

CHAPTER VII

THE ETHICS OF PROPERTY

THE sense of proprietorship exists to some extent in the animal world. Squirrels and badgers have their hoards; dogs defend articles left in their charge, and bury bones for future consumption; and many animals, like the dogs of Constantinople, resent the intrusion of members of their own species into the quarters which they regard as their own, or belonging to their special troop or herd. It is, therefore, not surprising that a like sentiment exists even among the most primitive of men, though in a similarly rudimentary form.

The conditions of savage life cause the proprietary sentiment to be indefinite and restricted. Deficient in imagination, savage man has no adequate consciousness of the future and its recurrent wants. The stimulus to industry, therefore, being weak, there goes with it a similarly small development and consequent indefiniteness of the proprietary sentiment. The low industrial development causes this partially developed and indefinite sentiment to be confined in extent. Beyond his arms and a few rude appliances the savage has nothing that can be accumulated. Under these circumstances he cannot have a clear or extensive consciousness of individual possession. For, like other sentiments, that of proprietorship depends for its development upon the experience, continued through many generations, of the gratifications which possession brings. Where the conditions of life restrict these experiences the sentiment must remain correspondingly weak.

Nevertheless, even amongst the lowest savages, indi-

vidual property is claimed in arms, in personal decorations, frequently consisting of relics of conquered enemies, and in such appliances as minister to bodily wants and are capable of repeated use. As we ascend in the scale, other things, such as skins, huts, utensils, clothes, and others similarly adapted to recurrent use, are seen to be private property, while the hunting-ground, in which no individual claims can be marked off, is regarded as the common property of the horde or tribe.

When animals become domesticated and give rise to pastoral life, and still more when agriculture is combined with it, the field over which private possession can extend is greatly enlarged. A further extension is made possible when exchanges arise, first in the form of barter, and subsequently in the more definite form of sale and purchase.

This extension of the area of private proprietorship is accompanied by a greater definiteness in the correlative sentiment. During the hunting stage every member of the horde helps himself freely to any game killed by one or more individuals, though not infrequently the right of the successful hunter to choice parts, skin and horns, is recognised. No method of preserving meat being known, and game being frequently too large to be consumed by one family before it becomes unfit for use, this form of joint proprietorship is imposed by natural conditions. Similarly in the pastoral stage, the absence of money and market values makes it impossible to assign to every member of the patriarchal family and to its dependents such parts of the produce of the herd or of the herd itself as is proportionate to the labour expended by each. Hence all property is centred in the hands of the patriarchal housefather, who assigns to every member of the household as much of it as he, guided by ancient custom, deems fitting.

When the patriarchal group settles down to agricultural pursuits, reverence for ancient customs, strengthened by the worship of ancestors whose commands are supposed to be embodied in these customs, as well as the necessities of mutual defence, combine to maintain the system of joint production and joint consumption. Exposed to constant

aggression, no individual, separated from his kindred, would be able to maintain his life or keep any property. Nevertheless, differentiation soon begins within the communal group. Each person establishes individual ownership in things on which he has expended separate labour, in things which he has acquired in exchange for the products of his separate labour, and in things which his individual prowess has won from an enemy. Nevertheless, the greater part of every individual's exertion being directed, in co-operation with those of others, towards common production, the principal product of each individual's labour is enjoyed in common with these others. Compensation for injury suffered by any member of the group is similarly a joint possession of all those who are under the obligation of the blood-feud, though there can be little doubt that, when the character of the things given in compensation allowed of it, they were generally divided among the members of the group.

As soon, however, as greater external safety makes the shelter of the family group of less importance, while growing commercial intercourse and increasing differentiation of pursuits multiply the opportunities for acquiring individual possessions, an external differentiation begins. For the communal system bore within it from the first a cause of dissolution ready to operate as soon as the conditions of life allowed of it. The more restless and independent of its members must always have chafed at the restrictions placed on their activities, while the more industrious and skilful must have felt the injustice of the idle and unskilful taking equal shares with themselves. These, therefore, avail themselves sooner or later of favourable conditions which enable them to leave the house or village community, which ultimately dissolves and divides its property amongst its members. Private ownership begins thus gradually to supplant joint ownership in all the products of labour as soon as the conditions which impose joint ownership are withdrawn. Each individual claims full and exclusive possession and property in the produce of his own exertions, in obedience to the law, that each adult shall experience all the consequences of his own acts.

