

CHAPTER II

LANDOWNERSHIP IN HISTORY

BETWEEN forty and fifty years ago the majority of economic historians seemed to accept the theory that land was originally owned in common.¹ They held that in the beginning the community, usually a village community, was the landowner; that the community either cultivated the land as a corporation, and distributed the product among the individual members, or periodically divided the land among the social units and permitted the latter to cultivate their allotments separately. The second of these forms of tenure was the more general. The primitive time to which the theory referred was not the period when men got their living by hunting and fishing, or by rearing herds, but the agricultural stage of economic development, when life had become settled. Of the arguments upon which the theory was based, some consisted of ambiguous statements by ancient writers, such as Plato, Cæsar, and Tacitus, and others were merely inferences drawn from the existence of certain agrarian institutions: family ownership of land; common pasturelands and woodlands; periodical distribution of land among the cultivators, as in the German Mark, the Russian Mir, the Slavonic Zadruga, and the Javanese Dessa. All these practices have been interpreted as "survivals" of primitive common ownership. Only on this hypothesis, it is argued, can they be satisfactorily explained.

¹ The most notable exponents of this view were: Von Maurer, "Einleitung zur Geschichte der Mark," 1854; Viollet, "Bibliothèque de l' école des chartres," 1872; Maine, "Village Communities in the East and the West," 1872; and De Laveleye, "De la propriété et ses formes primitives," 1874, of which an English translation appeared in 1878 under the title, "Primitive Property."

More recent writers have subjected the various arguments for this theory to a searching criticism.¹ To-day the great majority of scholars would undoubtedly accept the conclusion of Fustel de Coulanges, that the arguments and evidence are not sufficient to prove that in the earliest stages of agricultural life land was held in common; and a majority would probably take the more positive ground that common ownership, in the sense of communal cultivation and distribution, never existed for any considerable length of time among any agricultural people. The present authoritative opinion was thus summarized by Professor Ashley in an address before the International Congress of Historical Studies, London, April, 1913:

“From the earliest historical times, in Gaul and Germany, very much land was owned individually, and wealth on one side and slavery on the other were always very important factors in the situation.

“Even in Germany, communal ownership of land was never a fundamental or generally pervasive social institution; there was something very much like large private estates, worked by dependents and slaves, from the very earliest days of Teutonic settlement.

“As to England, it is highly probable that we shall not find anything that can fairly be called a general communal system of landowning, combined with a substantial equality among the majority of the people, under conditions of settled agriculture. To find it in any sense we shall have to go back to an earlier and ‘tribal’ condition, if, indeed, we shall find it there!”²

¹ Chief among these writers are: Fustel de Coulanges in an article in *Revue des Questions Historiques*, April, 1889; translated by Margaret Ashley, and published, with an introductory chapter by W. I. Ashley, under the title, *The Origin of Property in Land*, 1891; G. Von Below, *Beilage zur Allgemeine Zeitung: Das kurze Leben einer vielgenannten Theorie*, 1903; F. Seebohm, *The Village Community*, 1883. Cf. Whittaker, *Ownership, Tenure, and Taxation of Land*, 1914, ch. ii; Cathrein, *Das Privatgrundeigentum und seine Gegner*, 1909; and Pesch, *Lehrbuch der Nationaloekonomie*, I, 183-188.

² Quoted in Whittaker, *op. cit.*, pp. 27, 28.

No Private Ownership in Pre-Agricultural Conditions

Whenever and wherever men got their living by hunting and fishing there was no inducement to own land privately, except possibly those portions upon which they built their huts or houses. "Until they become more or less an agricultural people they are usually hunters or fishermen or both, and possibly also to a limited extent keepers of sheep and cattle. Population is then sparse, unoccupied territory is plentiful, and questions of the ownership of particular tracts of land do not concern them." ^a In any region occupied by a group or tribe, all portions of the land and the water were about equally productive of game and fish; the amount obtainable by any individual had no relation to labor on any particular piece of soil; and it was much easier for each to range over the whole region in common with his fellows than to mark off a definite section upon which he would not permit others to come, but beyond which he himself would not be permitted to go. In such conditions private ownership of land would have been folly. Tribal or group ownership was, however, in vogue, especially among those groups that were in control of the better grounds or streams. Even this form of proprietorship was comparatively unstable, since the people were to a considerable degree nomadic, and were willing to abandon present possessions whenever there was a prospect of obtaining better ones elsewhere. Among men who got their living by rearing herds, the inducement to hold land in exclusive private control would be somewhat stronger. The better grazing tracts would be coveted by many different persons, especially in the more populous communities. And there would always be the possibility of confusion among the different herds, and contention among their owners. In such circumstances the advantages of exclusive control would sometimes outweigh the benefits of common use and ownership. In the thirteenth chapter of Genesis

^a *Idem*, p. 29.

we are told that, owing to strife between the herdsmen of Abram and Lot, the brothers separated, and agreed to become the exclusive possessors of different territories. Nevertheless, it is probable that tribal ownership was the prevailing form of land tenure so long as people remained mainly in pastoral conditions.

