

The Right to Private Ownership in Land, Etc.

By Henry A. Brann

It requires no Massillon to tell us that the crimes of the wealthy, cause the sins of the poor. "Regis ad exemplar totus compointur orbis." That the rich who roll in luxury are often heartless and uncharitable towards the poor; and that from the trappings and fripperies of wealth enough could be saved to clothe the nakedness of poverty, are facts well known to every observer. The danger of riches, the iniquities of the wealthy classes, have been the themes of moralists, ever since the Divine Teacher taught that it was easier for a camel to pass through the eye of a needle than for a rich man to save his soul. That the grasping avarice of wealth which ever seeks to pile Pelion on Ossa; to annex farm to farm, and demesne to demesne, is worthy of of reproof ever since a Jewish King robbed Naboth of his vineyard, and furnished a theme for St. Basil's eloquent homily, no one disputes. That the poor peasantry of France goaded by the cruel despotism of their feudal lord who owned all the land and cared nothing for the serfs who tilled it, should have murdered their nobles in the great Revolution, is not surprising; that discontent among the peasants of Italy, Scotland, England and especially of Ireland, where feudalism is still inveterate, should be wide-spread and well-founded, no one will gainsay who knows the state of affairs in those countries. The spectacle of immense tracts of land turned into parks and preserves, where the deer grow fat, and the grouse and pheasant thrive for my lord's sport and for the gratification of his appetite, while human beings in the neighboring bogs starve on diseased potatoes, naturally excites the anger of a lover of liberty and of mankind. In the middle ages, especially when feudalism was enthroned in power all over Europe, the barbarities of the landed barons were only equaled by the squalor and degradation of the serfs. The peasants, the laboring classes, the "villeins" as they were called, even at the granting of Magna Charta, a charter by the way by which the barons gained much and the people directly nothing -- were in a worse condition physically, than the negroes in our country before the civil war. No wonder then that as education reached down to the "Third Estate," when the serf began to feel his shackles, and make an effort to strike them off; a reaction violent and frequently unjust should have broken out against land owners; a reaction that reached its extreme limits in French Communism, and has not yet spent itself in the present agitation in the British isles.

No true Christian imbued as he must be with the spirit of Christian liberty, equality and fraternity properly understood, can withhold his sympathy from the oppressed poor pleading in their distress for franchise and food in face of a heartless and

uncharitable oligarchy; whether it be an oligarchy of bondholders or one of landed proprietors. The phrase of Burns “The rank is but the guinea’s stamp—the man’s the gowd for a’ that,” is essentially Christian. Gurth is any day as good as either Frou de Boeuf, Malvoisin or the noble Cedric, in the eyes of God at least. But in our hatred of feudal tyranny, we should not rush to the extreme of Communism. Frou de Boeuf and Malvoisin may be bad landlords. They may have cruelly evicted their tenants, to make way for partridge and grouse; and the state ought to stop their oppression and punish it, as by all theologies it has the clear right to do. But their violations of Christian charity towards their tenants, their cruelty to the poor, does not justify illegitimate retaliation. Because barons are brutal, serfs are not justified in being cruel to their families or their cattle; because landlords sin against charity, tenants are not justified in sinning against justice. The remedy for the oppressed is in God, in law, in appeal to their fellowmen by the ties of common reason and humanity; and not in dynamite or the dagger. Nor can a Christian sanction the wild theories, now common among the oppressed, as the panacea for their woes; namely, that it is wrong for the individual to own land, and that the state should put in force a system of universal confiscation as the remedy for a particular evil of a particular class. It is against this theory that we are going to write what follows: for we have seen it turning even able minds away from the Catholic principles. To them we must cling in every social dispute.

Even when feudalism was at its greatest power, and when the abuses of private property in land were greater than now, in the days of St. Thomas Aquinas, no Catholic theologian ever questioned the right to private property in land.

If all the rich were saints and had the spirit of St. Francis of Assisi, or Fra Junipero, or of the early Christians, it would make very little difference who owned the land or wealth, for it would be generously distributed to all. If all the poor were as holy as Blessed Labre or St. Zita, and instead of asking for more were content with less than they have, Communism would have no votaries. But landlords are not all saints, ready to give to the poor all that they possess; and unfortunately many of the poor, even in rural districts are as bad, as we find them in the Faubourg St. Antoine, Whitechapel, or the Five Points. Alas! original sin and its consequences are seen in the lower as well as in the upper classes; and the dream of a condition of society, in which rich and poor will never quarrel, in which all things will be in common ; when the hungry lion and the well-fed lamb will peaceably sleep together, antedates the eating of the famous apple, and is, in short, a Utopia. We all grant that the poor have rights. It is a pity that they have been told so in such exaggerated style by demagogues, and even by well-meaning men, whose sympathetic nature clouds the sense of justice in their intellects, that partial, has become general, discontent, and the coldness of the poor towards the wealthier classes has been intensified into dislike, even into positive hate. Wild, illogical and unjust theories are proposed; and in defending the rights and

