

CHAPTER VIII

THE EVOLUTION OF SERFDOM

HISTORY has touched but lightly on the evolution of private property in land. Yet the introduction of this idea and its development into a system of tenure is probably the most important social fact in the history of Christendom. It has moulded modern society. It explains the rise and fall of nations. It is the cause of vice, misery, and poverty. In a large view of history the changes which have taken place in the customs and laws of land tenure are of colossal import to society.

The beginnings of private land ownership in its present form are definite and clear. They are traceable to the last three centuries of the Roman republic, when the senatorial class appropriated the public lands of Italy to themselves, and converted the free citizens into tenants and slaves through the monopoly of the land and the law of debt.

During these centuries the Roman law became a completed system. It reflected the economic interests of the ruling classes. It sanctioned the absolute private ownership of the land and destroyed the early traditions of economic freedom.

Through colonial expansion the plantation system of the later republic was carried to the furthest corners of Europe. Roman law and Roman legislation became the basis of the jurisprudence of a great part of the modern world. It was assimilated into the barbarian codes. It underlies the Code Napoleon, as well as the imperial law of Germany. It was fused into the common law of England. The methods of land tenure of Europe, of the United States and Australasia, all trace their lineage back to the patrician-made laws of the Roman senate, designed to dispossess the Roman people from their common lands. "The Romans were the first," according to Laveleye, "to establish exclusive individual property in land, and the principles they adopted on this subject still serve as the basis of law for Continental states."¹

Historians differ as to the sources of the feudal system. It is certain, however, that by the fourth century A. D. most of the land in the empire was in the hands of the senatorial nobility of Rome.² It was divided into great estates, just as it had been in Italy. The free owner had all but disappeared. The land was worked by *colonii*, or by serf labor. As the imperial power declined, the plantation owners assumed sovereign powers. They acted as magistrates and dispensed justice. They collected such

¹ *Primitive Property*, p. 163.

² *Medieval Civilization*, Munro-Sellery, p. 18.

taxes as were paid, and provided their quota of men in time of war.

Here was the relation of lord and vassal. Here was the hierarchical organization of society about the manor. When the barbarian hordes settled upon the territory occupied by Roman colonists they found a political, social, and industrial system, which, as years went on, developed into the feudal system. For the Roman, like the feudal, system was based upon the manor.

The Roman idea of private ownership under the manorial system came into conflict with the German idea of common ownership under the village community. For the barbarians had no conception of the absolute private ownership of the land. Among them the land was owned in common by the village. "The families forming the community had only the right of enjoyment, the ownership of the soil resting in the community itself."¹ The idea that one individual might appropriate a part of the earth's surface, and do with it as he willed, seems never to have occurred to these, or to any other early people. It was not permitted to one person, more aggressive than his neighbors, to become the lord proprietor of an immense estate, and pass it on from generation to generation and from century to century, and exclude his fellows from its use. Equality of economic opportunity was the most fundamental, as it was the

¹ *Primitive Property*, Laveleye, p. 106.

most universal, idea of early society. Like the right to breathe the air and enjoy the sunlight, the land was the common possession of all. It was designed for use, not for ownership. The motive of early society was production. He who would use the land was preferred to him who would not. Each oncoming generation was thus assured an opportunity as full and as free as its predecessor.

It was the communal ownership of the land that explains the essential democracy of early European peoples, just as it was the free public land of America that lies at the basis of our own democracy. There was little or no hereditary rank among the early Teutons, save that which attached to age or character. The leader was the first among equals. His authority was the authority of superior ability or wisdom. In the tribal organization every freeman had a voice. This democracy of the Teutonic peoples was economic. It sprang out of the common ownership of the soil. It is this that explains the democracy and comparative well-being of the people of Switzerland. "In the primitive cantons of Switzerland," says Laveleye, "institutions of the most democratic character conceivable have secured the inhabitants from the most remote times in the enjoyment of liberty, equality, and order, and as great a degree of happiness as is compatible with human destinies. This exceptional good-fortune is attributable to the fact that ancient communal institutions

have been preserved, and with them the primitive communal ownership.”¹

The village community, with its common ownership of the land, is one of the most universal institutions of society. Sir Henry Maine says: “It is known to be of immense antiquity. In whatever direction research has been pushed in Indian territory, it has always found the community in existence at the farthest point of its progress. . . . Conquests and revolutions seem to have swept over it without disturbing or displacing it, and the most beneficent systems of government in India have always been those which have recognized it as a basis of administration.” Under it “the personal relations to each other of the men who compose it are indistinguishably confounded with their proprietary rights.”² The village community is to be found in Russia to-day, where it is said “to be a nearly exact repetition of the Indian community.”³ Research has found this idea of the common ownership of the land in Russia, Germany, Great Britain, Ireland, Switzerland, and Scandinavia. It has been found in Java, in Mexico, and in Peru, as well as in New Zealand, India, and Africa.

In early Britain the same was true. The land of the township belonged to the village. Each free-man had a homestead of his own. This land was

¹ *Primitive Property*, Laveleye, p. 62.

² *Ancient Law*, p. 231.