It is likewise probable that the same system continued in many cases for some time after men began to cultivate the soil. At least, this would seem to have been the natural arrangement while land was plentiful, and the methods of cultivation crude and soil-exhausting. It would be more profitable to take up new lands than to continue upon the old. Within historical times this system prevailed among the ancient Germans, some of the tribes of New Zealand, and some of the tribes of Western Africa. Where land was not so plentiful it was sometimes redistributed among individuals or heads of families, as often as a death occurred or a new member arrived in the community. Some of the tribes and peoples who observed this practice were the ancient Irish, the aborigines of Peru, Mexico, and parts of what is now the United States, and Australia, and some of the tribes of Africa, India, and Malaysia.¹ Whether the most primitive agricultural systems of every people were of this nature we have, of course, no means of knowing, but the supposition is antecedently probable; for agriculture must have begun very gradually, and been for some time practiced in connection with the more primitive methods of obtaining a livelihood. As the land had been held for the most part in common during the hunting and fishing stage and during the pastoral stage, the same arrangement would probably continue until the people found it necessary to cultivate the same tracts of land year after year, and conceived the desire to retain their holdings in stable possession and to transmit them to their children. Moreover, so long as the members of the clan remained

¹ Cf. P. W. Joyce, "A Social History of Ancient Ireland," 1903; and Letourneau, "Property: Its Origin and Development," 1896.

strongly conscious of their kinship, and realized the necessity of acting as a unit against their enemies, there would be a strong incentive to clan ownership of the land, and clan allotment of it among the individual members. In other words, the clan would, in these circumstances, have the same motives for common ownership that exist to-day in the family.

The oldest historical peoples, the Israelites, Egyptians, Assyrians, Babylonians, and Chinese, had private ownership of land at the beginning of their recorded history. Most of them, however, had been cultivating land for a considerable length of time, and had acquired a considerable degree of civilization, before the earliest period of their existence of which we have any knowledge. It is quite possible that those among them that had passed through the hunting and fishing or the pastoral stage of existence, had practiced tribal or common ownership during the earlier portion of their agricultural life.

How the Change Probably Took Place

The change from tribal to private landownership could have occurred in a great variety of ways. For example, the chief, patriarch, or king might gradually have obtained greater authority in making the allotments of land among the members of the tribe or group, and thus acquired a degree of control over the land which in time became practical ownership; he might have seized the holdings of deceased persons, or of those who were unable to pay him the tax or tribute that he demanded, or of those who were for any reason obnoxious to him. Again, the taxes paid to the chief man in a community for his services as ruler might have come in time to be regarded as a payment for the use of the land, and therefore as an acknowledgment that the chief was also the landlord. Even in the Middle Ages the rents received by the feudal lords were in great measure a return for social and political services, just as are the taxes received to-day from private landowners by

the State. In primitive times, as well as later on, the chief would naturally do his best to convert this institution of tax paying or tribute paying into rent paying, and to add the position of landowner to his other prerogatives. After all, the transition from tribal ownership, with private cultivation and private receipt of the produce of individual allotments, to overlordship and landlordism, would not have been greater than that which actually took place in England between the fifteenth and the nineteenth centuries, when the lords became absolute owners of land that they had previously held with their tenants in a sort of divided or dual ownership. In a word, tribal ownership could have been displaced by landlordism through the same methods that have been used everywhere by the powerful, the ambitious, and the greedy against the weak, the indifferent, and the upright. Nor must we forget the influence of conquest. Most of the countries that appear in historical times with a system of private ownership had at some previous period been subjugated by an alien people. In many of these the conquerors undoubtedly introduced a considerable degree of individual ownership, the more powerful among them becoming landlords, while their weaker companions and the mass of the conquered population were established in a condition of tenancy.

Where a somewhat widely diffused private ownership succeeded the primitive system, it was probably due to the free action of the cultivators, as soon as they came to realize the inconveniences of ownership in common. "Any enclosed land round their permanent dwellings, and any land outside the settlement, which was cleared, reclaimed, and cultivated, or occupied with cattle by individuals or families, was recognized as their personal property. Only those who were industrious, enterprising and courageous enough would clear, occupy, retain, cultivate, and defend waste land. They would become personal owners of cattle, and would gradually acquire wealth which would enable them to employ others and still further improve their posi-

tion. As their power increased, and as population grew, the bravest, wealthiest and most capable fighting men among them would become chiefs or a species of nobles, and the force of circumstances, often no doubt aided by force and fraud, would eventually make them the landowners of the greater part of the district, with the more or less willing acquiescence of the community among whom they lived, and to whom they extended their protection.”¹

Limited Character of Primitive Common Ownership.