endeavoring to alleviate the wants of the poor, the laws of justice have been violated, and the rights of the rich denied. Clever and sentimental men, with souls justly burning at the sight of the misery and the innocent poverty of peasants, in their zeal to remove the cause and remedy the evil, have fallen into the extreme of denying the rights to own land at all — *Dum vitia vitant*, in *Contraria Current*. They forget that Charybdis is as dangerous as Scylla. **To deny the right to private ownership of land, and especially to drag in the authority of the holy fathers in justification of such denial, is not to follow in the footsteps of the great theologians of the Catholic Church.** Let us hear what they say on the subject. St. Thomas argues that land, like other external objects, may be considered in two ways: in its nature, and in its use. In its nature, it is God's, for "The earth is the Lord's and the fulness thereof, the world and all they that dwell therein" (Psalm 24, 1). In its use it belongs to man; for he can apply to it his intelligence and will, and for him it was created. God has the principal dominion over all things; while man's dominion is subordinate to God's. So much for man taken to represent the human race in regard to the ownership of land.¹

1 Summa theol.

As to private ownership of land, St. Thomas argues that man has two powers in regard to it and other external objects²: firstly, the power of acquiring and disposing, and as to this it is lawful for man to possess private property. It is even necessary for human life for three reasons:

2a quaest 66 art. I.

firstly, because the individual is more solicitous to take care of what is his own, than of what belongs to all or to many ; because man naturally shirking labor leaves to others that which is common; for, "what is everybody's business is nobody's business," as we see in the case of servants; secondly, because human affairs are better regulated when each man has a special care of some particular thing; for there would be confusion if every one without distinction would have the care of everything; thirdly, because by private ownership, society is kept more peaceably, since every one must mind his own property, when each man has a certain piece allotted to him. His right of private property, adds the angelic doctor, is not against the natural law. but something congenial added to it by the "invention" of human reason.¹ Not only man but all the other animals show the natural tendency and power to apprehend something absolutely and to keep it". Of the chickens that feed in the yard, each runs off with its own share of food, owns it and will not yield it up except to superior force. The dog keeps his bone, and growls and fights to retain it. He has the right of legitimate possession. Man's right having a higher rational basis cannot be

rationaly assailed. If there is no private right to own land, there is no right at all in man to own external things —and we had better abolish the treatises of “Justice” and “Contracts” out of theology; and wipe out of the world the courts of justice that are found in every nation, civilized and uncivilized, for the settlement of disputes about property. **The right to own land precedes all other rights to property; far from the land, from agriculture, all commerce originates, and all articles of commerce have their last reason of being in the land.** We catch the fish of the sea, by articles made on land. The clothing that we wear is made out of the vegetable, or taken from the animal kingdom, which depends on the vegetable; the money, metals, etc., that we use, all come out of the land. “ There is no absolute ownership in land,” say you. None that is not subordinate to him who is the Supreme Lord and Creator of the land, I grant that there is even fee simple ownership of men in relation to their fellow-men, derived either from prior possession, or from contract, or from some other legitimate title; and this ownership is sacred even to the state. This is Catholic doctrine, found in all our theologies. Individuals made the state. The state did not make individuals. The rights, powers and privileges of the state are simply concessions from individuals; from families that had rights before the state existed; rights which they consented to abridge for the sake of the general good. The state is only a police to protect right;

1 Idem art. II. 2Idem quaest. 57 art. 3.

and its sphere is limited. The state has no right to interfere with conscience ; nor to intrude into the family and usurp the rights of parents over their children; nor to take the individual's land without compensation. The state is only the servant of the people, with delegated rights. There are many things the state does, which it has no right to do. Because it sometimes usurps, that is no reason for giving it the right to do so. Ab actu ad posse valeb illatio as to facts, yes ; but as to rights, no!

