Chapter III—
Social Statics—The Right Of Property

The chapter of *Social Statics* "The Right to the Use of the Earth" is followed by a chapter on "The Right of Property." For the reason that Mr. Spencer has since referred to this chapter as to be taken in connection with what was said in the preceding one, it is also worth while to reprint it in full:—

CHAPTER X—THE RIGHT OF PROPERTY

§ 1. The moral law, being the law of the social state, is obliged wholly to ignore the ante-social state. Constituting, as the principles of pure morality do, a code of conduct for the perfect man, they cannot be made to adapt themselves to the actions of the uncivilized man, even under the most ingenious hypothetical conditions-cannot be made even to recognize those actions so as to pass any definite sentence upon them. Overlooking this fact, thinkers, in their attempts to prove some of the first theorems of ethics, have commonly fallen into the error of referring back to an imaginary state of savage wildness, instead of referring forward to an ideal civilization, as they should have done; and have, in consequence, entangled themselves in difficulties arising out of the discordance between ethical principles and the assumed premises. To this circumstance is attributable that vagueness by which the arguments used to establish the right of property in a logical manner are characterized. While possessed of a certain Plausibility, they yet cannot be considered conclusive, inasmuch as they suggest questions and objections that admit of no satisfactory answers. Let us take a sample of these arguments and examine its defects.

"Though the earth and all inferior creatures," says Locke, "be common to all men, yet every man has a property in his own person: this nobody has a right to but himself. The labor of his body, and the work of his hands, we may say are properly his. Whatever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labor 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 hath placed it in, it hath by this labor something annexed to it that excludes the common right of other men. For this labor being the unquestionable property of the laborer, no man but he can have a right to what that is once joined to, at least when there is enough and as good left in common for others."

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 product, a man "hath mixed his labor 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 labor 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 labor, 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 labor 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 labor 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 labor with the acquired object cease to "exclude the common right of other men"? Supposing enough to be attainable, but not all equally good, by what rule must each man choose? Out of which inquisition it seems impossible to liberate the alleged right, without such mutilations as to render it, in an ethical point of view, entirely valueless.

Thus, as already hinted, we find that the circumstances of savage life render the principles of abstract morality inapplicable; for it is impossible, under ante-social conditions, to determine the rightness or wrongness of certain actions by an exact measurement of the amount of freedom assumed by the parties concerned. We must not expect, therefore, that the right of property can be satisfactorily based upon the premises afforded by such a state of existence.

§ 2. But under the system of land tenure pointed out in the last chapter as the only one that is consistent with the equal claims of all men to the use of the earth, these difficulties disappear, and the right of property obtains a

legitimate foundation. We have seen that, without any infraction of the law of equal freedom, an individual may lease from society a given surface of soil, by agreeing to pay in return a stated amount of the produce he obtains from that soil. We found that, 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 alike 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 labor with" certain products of the earth; and his claim to them is in this case valid, because he obtained the consent of society before so expending his labor; and having fulfilled the condition which society imposed in giving that consent—the payment of rent–society, to fulfill its part of the agreement, must acknowledge his title to that surplus which remains after the rent has been paid. "Provided you deliver to us a stated share of the produce which by cultivation you can obtain from this piece of land, we give you the exclusive use of the remainder of that produce": these are the words of the contract; and in virtue of this contract, the tenant may equitably claim the supplementary share as his private property; may so claim it without any disobedience to the law of equal freedom; and has therefore a right so to claim it.

Any doubt that may be felt as to the fact that this is a logical deduction from our first principle, that every man has freedom to do all that he wills, provided he infringes not the equal freedom of any other man, may be readily cleared up by comparing the respective degrees of freedom assumed in such a case by the occupier and the members of society with whom he bargains. As was shown in the preceding chapter, if the public altogether deprive any individual of the use of the earth, they allow him less liberty than they themselves claim; and by so breaking the law of equal freedom commit a wrong. If, conversely, an individual usurps a given portion of the earth, to which, as we have seen, all other men have as good a title as himself, he breaks the law by assuming more liberty than the rest. But when an individual holds land as a tenant of society, a balance is maintained between these extremes, and the claims of both parties are respected. A price is paid by the one for a certain privilege granted by the other. By the fact of the agreement being made, it is shown that such price and privilege are considered. to be equivalents. The lessor and the lessee have both, within the prescribed limits, done that which they willed: the one in letting a certain holding for a specified sum, the other in agreeing to give that sum. And so long as this

