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## The Right of Property

CERTAINLY the most important of the legal rights, from the point of view of economics, is that of Property.

"The right of private property is the main-spring of the whole mechanism of distribution (of wealth) in civilized societies."—Gide.

As we have already seen, there are concerned in this right:—

1. The "subject" of the right, that is, the person in whom the right of ownership is vested. This may be either a natural person or a partnership, or a corporation, which, by the act of incorporation becomes a legal person empowered to hold property and other rights and, in consequence, to sue or be sued. This person, whether natural or legal, possesses the exclusive right to use and control—

2. The "object" of the right. This may consist of tangible or intangible goods. Tangible goods would be represented by such things as:—

Land, including water, minerals, timber, hunting and fishing rights.

Slaves and other working and domestic cattle. Buildings, machinery, food and clothing.

Intangible goods would include such things as:

Franchises, copyrights, patent rights, trade marks, "good-will" and special privileges of one kind and another.

Then there are stocks, bonds and shares—"credit documents to bearer." These, of course, are not themselves wealth but merely legal claims, or evidences of ownership. They are, however, of very great and increasing importance in a society in which "possession," properly so-called, is giving place to mere ownership. Then there is:—

3. The act or forbearance. This, in the case of property, means that:—

4. The person or persons against whom the right is effective must forbear from the use of the object of the right, or forbear from acting in such a manner as to interfere with its use by the owner. This means everybody else.

The whole thing boils down to the statement that Property is a right of ownership vested in one man, or set of men, as against the rest of society in respect of some object. In the words of Marx, it is a "social relationship." The State conserves and enforces this right. A right without the might to enforce it is no right at all. Consequently, the right lapses when the State withdraws its sanction, or when the State is destroyed.

There is here no question of "moral rights." These are alleged rights which have no legal sanction or what is left of a legal right upon the subtraction of the legal sanction. They are a matter of ethics or sentiment and, for our present purpose, may be disregarded.

Property may be legally acquired by purchase, gift or inheritance. It may also be acquired by chance or by theft which, while not always illegal, are not generally recognized by law. These means, however, imply the existence of property rights and do not, therefore, account for them. It is the "original accumulation" for which we have to account.

In the last analysis property depends on possession: in the case of land, of occupancy. Possession or occupancy was, as a rule, the result of appropriation generally accompanied by force. The fact of possession is fortified by prescription. That is to say that undisputed possession for a certain length of time gives a legal right as, for instance, the

squatter's right. Then there is what the lawyers call the right of accession by which

"Property in an object, whether movable or immovable, gives a right to all that it produces, and to all that is connected with it accessorially, either naturally or artificially."—Code Civile, Art. 546.

This principle is so important that Prof. Jenks, in his "History of Politics," defines property as "the right to absorb the various advantages (known and unknown) which are derivable from a thing." It is by virtue of this right that the land-owner may claim any improvements effected on his land or buildings which may be erected by his tenants: that the slave-owner took possession of the product of the slaves' labor and of any children they might procreate, and that the employer of labor owns the wealth produced by his employees.

We see then, as the common saying has it, that possession is nine points of the law. It is a fact, however, possessing no moral value whatever. This, of course, does not concern us but is, nevertheless, a matter of some concern to the apologists of the system. For this reason it has been sought to give the right of property some kind of moral sanction. We have, therefore, the doctrine of "Natural Right" now, as we have already seen, largely given up. As to this it is sufficient to say that if property be a natural right then it would be possessed by all men, which is notoriously untrue. If it be answered that the right of property is merely the right to possess property if one can get it, then the doctrine of natural rights is abandoned.

Then, again, it has been attempted to show that property is the result of labor. This also is untrue, as it is notorious that those who labor do not possess, and that those who possess do not labor. Lastly, there is the "Social Utility" argument. That is to say, that it is in the interest of society that private property should exist. This, as we have already seen, makes property a legal right resting on the general consensus of opinion.

In earlier times, as everyone knows, men acted on the

"Good old rule, the simple plan,  
That they should take who have the power,  
That they should keep who can."

Property was then a matter of actual possession. The owner of property had to occupy it and be prepared to defend it, arms in hand if necessary. The rise and development of the State, however, changed all this, and with the security thus brought about we find that possession has given place to a form of ownership depending on the possession of legal documents validated by the State, which enforces the due performance of the acts or payments indicated therein. All of this made necessary a strong, centralized State which has made possible the change from the "money economy" to the "credit economy" in which the exchange of values takes place. It has also brought into being forms of property by means of credit documents and book entries. It has also brought into being forms of property undreamed at one time. Many of these are of a somewhat unstable nature, such as stocks, bonds and shares, based as they often are on such intangible forms of property as patents, copyrights, franchises, business "goodwill" and so forth. Nevertheless, these things give their possessors the power to levy tribute upon the produce of labor to the extent of their claims.

It will be observed that while this question appears to resolve about the ownership of the land and the accumulated "savings," more or less mythical, of the capitalist class, it is, in reality, a question of the claim of that class to the product of labor. As we have seen, "the accessory follows the principle." The wealth of the world is produced annually. The machinery of wealth production must be continually renewed from the same source. This applies even to the land, apart from its attribute to mere extension (standing room).

In brief, the owning classes have a lien on the entire product of labor extending to all eternity. In late years this lien has grown to such an extent that the entire annual product is inadequate to meet the interest. This fact alone is strangling the system. This explains why the capitalist class cries out so insistently for increased production and greater economy—on the part of the laborer.

It has probably never been true that "a man could do what he liked with his own" and it is less true now than ever. There are certain limitations imposed by the State on the right of property, and the number of these has increased greatly of recent years.

There is the right of "eminent domain," by which the State may expropriate land or other property for its own use or in the interest of some corporation. There are taxation, fines and forfeitures by which the State confiscates all or part of the property of its subjects. Further, no man may keep his property in a condition or use it in such a manner as to constitute a nuisance. These considerations provide further proof that there is nothing sacred about the right of property. The State, which has created these rights, finds it necessary to modify them in the interest of public necessities. Society will have to do a lot more drastic work of the same kind if it desires to avoid the fate pre-dicated for it.

L. H. Morgan is his "Ancient Society":—

"The dissolution of society bids fair to become the termination of a career of which property is the end and aim; because such a career contains the elements of self-destruction."

The capitalist class does not possess the grace to choose the better part. It is doubtful if they have the intelligence. I rather suspect they may not have the time. GEORDIE.

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