The origin of proprietary rights in things which are not the produce of labour must now be alluded to. The primitive savage, in whom the sentiment of justice is as yet but little developed, regards his wife and children as his absolute and exclusive property. He may kill them or sell them into slavery without fear of incurring the disapproval of his fellows. Reverence for ancient customs, ancestor worship, and the acquisition of wives by purchase or capture tend to prolong this subjection, so that it is found even in comparatively civilised communities, such as China.

As the greater physical strength of the male leads to the establishment of proprietary rights in women and children, so greater prowess in war establishes property rights over the persons and possessions of conquered enemies. Though there are some contributory causes of later origin, war is the primary as well as the more general cause of property in slaves and of private property in land.

In the absence of any greater industrial development than is possible during the hunting stage slaves are almost useless, and, where game is scarce, a disadvantage. Savages, therefore, rarely make slaves of their captives; they either kill and eat them, or, in rare cases, adopt them into the tribe. Slavery gradually supplants cannibalism as the pastoral and agricultural stages are reached, and, finally, becomes a settled institution. For tribes who use their captives as producers, while their men are all warriors, have a great advantage over tribes which, killing their captives, can only bring a part of their men into the field. The conquest and displacement of the more savage and ferocious by less savage and ferocious tribes has thus been furthered by slavery.

As, however, decrease of military activity, lessening the number of deaths by violence, leads to an increase in the number of native men, while at the same time the slave-class is less frequently increased by fresh captives, some of the free population must take part in industrial activities. When, through private ownership of land, free labourers become disassociated from the soil and are forced to sell their labour to others for little more than sustenance,

slavery tends to disappear. For in the competition between free labour and slave labour the latter is invariably found to be the weaker. In relative interest, intelligence, and energy the free labourer is far superior to the slave labourer, and, therefore, the more profitable productive agent. This economic cause, tending to produce the disappearance of slavery, is ultimately assisted by the developed sentiment of justice in causing the abolition of slavery, even where, as in domestic service, the economic cause, by itself, would not be active.

In the hunting as well as in the pastoral stage the participation in the use of the land must be a joint participation. The hunter must be free to follow his game, and herds must be driven from place to place as the seasons and the state of grass and water dictate. When, with the agricultural stage, the individual use of particular areas of land becomes possible, many circumstances delay its adoption. Traditional usage, sanctified by ancestor worship, has formed sentiments inimical to change. Impossibility to fence off large areas plays a restraining part, and the absence of any knowledge of manures compels the frequent shifting of cultivated areas through exhaustion of the soil.

Hence, throughout long stages, land is not only owned jointly by the family, village, or tribe, but it is even used jointly. Even when joint use of agricultural land is abandoned, and when, through greater fixity of structure, a house lot is used for a long time by the same family, this individual use of land fails to establish individual ownership. As soon as the crop is taken off, or planted trees have died, or the house disappears, the land reverts to the community, and agricultural land is subject to reallotment at more or less regular periods. As a typical example, the Teutonic mark may be alluded to. The territory was owned jointly by the whole clan, composed of kindred families, every freeman having the right of use to some arable land, as well as to meadows, pastures, and wood. All but the arable land was used in common, and the latter reverted to the same condition as soon as the crop was taken off, being then used as common grazing

land. Thus the right of each adult male member of the clan or village, permanent only as regards the actual homestead, was for the rest of the nature of a usufruct only, the ownership of all the land being vested in the collective body of free men.

Wherever common ownership of the land has terminated, force, either internal or external, has been the cause. Invasion and conquest give unlimited possession of the person and property of the conquered. Along with other spoils of war the land becomes a spoil, being henceforth owned by the conquering leader, chief, or king, and partly allotted by him to his followers, on conditions which, more or less effectively, preserve his supremacy.

Similarly, long-continued resistance to invasion, giving rise to those class distinctions which always accompany the militant state, enables the more powerful to appropriate part of the common property. The personal subordination, necessary in war, becomes permanent where warfare is chronic, and produces sentiments which lead to acquiescence in aggressions upon the common property. Such aggression, at first spasmodic, is converted into a State policy when the interests of the king induce him to endeavour to break up the village or clan organisation of society.¹

Conquest and internal aggression are thus, everywhere, the causes of slavery and of the individual ownership of land. The private ownership of land, established by militancy, is, however, incomplete. Qualified in one direction by the right of the suzerain to customary services by the landholders, it is qualified in the opposite direction by the rights of sub-tenants and serfs to a share in the produce of the soil. In both directions a rent-charge

