was fulfilled, if not perfectly, yet quite as well as could have been expected.

Our present civilization imagines it has outgrown feudalism, and that Cervantes laughed the last dying breath out of its body. It is a great mistake. The soul of it is extinct. The good of it has gone. But its worst features overhang all Europe today like a nightmare, and its unburied hand writes the laws of America, in the most vital and practical relations between man and man.

It is true that, as Roman ambition brought the peoples of antiquity to each other's acquaintance under the flash of her subjugating sword, so the "golden rule" of Jesus, though wrapped in the second-hand clothes of all heathendom, gradually brought the putative followers of Christ to a sense of human equality in their common discipleship. The rise of this conception was the theoretical decline and end. of slavery, which the invention of gunpowder, — the greatest single blessing that has been given to the modern world — made speedy and certain. Still, as *all* men rose to *free* men, society left behind the very basis of ancient freedom, — the foundation without which all freedom is a ghastly mockery, a grinning farce. The very existence, in fact, of this foundation had been overborne and forgotten. Sovereignty — the right

to self — had once been inseparably united with ownership — the right to property. The feudal kings and barons kept / the property, and the people took the sovereignty.

For instance, the piratical adventurers who conquered England under William the Norman, received the titles to their lands on consideration of putting 60,000 horsemen into the field whenever required for the national service, together with numerous fines, dues, and services, the sum of which has been estimated as worth at least half the rental value of the kingdom. But when, with advanced methods of warfare, these "defenders of the soil," in the persons of their descendants, had been reduced to figure-heads and tassels, England abolished her military tenures, while her aristocracy kept the estates for which the costly services of her earls, counts, and knights had been the price. In other words, these cunning, betitled land-monopolists put just so much revenue into their own pockets, by saddling the military establishment of the realm upon the taxes borne by capital and labor. And this change, which has created the vast British war debt — a sum which should have been paid out of the increasing rents of the land, — this glaring imposition upon industry, thrift, and poverty alike, has been celebrated by stupid John Bull, over his pipe of tobacco and mug of heavy beer (both taxed to help the imposition along), as some wonderful step in the march of modern freedom!

In France, again, the Constituent Assembly of 1789 fancied that the heads of its members were bulging with wisdom, when that body lifted tithes from the lands which had supported the church, and bundled the expenses upon general taxes. The Abbe Sieyes explained to them that the land-owners got their very titles in no other way than by paying these tithes, together with various public obligations, out of their rents. He explained, also, that the abolition of tithes was simply a gift to the rich, which must be paid by the poor, from their labor and their savings. But a nation about ready to dispense with God naturally looked with suspicion upon a priest, though the best of his order. The Abbe Sieyes was right; but haste, enthusiasm, and ignorance prevailed.

Once again. Notwithstanding the inundation of Europe by feudalism, the ancient customs of mankind asserted themselves to a considerable extent in all the various nations. As already mentioned, bodies of freemen formed communities, settled upon unoccupied lands, and tilled them in common — a system whence sprung the word "commoner" (which Bacon used in its literal significance), and which has handed down to our Yankee Boston the name of its "Common." Of course it was necessary for these "commoners" to purchase the protection of some iron-cased baron, with his stone castle, and to be handsomely blackmailed by him and his retainers, for not being swept away. Still, we are told that "the commons, in feudal ages, embraced a very large proportion of the area of most European countries." Meanwhile, as conditions of

peace and permanence were developed, the masses of the people — the peasantry — were hedged in with certain definite rights, like tenancy by custom instead of arbitrary will, and regular rents instead of unmitigated spoliation.

But precisely as the Roman optimates encroached upon the people's common lands, inclosing and taking them into enormous private estates, so the later European aristocrats, in spite of impotent royal edicts, and the still more impotent resistance of the people, gradually drew into their own possessions whatever else they coveted. And, as they despoiled the people of their commons, thus turning them into vagrants, they passed the most bloody and brutal laws, branding and maiming the helpless victims of their robberies.

The systematic English enclosures of the commons began nearly four hundred years ago, under the miser-king, Henry the Seventh; and the great extent of them at that time is certain, if only from the fact that more than seven and a half millions of acres were inclosed, under legal enactments, even from 1710 to 1843.

What has been the result? Let me answer in the indignant, pathetic words of another:

"The English yeoman — the sturdy breed who won Crecy, and Poitiers, and Agincourt — are as extinct as the mastodon. The Scottish clansman, whose right to the soil of his native hills was once as undisputed as that of his chieftain, has been driven out to make room for the sheep-ranges or deer-parks of that chieftain's descendant; the tribal right of the Irishman has been turned into a tenancy-at-will. Thirty thousand men have legal power to expel the whole population from five-sixths of the British Islands, and the vast majority of the British people have no right whatever to their native land save to walk the streets or trudge the roads."

What a picture! Think of the unspeakable injustice, the slow suffering, the long murder, the constant death behind it. And the sequel may be as sad and terrible!

And now let us glance at America. She is the mixed child of the Old World, and has simply inherited her conceptions of property, without thought and without knowledge. A few remnants of feudal law, like primogeniture, which she imported at the start, have become too ridiculous for use, and have been thrown away. But she has been so busy in asserting personal freedom alone, — the rights of man to the members of his body, the thoughts of his mind, and the dictates of his conscience, — that she has had little time to consider any other fundamental principles of human welfare. Nor has it long been necessary to do so.

The foundations of practical welfare on the earth — land and water for her people, — the means of their subsistence, — these she has had to spare, and to give away. Her

chief need has been to find the heads and hands to utilize her vast resources. But of these heads and hands she is now getting full. Her best territory is occupied, — by fences if not by inhabitants; her people begin to crowd each other, though there is no need of it; and, from the Atlantic to the Pacific, large classes are very poor, and are daily becoming poorer. Vast monopolies of all descriptions are concentrating wealth in the hands of the few, while the many are beginning to be considered fortunate if, by hard and constant work, they can earn a scanty living for their bodies, and for their minds and souls no living at all, or worse than none.

Illustration is here unnecessary, and time for it would be wasted. The facts are too glaring for question, as well as too cruel for silence. They utter themselves on every country road, in every street of every city, and in every alley between the streets. In a country new, fertile, inexhaustible; not settled to a tenth of its capacity; with endless invention and mechanism to aid in the gathering of wealth; it is only by close combination in trades-unions, and by bitter struggles in hundreds of ways, that the poor — millions of them — can provide themselves with indifferent food, shelter, and clothing.

It is evident, however, that the American people will never be the contented dupes and slaves of vulgar wealth, — of masters whose intelligence knows nothing better than a dollar, and how to make a show of it. As poverty increases, the spirit of uneasiness, the spirit of resistance, increases with it. Intelligence asks why such wrong should be, and justice declares it shall not be always, nor even too long for wise endurance. It is becoming thoroughly understood that something is radically, totally wrong, in the whole structure of modern society. The combinations of labor, in addition to the direct purpose of maintaining or bettering their condition for the moment, are deeply, sometimes fiercely, studying the problem of superfluous wealth and excessive poverty. And they are on the very verge of all they seek to know. The whole philosophy of property, — the exact natural rights of man in relation to his material surroundings, — this philosophy has been announced, and these rights have been laid down. Gradually, yet not altogether slowly, they will be understood. And then they will be enforced. For, in this country, the people as a whole have the power — immediate, political, sovereign — to accomplish what their reason commends and their conscience commands.