contract remains intact, the law of equal freedom is duly observed. If, however, any of the prescribed conditions be not fulfilled, the law is necessarily broken, and the parties are involved in one of the predicaments above named. If the tenant refuses to pay the rent, then he tacitly lays claim to the exclusive use and benefit of the land he occupies—practically asserts that he is the sole owner of its produce, and consequently violates the law by assuming a greater share of freedom than the rest of mankind. If, on the other hand, society take from the tenant that portion of the fruits obtained by the culture of his farm, which remains with him after the payment of rent, they virtually deny him the use of the earth entirely (for by the use of the earth we mean the use of its products), and in so doing claim for themselves a greater share of liberty than they allow him. Clearly, therefore, this surplus produce equitably remains with the tenant; society cannot take it without trespassing upon his freedom; he can take it without trespassing on the freedom of society. And as, according to the law, he is free to do all that he wills, provided he infringes not the equal freedom of any other, he is free to take possession of such surplus as his property.

§ 3. The doctrine that all men have equal rights to the use of the earth does indeed, at first sight, seem to countenance a species of social organization at variance with that from which the right of property has just been deduced; an organization, namely, in which the public, instead of letting out the land to individual members of their body, shall retain it in their own hands, cultivate it by joint-stock agency, and share the produce: in fact, what is usually termed Socialism or Communism.

Plausible though it may be, such a scheme is not capable of realization in strict conformity with the moral law. Of the two forms under which it may be presented, the one is ethically imperfect; and the other, although correct in theory, is impracticable.

Thus, if an equal portion of the earth's produce is awarded to every man, irrespective of the amount or quality of the labor he has contributed toward the obtainment of that produce, a breach of equity is committed. Our first principle requires, not that all shall have like shares of the things which minister to the gratification of the faculties, but that all shall have like freedom to pursue those things—shall have like scope. It is one thing to give to each an opportunity of acquiring the objects he desires; it is another, and quite a different thing, to give the objects themselves, no matter whether due endeavor has or has not been made to obtain them. The one we have seen to be the primary law of the Divine scheme; the other, by interfering with the ordained connection between desire and gratification, shows its disagreement with that scheme. Nay, more, it necessitates an absolute violation of the principle of equal freedom. For when we assert the entire liberty of each, bounded only by the like liberty of all, we assert that each is free to do

whatever his desires dictate, within the prescribed limits; that each is free, therefore, to claim for himself all those gratifications and sources of gratification attainable by him within those limits–all those gratifications and sources of gratification which he can procure without trespassing upon the spheres of action of his neighbors. If, therefore, out of many starting with like fields of activity, one obtains by his greater strength, greater ingenuity, or greater application more gratifications and sources of gratification than the rest, and does this without in any way trenching upon the equal freedom of the rest, the moral law assigns him an exclusive right to all those extra gratifications and sources of gratification; nor can the rest take from him without claiming for themselves greater liberty of action than he claims, and thereby violating that law. Whence it follows that an equal apportionment of the fruits of the earth among all is not consistent with pure justice.

If, on the other hand, each is to have allotted to him a share of produce proportionate to the degree in which he has aided production, the proposal, while it is abstractedly just, is no longer practicable. Were all men cultivators of the soil, it would perhaps be possible to form an approximate estimate of their several claims. But to ascertain the respective amounts of help given by different kinds of mental and bodily laborers toward procuring the general stock of the necessaries of life is an utter impossibility. We have no means of making such a division save that afforded by the law of supply and demand, and this means the hypothesis excludes.[1]

§ 4. An argument fatal to the communist theory is suggested by the fact that a desire for property is one of the elements of our nature. Repeated allusion has been made to the admitted truth, that acquisitiveness is an unreasoning impulse quite distinct from the desires whose gratifications property secures—an impulse that is often obeyed at the expense of those desires. And if a propensity to personal acquisition be really a component of man's constitution, then that cannot be a right form of society which affords it no scope. Socialists do indeed allege that private appropriation is an abuse of this propensity, whose normal function, they say, is to impel us to accumulate for the benefit of the public at large. But in thus attempting to escape from one difficulty, they do but entangle themselves in another. Such an explanation overlooks the fact that the use and abuse of a faculty (whatever the etymology of the words may imply) differ only in degree; whereas their assumption is that they differ in kind. Gluttony is an abuse of the desire for food; timidity, an abuse of the feeling which in moderation produces prudence; servility, an abuse of the sentiment that generates respect; obstinacy,

[1] These inferences do not at all militate against joint-stock systems of production and living, which are in all probability what Socialism prophesies.

of that from which firmness springs: in all of which cases we find that the legitimate manifestations differ from the illegitimate ones merely in quantity and not in quality. So also with the instinct of accumulation. It may be quite true that its dictates have been and still are followed to an absurd excess, but it is also true that no change in the state of society will alter its nature and its office. To whatever extent moderated, it must still be a desire for personal acquisition. Whence it follows that a system affording opportunity for its exercise must ever be retained; which means that the system of private property must be retained, and this presupposes a right of private property, for by right we mean that which harmonizes with the human constitution as divinely ordained.