¹ "The great landowner is the creature of the State; the village group of farmers is not. The individual proprietor of a vast domain cannot maintain his position unless he can obtain the powerful assistance of the State Courts and the strong support of the military power. His interests conflict too evidently with the interests of those who serve him, and without whose labour his domain would be worthless. He is the favourite of the State, and every step of State progress is marked by a corresponding increase in his ranks. When the State extends its conquests into hostile lands it plants its faithful soldiers as landowners on the conquered soil. When it annexes the domains of the Church it distributes them among a new territorial aristocracy. When it finally breaks the power of the clan it converts the clan chief into a landlord. On the other hand, the clan and the household are older than the State, and utterly opposed to it in principle."—Jenks, *Law and Politics during the Middle Ages*, pp. 162, 163.

limits the ownership of the tenant-in-chief; that due to the suzerain being used, more or less faithfully, for common objects; that due to the sub-tenants and serfs being used for their private objects. Growing industrialism and decline of militarism afford the opportunity to the landholders, who, as the ruling class, are also either actual legislators or possessed of the greatest influence over legislators, to get rid of both limitations. Military obligations are at first exchanged for a money rent, for which, subsequently, a tax on the whole people is substituted. With the decline and ultimate disappearance of serfdom, and the substitution of money rent for obligations of service, the qualified rights of the sub-tenants and former serfs become obscured and ultimately terminate. The rent, at first fixed with due regard to their rights in the soil, is gradually increased as these rights fade from view, until at last, absorbing the value of such rights, it is equal, or even in excess, of the full value of the land. The absolute ownership of land by individuals, now existing, therefore, is a comparatively late development, having its root in conquest, force, or fraud.

Both the ownership of slaves and the private ownership of land thus stand on a different basis, and derive their existence from a different cause than the ownership of the products of labour.¹

¹ "In the first place property in land is, in our opinion, the only form which serves as an instrument of control. 'Property' in movable goods should be distinguished from 'property' in immovable goods. What is there in common between the unlimited possession and free disposal of chattels and that juridical relation, in virtue of which a person may keep a piece of land exclusively for his own benefit? Yet for these fundamentally different conceptions the European languages use but one term, with consequent indistinctness and confusion of ideas in science.

"Common property (*Eigentum, proprium*) is a contradiction in terms; yet even separate or private 'property' has been discussed as a simple concept, and what might be true of property in movable goods has been applied without distinction to property in land, a very different thing. This is certainly a great mistake.

"To justify private property as the natural right of the individual to the fruit of his own exertions sufficiently explains property in movable goods, including the product of the land which a man's own labour has tilled, but does not explain property in land or in the fruit of another's labour; while to trace its origin to the actual possession of weapons, ornaments, etc., an attempt which Dargun has recently renewed, leaves a gap between movable goods and immovable which no analogy can bridge over, for they are totally different. No doubt individual property in movable goods has always existed, for the conditions of human life require it. But the conditions of property in land are quite different. Land is not the product of human labour, and its use is temporary; it can be occupied, detained, or possessed only in a limited and figurative sense; it might be possible to defend a small portion of land against trespassers; but it would be im-

It is the same with monopolies. Every monopoly created by the State, as has been shown, has for its basis a special privilege granted to some, which cannot be equally granted to all. The possession of such privileges gives to their possessors a twofold advantage over others. It gives to them a greater opportunity to exercise their faculties, greater freedom than others can enjoy; and it enables them to appropriate wealth produced by others without rendering equivalent service in return.

The distribution of wealth being an assignment of ownership, the principles which determine the distribution of wealth must also determine proprietary rights. These principles we found to be that all the members of the State are entitled to full and equal opportunities for exercising their faculties in the production of wealth, and that each is entitled to full proprietary rights in all things that his exertions produce. All forms of wealth being the joint product of labour and of external matter, rights of property must be governed by a combination of the laws governing individual exertion and the use of the earth. Labour, therefore, can give no right to wealth which is derived from a better natural opportunity than others are permitted to use. No man having a better right than any others to the use of the earth, the rights of all to use the earth are equal. Whatever wealth any man's labour extracts from natural opportunities which no one else wants, belongs to him and to him alone. But if more than one desires to use any part of land—that is, if the land have any value—the one who receives the privilege of using it must compensate all others for the special privilege accorded to him. For that any part of land is desired by more than one man, that it has a value, proves that it affords a better opportunity for making wealth, or confers some other advantage greater than is open to all. Society as a whole, therefore, is entitled to that part of

possible to defend the larger tracts, which alone are under consideration here. Property in land is not a physical fact, and cannot be explained by physical facts—occupation, labour, etc. To say that land is occupied or possessed, as is currently done, is to use a metaphor or a legal fiction. Land, by its nature, admits of only one relation to man, the enjoyment of its use, the common enjoyment of many."—Ludwig Gumplowicz, *The Outlines of Sociology*, pp. 114, 115.