The church owns and has owned in fee simple lands in Europe. The state has often stolen them. But the church protested and never recognized the right of the state to steal her property or nationalize her land. Absoluteism in the state is not the doctrine of the Catholic Church. Neither has the state a right to deprive an individual of land without compensation except in extraordinary cases. We may rail at the brutality of landlords, and it may be very great and detestable; they may violate the law of charity by not giving as they should for the relief of the poor and suffering; but they are not robbers, because they own land; “property is not theft," although Proudhon said so; and they violate no law of justice by resisting confiscation. We speak of landlords who have well-founded rights to their property ; not of those who have clouded titles

to their real estate. If our philanthropists would read more of Suarez, and less of Henry George's fallacies, they would not fall into the error of denying the right of private ownership in land. Suarez says that the division of property (land) was originally made partly by occupation, and partly by drawing lots. For the children of Adam coming into this world as into a magnificent palace full of wealth, every one became master of what he first possessed. If a doubt arose as to the priority of possession, or if several claimed it at once, ownership was decided by lot. In this way after the deluge did the sons of Noe become owners;¹ and after them subdivisions became numerous in proportion to the ' increase of population. "Squatter Sovereignty," properly understood, is a legitimate title to the ownership of land; subject however to the *altum dominium* of the state. In the early ages there were heretics who denied the right to private ownership of property. They were called Apostolici.² St. Augustine speaks of them thus: "They are called Apostolicals" having most arrogantly assumed this name because they will not receive into their Communion persons having wives owning property."³ These were turned out of the Church for holding that it was impossible for property owners to save their souls.

¹Genesis, C. 10 and n. 2 The fraticelli and other heresies of the middle ages were like these. ³ St. Augustine haeres, 41.

If land were all held in common the world would be full of drones; "The good is desirable," says Aristotle: "but every man loves his own interest best." In the communistic theory no one would own an inch of land, but everybody would have a right to the whole. The Irish peasant, who is justly crying out for a few acres of land, to own them, to till them, and thus show his industry, could hardly be filled with zeal to till the land that belonged to the whole nation, landlord and tenant alike, idler and thrifty at the same time. Communism would eventually pale private industry. If the land were nationalized, what would you do with the kid-gloved gentlemen who hate mechanical or agricultural labor? How could you make the lazy pauper work?

Selfishness is the greatest spur to industry, and the platonic theory of unrivalled Proprietorship, according to which the individual would own nothing, is the greatest foe of personal activity. The law of social inequality is universal.¹ No billow on sea without its co-relative abyss; no hill on land without its hollow. There is no perfect plane in the physical, intellectual or moral order except in the imagination of a communistic dreamer. Even if you make social equality by force it will not last ; for in the end the strongest in muscle, in brain, or in perseverance, will rise above their fellows like hills above the plain. It is again the "survival of the fittest," as Mr.

Darwin would say. The Utopia of unabridged liberty, fraternity and perfect equality is only a “midsummer’s night’s dream” illuminated by moonshine. It is pleasant, indeed, to think of a millenium in which men would all live together like peaceful brothers; but from the days when Cain killed his own brother Abel through jealousy; from the black day when Adam fell, quarrels and contentions about land and everything else have existed among men, and will exist as long as human passions exist. Even the division of property, sanctioned by the common consent of mankind, and by all laws, does not prevent acts of violence. Would common possession stop them? Yes, when men become angels; but we cannot find among men, yet even the rudimentary development of wings. Long ago, Abraham and Lot tried the experiment of common ownership of land, and found the experiment a failure. They had to divide the land for the sake of peace.”

“ Selfishness is the cause of private ownership of land," say the philanthropists; “and selfishness is wrong.” Not at all, unless it is inordinate. There is a mixture of selfishness, even in our efforts to save our souls. Take away the motive of self-interest and you strike dead commerce and the emulation which is the very soul of
[graphic]

1 Mallock's “ Social Equality ” is excellent on this theme. 2 Genesis XIII v. 6, et segg.
[graphic]

human society. “Original sin brought on the division of land;, private ownership of land is the result of man's iniquity." Well, what then? A condition of things, necessitated by the fall of Adam, is not necessarily sinful because the fall was. We have to wear clothes because Adam fell. Is it wrong to do so? Must we all go without shirts and private farms, because both came into existence after original sin?

“But the holy fathers are opposed to private possession of land." Well, let us see. St. Basil in a homily¹ on these words of St. Luke, chapter xII., in which there is a question of a covetous rich man:

“What shall I do, because I have no room where to bestow my fruits?" “This will I do: I will pull down my barns, and will build greater." . . . “And I will say to my soul: soul thou hast much goods laid up for many years, take thy rest, eat, drink, make good cheer: ” uses the following languages: “Like one coming first to a public spectacle who forestalls the seats and drives away those coming later, appropriating to himself what is destined for the common use, are the rich who consider their own what they

have pro-occupied.” The “philanthropists” who quote this text could easily find an explanation of it in St. Thomas, who proposes it as the second objection to his thesis regarding the lawfulness of private property. Here is his answer: the man who forestalls the seats in a theatre, so as to prevent others from entering would do wrong; but he who merely enters first, and prepares the way for others acts lawfully. In like manner, a rich man does not do wrong by acquiring possession of what is common and making it his own, provided others share its benefits, and he does not indiscriminately exclude the public from a share in them. In other words, St. Thomas distinguishes between the right to own and use land or other property ; and the wrong of making such ownership a monopoly by heartless selfishness injurious to the common weal. Selfishness sins against charity, but not necessarily against justice. The original words more clearly show this to be the meaning of St. Basil.² The abuse of riches is the object of St. Basil’s vehement oratory⁴; not the right to own property. His subsequent words show this : “ Why do you (rich men) abound in wealth, while this other man begs, if it be not that you may gain merit by giving from your abundance, and that he may be crowned with the rewards of patience?” Basil does not here deny the rich man’s right to his property.