§ 5. There is, however, a still more awkward dilemma into which M. Proudhon and his party betray themselves. For if, as they assert, "all property is robbery"—if no one can equitably become the exclusive possessor of any article, or, as we say, obtain a right to it—then, among other consequences, it follows that a man can have no right to the things he consumes for food. And if these are not his before eating them, how can they become his at all? As Locke asks, "When do they begin to be his? When he digests? Or when he eats? Or when he boils? Or when he brings them home?" If no previous acts can make them his property, neither can any process of assimilation do it; not even their absorption into the tissues. Wherefore, pursuing the idea, we arrive at the curious conclusion that as the whole of his bones, muscles, skin, etc., have been thus built up from nutriment not belonging to him, a man has no property in his own flesh and blood, can have no valid title to himself, has no more claim to his own limbs than he has to the limbs of another, and has as good a right to his neighbor's body as to his own! Did we exist after the same fashion as those compound polyps, in which a number of individuals are based upon a living trunk common to them all, such a theory would be rational enough. But until Communism can be carried to that extent, it will he best to stand by the old doctrine.

§ 6. Further argument appears to be unnecessary. We have seen that the right of property is deducible from the law of freedom, that it is presupposed by the human constitution, and that its denial involves absurdities.

Were it not that we shall frequently have to refer to the fact hereafter, it would be scarcely needful to show that the taking away another's property is an infringement of the law of equal freedom and is therefore wrong. If A appropriates to himself something belonging to B, one of two things must take place: either B does the like to A, or he does not. If A has no property, or if his property is inaccessible to B, B has evidently no opportunity of exercising equal freedom with A by claiming from him something of like value, and A has therefore assumed a greater share of freedom than he al-

lows B and has broken the law. If, again, A's property is open to B, and A permits B to use like freedom with himself by taking an equivalent, there is no violation of the law, and the affair practically becomes one of barter. But such a transaction will never take place save in theory, for A has no motive to appropriate B's property with the intention of letting B take an equivalent; seeing that if he really means to let B have what B thinks an equivalent, he will prefer to make the exchange by consent in the ordinary way.

The only case simulating this is one in which A takes from B a thing that B does not wish to part with—that is, a thing for which A can give B nothing that B thinks an equivalent—and as the amount of gratification which B has in the possession of this thing is the measure of its value to him, it follows that if A cannot give B a thing which affords B equal gratification, or in other words what he thinks an equivalent, then A has taken from B what affords A satisfaction, but does not return to B what affords B satisfaction, and has therefore broken the law by assuming the greater share of freedom. Wherefore we find it to be a logical deduction from the law of equal freedom that no man can rightfully take property from another against his will.

There is in this, it will be observed, no modification whatever of the strenuous assertion in Chapter IX of the equal, natural and inalienable right of all men to the use of land. On the contrary, so strongly, so uncompromisingly, does Mr. Spencer insist on the ethical invalidity of private property in land that he makes the formal consent of the community and the payment of rent to it a condition precedent to the individual right of property in things produced by labor. And, since no formal consent of this kind can be given until society has been well organized, he even goes to the length of denying that there can be any full right of property, or, indeed, any application of the principles of abstract morality, in any social condition lower than the civilized.

In brief, the argument of this chapter is—

1. That the right of the individual to his labor does not give individual property in the product of labor, because labor can produce only by using land, which does not belong to any individual, but to all.

2. But under the system of land tenure previously set forth as the only just one, in which the organized society assigns the use of a portion of land to an individual and collects rent from him for it, the conditions of the equal liberty of all are complied with, and the indi-

vidual acquires a right of property in what remains of the product of his labor after paying rent.

3. This system, under which the social organization would let land to individuals and collect rent from them, does not countenance the system under which it would carry on production and divide the product among its members, since, the powers and application of men being different, this would give to some more than they are entitled to, and to others less.

4. This communistic or socialistic system is also condemned by the natural desire to acquire individual property.

5. The denial of individual property may be brought into the awkward dilemma of a denial of the right of the individual to himself.

6. The right of property having thus been established, the appropriation by one of property belonging to another is a denial of the law of equal freedom.