A great deal of the opposition to the theory of primitive common ownership of agricultural land, seems to be based upon an exaggerated conception of the scope of that institution. The average man who thinks or speaks of ownership to-day has in mind the Roman concept and practice of private property. This includes the unrestricted right of disposal; that is, the power to hold permanently, to transfer or transmit, to use or to abuse or not to use at all, to retain the product of the owner's use, to rent the property to any person and for any period that the owner chooses, and to obtain in return a price called rent. Any man who takes the theory of primitive common ownership to imply that the community or tribe exercised all these powers over its land, will have no difficulty in proving that the evidence is overwhelmingly against any such theory. Even among those people that are certainly known to have practiced so-called common ownership of land, there are very few instances of communal cultivation, or communal distribution of the product. Yet these are included in the Roman concept of ownership. The usual method seems to have been periodical allotment by the community of the land among individuals, individual cultivation of the allotted tracts, and individual ownership of the product. Moreover, there was always a chief or patriarch who exercised considerable authority in the distribution of the land, frequently collected a rent or tax from the cultivators, and

¹ Whittaker, *op. cit.*, pp. 30, 31.

almost invariably exercised something like private ownership of a portion of the land for his direct and special benefit. Sometimes other men of importance in the community possessed land which was not subject to the communal allotment. Primitive ownership of land in common was, therefore, very far from vesting in the community all the powers that inhere in the private proprietor of land according to the Roman law and usage.

Private Ownership General in Historical Times

So much for land tenure in prehistoric times. During the historical period of the existence of the race, almost all civilized peoples have practiced some form of private ownership in the matter of their arable lands. While differing considerably at various times and places, it has always excluded communal allotment of land and communal distribution of the product, and has always included private receipt of the product by the owner-user, or private receipt of rent when the owner transferred the use to some one else. But it did not always include the right to determine who should be the user. In the later centuries of the feudal system, for example, the lord could not always expel the tenants from the land, nor prevent them from transmitting the use of it to their children. Moreover, the rent that he received was customary and fixed, not competitive and arbitrary, and it was looked upon in great measure as a return to the lord for social, military, and political services, as well as a payment for the use of land. This system was private ownership, indeed, but if we apply the Roman notion of ownership we shall find it difficult to decide whether the tenant or the lord should more properly be called the owner. At any rate, the right of ownership possessed by the lord was greatly limited by restrictions which favored the masses of the cultivators. In every community there were common woodlands and pasturelands for the free use of all the inhabitants. Among other restrictions of private ownership and control in favor of

the principle of equal access to the land by all persons, we may mention the division of the English villein's holding into several portions, intermingled with those of his neighbors so that each would have about the same amount of good land; and the ancient Hebrew law whereby alienated land was returned to the descendants of its original owners every fifty years.¹

Reckoning the feudal lord, and all other overlords who had the same control over land, as private proprietors, we may say that in historical times the arable land of every country has been owned by a minority of the population. Since the downfall of feudalism the tendency in most regions of the Western world has been toward an increase in the number of owners, and a decrease in the number of great estates. This tendency has been especially marked during the last one hundred years. It will, however, need to continue for a very long time, or else to increase its pace very rapidly, before landownership will be diffused in anything like the measure that is necessary if its benefits are to be shared by all the people. Even in the United States, where the distribution is perhaps more general than in any other country, only 37.4 per cent of the families owned, in 1920, the homes in which they lived. In the rural districts the per cent of home-owning families was only 60.9.

Conclusions from History

What conclusions does history warrant concerning the social and moral value of private landownership? Here we are on very uncertain ground; for different inferences may be drawn from the same group of facts if a different section of them be selected for emphasis. Sir Henry Maine and Henry George both accepted the theory of primitive agrarian communism; but the former saw in this assumed fact a proof that common ownership was suited only to the needs of rude and undeveloped peoples, while the latter regarded it as a sure indication that common ownership was

¹ Leviticus xxv, 23-28.

fundamentally natural and in accordance with permanent social welfare. The fact that practically all peoples whose history we know discarded communal for private ownership as soon as they had acquired a moderate degree of proficiency in methods of cultivation and in the arts of civilized life does, indeed, create a presumption that the latter system is the better for civilized men. To this extent Sir Henry Maine is right. Against this presumption Henry George maintained that common ownership was abandoned solely because of the usurpation, fraud and force employed by the powerful and privileged classes. Undoubtedly this factor played a great part in bringing about the private ownership that has existed and still exists, but it does not account for the institution as a whole and everywhere. If chiefs, kings and other powerful personages had never usurped control of the land, if no people had ever conquered the territory of another, it is probable that private ownership would have taken place to the same extent, although it would have been much more widely diffused. For the system of periodical repartition of land, to say nothing of communal cultivation and communal distribution of the product, does hinder that attachment to a particular portion of the soil and that intensive cultivation which are so necessary to the best interest of the cultivator, the most productive use of the land, and therefore the welfare of society.

On the other hand, the limitations on the right of private ownership which have been established in so many places and times in favor of those who were not owners, show that men have very generally looked upon land as in some measure the inheritance of all the people. Hence arises the presumption that this conviction is but the reflection of fundamental and permanent human needs.

Summing up the matter, we may say that the history of land tenure points on the whole to the conclusion that private ownership is socially and individually preferable to agrarian communism, but that it should be somewhat strictly limited in the interest of the non-owners, and of the community as a whole.