individual labour-products which is due to the better natural opportunities used by any of its members, while each member has full proprietary rights in all that part of the produce of his labour which the same exertion would have produced if applied to the least productive opportunity which must be used by some men. The one is rent, a common property, to which all are entitled equally; the other is the product of individual exertion, to which each is entitled individually.

It follows that property in slaves, in land, and in monopolies is in reality an infringement of the right of property. For just as slavery deprives the slave of his individual property, so does the private ownership of land, giving to a few the rent which equally belongs to all, deprive the majority of men of their common property, and so does the private ownership of monopolies deprive all other men either of a part of the one or of a part of the other.

In addition to this direct infringement of "the sanctity of property," private ownership of land involves indirect infringements as well. These have been set forth in Part II. chapter viii., but the importance of one of them justifies its further exposition. The appropriation by the landlords of the common or social property compels the State to deprive its members of their individual property. In guarding the natural rights of its members, and performing the duties consequent thereon, the State incurs expenses. These expenses increase with every addition to the population, and with every increase in social integration and differentiation. This social growth, however, adds to the common fund, the rental value of land, out of which these common expenses can be met, by far more than it increases the necessary and legitimate expenditure. When, however, this common fund is appropriated by individuals, the expenses of the State must be met in other ways. That way is taxation, *i.e.* the State now deprives all its members of part of their individual property. The State having, by its own act, handed to individuals the common property of all, now infringes upon the individual property of each of its

members. To the theft of the common property, the theft of individual property is added.

The object of the State, the fuller ensurance of the equal rights of all its members, is defeated by the habitual curtailment of any of these rights. Nevertheless, occasions may arise when some or all rights must be temporarily curtailed, in order to ensure their permanent recognition. Such necessity may arise from external aggression. When the existence of the State itself is threatened, the State may, in so far as appears necessary, call upon all its members to risk their lives in defence of the common rights. Property being less important than life itself, the right to property is of inferior importance to the right to life—the State has still less cause to abstain from infringing the right to property. For purposes of defensive war, therefore, when the common property is insufficient to meet the necessary expenditure, individual property may be appropriated by the State, provided that the sacrifice of time, health, life, and property which the members of the State are called upon to make is in some manner equalised. Taxation of individual wealth, unjustifiable as an habitual measure in time of peace, may, therefore, become justifiable as a temporary measure for purposes of defensive war.

The false notions of proprietary rights engendered by the existing systems of monopoly have obscured even this truth. While some States rely upon voluntary enlistment even in time of war, others habitually practise compulsion, and in none is the right of the State to compel its members to sacrifice their lives in the common defence questioned. While thus claiming the right to infringe, or actually infringing, the equal right to life of some of its members, the State does not generally expect, nor compel a similar sacrifice of property. Instead of calling upon the owners of accumulated property to furnish the funds necessary for defence, the State generally borrows such funds from them, repaying them with interest out of the proceeds of taxation, which mainly falls, not on accumulated property, but on the labour of those classes which have borne the major part of the sacrifice of time, health, and life. The

masses of the people, from whom the bulk of the active defenders are drawn, are thus compelled to sacrifice the produce of their labour as well ; while the owners of accumulated property, who generally take no part in the actual defence, sacrifice little or no property, and frequently receive back, apart from interest, a greater amount of wealth than they have lent to the State.

Property in things not produced by labour is a direct denial of the only true right of property, that in things produced by labour. All these forms of property—slavery, private ownership of land and of monopolies—are so many endeavours to enable some to live without labour, by the forcible appropriation of the produce of others' labour. Being, therefore, an infringement of the law of equal freedom, as also of the law that every adult shall experience the consequences of his own acts, they have no ethical basis, and are contrary to justice. Not till all these forms of invasion of property rights are abolished does the true right of property prevail. Nor can it prevail under Socialism. For Socialism also invades the valid individual property rights of many of its members, of all those who are more able and industrious, by handing over to the less able and industrious a part of the property of the former. For the injustice now prevailing it proposes to substitute another injustice, and must, therefore, perpetuate, though probably in slightly different forms, the evils now existing.