[graphic]

1Horn. 7. 22a aae quaast 66art. 2 ad 2m. " SImrfp av a rig, to Qrurpq? Bray xnra ZaBwv, um :{ npyat roug flrzwwvrag, ulwv talirou Kpivrliv r0 Koivwg Iran Kara r171! Xpqow, rrpoxeipevov' retain-oi not Kat dz RAOIM'IM. Ta yap mum npoxaraoxou-rrg, 151a 1rowuimn (Ila rnv rpolml/w.”

[graphic]

“But St. Ambrose favors Communism." Let us read him. In his 64th sermon he says : “ Let no one call his own what is common, what is more than sufficient for use has been obtained by violence.”

Again we have to blame those who quote this text, for not having given the explanation of it. We observe in the first place, that the best critics deny the authenticity of this sermon.¹ It is simply a paraphrase of St. Basil's homily above quoted. St. Thomas judging it by the context says : “Ambrose speaks of the use of property; and not of real ownership. We admit that no man could rightly go into a public common, monopolize it, and claim the exclusive use of it for himself without violating justice; no man could sit down at a public banquet and appropriate all the

wines and viands, without violating decency and law. But this has nothing to do with the right of private ownership of land or any other property. It is not fair criticism to take the vehement words of an orator away from their context, and impose with them on an ignorant public by imperfect interpretation.

Just as St. Thomas solves those two objections from the fathers against the right to own private property, so does Suarez explain two others misapplied by our “philanthropists.” Clement I. writes :2 “The common use of. all things, which are in this world, ought to have belonged to all; but by iniquity one said this was his, and another that, and thus among men division of property arose.” The translation given explains the text. Clement is urging the faithful in Jerusalem to a life in common, as it is more conformable to the state of original innocence, when there was neither mine nor thine. We are willing to admit that the Communistic theory of property, may have preceded the fall of Adam; but since then it has become a necessity for every man to wear his own clothes and own his own real estate if he can. In a state of innocence neither fig leaves nor private farms would be necessary.

But says St. Augustine: “If this villa is mine and that yours, it is by the law of the Emperors.”³ To this Suarez; “The division of property in general is by the law of nations; but not the ownership of this or that piece of property by various particular persons. This ownership is founded either in first occupation or in various contracts, or in other causes approved by the civil law.”⁴ We may add that at least in a dozen passages of this sixth tract of St. Augustine on St. John's gospel, the right of private ownership of property is conceded.

The “philanthropists” who quote these isolated texts of the fathers have evidently mistaken their meaning. It is, to say the least, very
[graphic]

1 See Migne's patrolory in loco. “Cap. Dilectissimis 129, I. 8 Tract 6. in Joan. - 4' De Justitia apud migne' vol. XV. p. 503-4.

disingenuous to quote objections to Catholic doctrine, and not give the public the benefit of the replies made to them by the Catholic theologians in whose works they have been found. No amount of honest sympathy with distress or poverty or an unjustly treated peasantry will justify the inculcation of wrong means or false principles for the bettering of their condition. All classes in Society have rights, and property owners on both sides of the Atlantic have theirs as well as the poor and the

tenants. The French Communists worship the god Mercury. "Property is theft" say they, and Mercury is the god of thieves. He is represented with two wings on his hat, one over each ear. Our American "philanthropists," although they do not worship the god, seem to have taken his hat and put it on their own heads; and the Wings? why the wings have flown away with their common sense. Let landlordism go by legal means wherever it is a system of oppression and abuse. Let the tenants and the poor everywhere be protected and helped by the Church and by the state in their efforts to better their condition; but let no man teach that to be a landlord or a bondholder is to be a criminal.¹ Rev, Henry A. Brann, D.D.

¹The power vested in the community or the state by what lawyers call the "right of eminent domain" —*altum dominium* —to confiscate private property in extraordinary cases; and the principles that in "necessity all things are common," or as St. Thomas puts it, "In necessity all things are in common, and so it is not a sin if any one driven by necessity should take another's property become common by such necessity," (2a 2x quacst 66 art. VII.) do not affect the argument in favor of the right to private property; for we have not been discussing the case of extreme necessity, but the communism of Henry George and his school.