

THE JURIDICAL CONCEPT OF PROPERTY

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We speak of social problems and of the social problem, but in reality there are only economic problems. The so-called social question is simply a question of the distribution of wealth and therefore an economic question.

All schools, including socialism in its modern trend, in all countries, are in agreement in combating monopolies and unjust systems of taxation.

It is time to recognise that the intervention of the State in the domain of labour and labour legislation does not affect, does not modify in the least, the present unjust distribution of wealth, while it misleads those who believe that social ills, the suffering which agitates the masses who are robbed of the produce of their labour, can be remedied by a series of laws establishing a minimum wage, a maximum working day, insurance, pensions, arbitration tribunals and other similar palliatives.

No; we must attack the real cause of the evil, the fundamental and lasting cause, the gigantic spoliation which robs the producers of the fruits of their labour and takes wealth from those who create it.

And this cause will persist so long as the appropriation of the natural elements prevents labour from freely utilising them, and so long as we do not modify the false, immoral, and unscientific juridical concept of property in the natural elements with the right of using and abusing them, the noxious *jus abutendi* which permits the land to become derelict and the evil of absenteeism to grow up.*

Labour is the basis of property. All that a man produces, creates, or transforms by his own effort is his; it lawfully belongs to him by the most indisputable title—the employment of his own faculties on the material that nature has given him for the satisfaction of his needs. But the man who has the right of property against the whole world and of using and disposing freely of all that his own effort, applied to the materials of nature, has created or adapted to serve his necessities has not and cannot have the same right to use, and to dispose of at his pleasure, that which has been created for the sustenance of him and of all mankind, that which his effort is incapable of producing, that which existed before him and will survive his transitory sojourn in this world, that object, in short, whose appropriation by some men means hunger, servitude, and death for other men.

To confuse, in the same juridical concept of property, property in the products of labour, which the effort of man can create and multiply of his own free will, and which accordingly each individual can dispose of freely without injury to the rest, with property in the natural elements and agents (that is to say the materials given by nature from which those products are wrought) which exist in limited quantity, which are indispensable for the maintenance of life, and to which all men, therefore, by the fact of coming into existence have a natural and inalienable right, is to affirm a falsehood contrary to the natural order and to the nature of things and impugn the right of life and of existence in society.

This is a falsehood contrary to the nature of things for the most elementary observation distinguishes the natural

agents, land, air, water, which form the material basis that man has received from nature and which political economy denotes by the generic name of "land or nature,"—the passive factor in production, since to it is applied the active factor, human labour, in order to produce wealth—from those other things that are obtained or transformed by human effort applied to the natural agents in order to satisfy man's needs and that political economy calls "wealth." Both things are separable and distinct since nature herself is the originator of the distinction and no juridical concept can confuse them without putting itself in conflict with reality and with science.

The recognition of the right of abusing or arbitrarily disposing of natural agents such as the land, without which labour cannot be exerted and human existence cannot be conceived is more than an injustice opposed to natural right, it is a violation of the most fundamental principles of social organisation.

Although certain economists do not recognise the right even to abuse certain objects which are the creation of man—the destruction of a work of art, for example—we can admit the exercise of this right in its fullest and most absolute form, the depreciation, deterioration, and destruction of things produced by labour, since this right does not violate any principle or fundamental right, individual or social, and since its recognition is necessary for the full maintenance of the right of property in the things produced by labour.

But, can the same rights be allowed in respect of the natural elements, such as the land, the right of not developing it fully, of denying labour the opportunity of employment on it, and of holding it out of use?

A right which implies that the owners of land be given a power of life and death over the rest of society and which implies its own negation, since it compromises and renders impossible the existence of the State—which is the guarantor of all rights—is an inconceivable absurdity.

"Nothing which results in actual injustice, nothing which in practice reduces itself to an absurdity, can be right," says the great Uruguayan economist, Andrés Lamas.

Such a right does not exist; it has no foundation in ethics, in justice, or in social utility.

Land is the sole and indispensable source of all production and of all wealth.

Without it nothing can be produced; labour, human existence itself, are, without land, pure abstractions. Society cannot sanction, without decreeing its own death, a right which is the negation of all rights and of the most fundamental of all rights, the right to life.

The abuse of property is not, and cannot be, the right to property.

Right is the contrary of abuse; it is the barrier of justice set up against arbitrary action and abuse.

Right and abuse are contradictory terms.

Abuse is the negation of right.* The abuse of property results, then, in the negation of property, and the State to preserve its own safety and the most vital social interests is called on to repress the most grave and dangerous abuses of property—the non-use and abandonment of the land, depopulation and poverty, a barrier to all progress and activity and an outrage on our free institutions since it perpetuates in our democratic societies a *regime* of privilege similar to the property of the feudal lords and the estates in mortmain (*mano muerta*).

Property in land is essentially and irrevocably subordinate to the general interest which requires that the land be put to the use for which nature intended it.

If general advantage is the basis of individual property, the non-use of land ought to be prohibited as incompatible

**Jus abutendi*—right of abusing—is the technical term of Roman Law used in describing the rights of the proprietor.—TRANSLATOR.

* A. Toubeau: *La repartition metrique des impots*. Paris, 1880.

with that end; and if its basis is labour, that prohibition is still more imperious.

By what principle, by what consideration of self-interest, by what moral or juridical principle, can the holding of land out of use be supported?

Our own codes lay down that ownership or the right to dispose of or to enjoy an object is limited by the law or by the rights of others, and on this principle are based the many restrictions which mitigate the rigour of that right.

And can it be doubted that this limitation is more justifiable and imperative in regard to the holding of land out of use and derelict, an action which conspires against the most fundamental interests of society and results in disintegrating its most vital functions?

Such a limitation can, and must be, established.

The right of the individual to leave his land derelict or poorly used and to prevent others from using it must give way to the social interest which requires its utilisation in order that it may fulfil the social and economic functions for which it was destined.

The non-use of land is a veritable social plague.

In the cities there is space for life, for labour, for industry, for commerce, for expansion, for building, for health, lying idle, and the results are scarcity, high cost of living, over-crowding, insanitary conditions and all the evils that the statistics of tuberculosis and infantile mortality disclose, vice and other evils, moral and material. In the country there is waste land, depopulation, high prices, poverty, difficulties of labour and transport; the growth of public and private wealth is prevented, public services are dear, enjoyment of the advantages of co-operation and of the division of labour and of all the benefits of civilisation is prevented.

If landed property is "an institution, not of natural law, but of the civil law," if, as the defenders of this institution maintain, "the landlord is in a sense the tenant of the community taken as a whole,"* the community may impose conditions on the proprietor which, without depriving him of his freedom of action, will put an end to his freedom of inaction.

And the most effective means of obtaining the development of the land and combating the holding of it out of use and the abuses of property is taxation.

The rapid and constant diminution in the amount of vacant land in those countries which are most advanced as regards the application of the taxation of land values, such as Canada, New Zealand, and Australia, demonstrates that this tax, in addition to its financial functions, is the instrument of great and fruitful changes in the social and economic order, capable of bringing about a revolution in the land system and in the juridical concept of property.

In his notable book on the land system of France and the distribution of land there Toubeau asserts that shortly before he wrote there were 18 million hectares (45,000,000 acres) of unused land, of which six millions formed the great estates of the nobles and the *communes* and the remainder consisted of derelict and uncultivated land, to which must be added an equal area poorly cultivated, and these areas could, according to this economist, support double the actual population of France and still leave a considerable surplus for export. To solve the problem of causing this great stretch of unproductive land to be developed Toubeau proposes the transformation of the complex and onerous taxes which now fall on agriculture, industry, commerce, and consumption into a single land tax based on the metric value of the land of France.

* Paul Leroy-Beaulieu. *Traité de la Science des Finances*, Vol. I., pp. 383, 358. (6th ed. Paris, 1899.) Compare the maxim of English Law that there is no absolute ownership of land; all landholders are ultimately tenants of the Crown.—TRANSLATOR.

"The great unproductive estates," says Toubeau, "are exempted from taxation on the empty pretext that they have no value, no account being taken of the fact that if they remain unproductive it is simply because they pay no tax."

The existing system of levying taxation on land according to the use which is made of it, that is to say, exacting more taxation the more is produced, making burdensome the development of the land and stimulating the indolence and inertia of the owners, is the reason why these great estates remain unproductive and is a cause of absentee landlordism, unemployment, poverty, and the stagnation of the rural districts of France and the other countries that have this system.

Invert the system (says Toubeau), give free play to initiative, intelligence, enterprise, the investment of labour and capital on the land, by entirely exempting these things from taxation and basing the taxation on the value of the land, and the results will be diametrically opposite.

Taxation is the great spur, the stimulant to excel, the great lever of production.

It is not the land that produces, it is man. There are no good or bad lands, there are good and bad land-owners. The land is worth what the man is worth.*

Taxation is called upon to put an end to the abuses of property as it has grown up in our country, replacing it by a system which will respond to the fundamental need for the utilization and improvement of our vacant lands, for the increase of population and wealth, and for the development of our great basic industries. Taxation is the instrument which, by correcting the disadvantages of the private appropriation of the soil, will give currency to a concept of property, more modern, more scientific, more moral, more philosophic, and more in harmony with the spirit of our institutions and the particular needs of the American States, than that which is now embodied in this important branch of our civil law.

EXTRAORDINARY INCREASES IN RENT IN IRELAND

A correspondent in Bellaghy, Co. Derry, writes us:—It is very interesting how the high prices for flax have immediately been reflected in rent. The price of flax which is largely grown in the Ulster counties was, prior to the war, about 8s. per stone. In the autumn of 1914 it rose to 16s., and this season it rose to 25s. Since the farmers have got ownership of their farms under the Land Purchase Acts, a custom of letting their lands by auction for cropping and grazing for the season has grown up; insufficient labour is one of the excuses given for the growth of this practice, but really it is their ability to secure a profit-rent over and above their payments to the Land Commission. The lands thus let are generally taken by neighbouring farmers who have families or who are more progressive in machinery and farm management. The rent given previous to the war would average about £2 per acre. Last year as much as £10 per statute acre was paid for land for flax culture. This year £12 has been paid in this district, and in Co. Antrim £20 to £29 has been paid for good flax growing land. The yearly annuities to the Land Commission would average about 10s. per acre where the land is bought out and where it is held under Judicial Lease the rent would be about 15s. per acre. You can see how rent is absorbing the entire advantage of high prices. Wages have not increased to any considerable extent—one shilling per week would represent the increase in wages.

* Toubeau. *op. cit.*