³ *Idem*, p. 237.

separated from the common stock. Around about the enclosure lay the arable land. It was divided into fields whose use was allotted to the members of the community. These allotments were used for farming, and from seed-time to harvest were under the control of the freemen to whom they had been assigned. There was individual ownership of the crops, but not in the land. After the harvest had been gathered the land was thrown open for pasturage, to be used by all.¹

Under this system of land tenure rent was unknown. The land belonged to all. That one man should collect tribute from another for the use of that which nature had provided for the community did not enter the imagination of early peoples. It was this sort of industrial democracy that came into conflict with the land laws of Rome. In this conflict the village community of the Germans was destroyed. It was destroyed by the plantation system of the Romans. The Roman landlord became the feudal overlord; the German freeman degenerated into the Latin tenant. Feudalism with its hierarchical organization of classes was the result. Common ownership of the land was lost to humanity.

Such would seem to be the obvious explanation of the origin of feudalism. Such an explanation is confirmed by the tenacity with which people cling to their ideas of property. And of all laws those re-

¹ *The Agricultural Community of the Middle Ages*, E. Nasse, p. 10.

lating to land tenure are the most immutable. Religion and language may be abandoned. Forms of government and the ideals of a people may be altered. But the methods of land tenure persist. They are carried by the emigrant to his new home. They take root when other ideas are abandoned. We see this in the persistence of the common law, which has spread out from England over the whole western world and carried with it the system of English land tenure.

During the centuries which followed the disintegration of the Roman Empire feudalism became a system of organized society. It was, primarily, an economic system. About the system of land tenure the political, religious, and industrial institutions of Europe were erected. The union of lord and vassal was one of mutual service and protection. The tenant bore arms in the time of war. He served the master in time of peace. At the same time the lord engaged to protect the vassal. Both had obligations, both had rights.

But the land was still far from private property. The great baron held his land from the king by the performance of certain duties, just as the lesser vassals held their lands from the baron by similar services. These services, whether military, personal, or servile, were the nexus of society. They were fixed by custom. They were the same as taxes, for the lack of money precluded the existence of any revenue

system. The basis of all relations was the land. This was the economic foundation of the feudal order. All of the activities and relations, whether political, social, or industrial, sprang from this fact.

The distinguishing thing about the feudal tenure was the joint ownership of the land by the crown, the lord, and the vassal. Neither the one nor the other was the absolute owner. The tenure of the great baron was the same as the vassal's. Along with the Roman ownership of the land by the lord there survived certain Germanic ideas of the common ownership by the people. Every person had to serve some one above him as a condition of his occupancy. Each class had certain fixed rights and obligations. These obligations could not be changed, the services could not be increased, the occupancy of the land could not be taken away, except by agreement. Absolute private ownership of the land, as we understand it, did not obtain. There was a blending of the common ownership of the Germans with the absolute ownership of the Romans. It was this that distinguished the land tenure of the Middle Ages from that which preceded it, and from that which we have to-day.

But this condition did not continue. If it had, the land of Europe would still be jointly held by all the people, subject to certain fixed rents in the form of taxes to the state. The rights of the vassals on the one hand and of the crown on the other were de-

stroyed. The rights of both were absorbed by the feudal barons, who became the absolute owners of the land, just as they are to-day. The Roman law destroyed the Germanic custom. By the eighteenth century almost all of the land of Europe was held in great estates as exclusive private property.

This change did not take place in a year or in a generation, but in a series of generations, just as railway monopoly in America is the product of an unconscious evolution covering a long period of time. During the sixteenth and seventeenth centuries the use of money became general. The personal services of the feudal order were converted into money rent. The vassal ceased to pay for his land in service. He now paid in cash. The use of money also made possible the substitution of a paid army for military duties. This absolved the barons from their services to the crown. The economic framework of society still centred about the land. But the lord was freed from taxes and services, while the vassal became a competitive cash tenant.

Modern landlordism had its beginning in these changes. The personal relations of the vassal to the lord as well as of the lord to the king were destroyed. The lords came to treat the land as their own. They lost all sense of obligation to their tenants. As population grew, so did the demand for land. The lords substituted competitive rents for services fixed by custom. The freeman lost his security of tenure and

with it his customary though limited ownership of the land. The landlord now charged as much rent as was possible. He was limited only by what another would pay for the land. The vassal became a tenant at his will. He might be evicted at the whim or caprice of the owner. He now had to compete with his fellows for that which had formerly been partly his own. He gained his personal freedom, but he lost materially by the destruction of his ownership in the land.

The importance of this change, which reached its culmination in the seventeenth and eighteenth centuries, cannot be exaggerated. Through it every vestige of the common or village ownership of the land was destroyed. The free yeoman was reduced to the position of a rack-rented tenant. He could move from place to place, but he could not move off from the face of the earth. Instead of the great mass of serfs being raised to freedom, all of the freemen were reduced to the position of tenants. Only the symbols were changed. In many ways modern tenancy is more oppressive than were the customary relations of the Middle Ages.¹

¹ Under the feudal *regime* "the freeman . . . owed nothing to the master; they were dependent upon him only in so far as he was their landlord, only because they lived upon his lands. *They were renters or farmers in perpetuity. Their holding was a fragment of the great domain. They cultivated it for their profit, on the condition of paying either a fixed amount, like our farm rents, or a certain part of the produce, as in our farming on shares. In distinction from the renter or farmer of our day, their condition was fixed forever; the land-*

Such is the evolution of the private ownership of the land. Such are the means by which the unprivileged classes were despoiled by their rulers. Such, too, is the origin of rent, the modern equivalent of serfdom. Both private ownership of the land and the payment of rent for its use (aside from the payments of services, which were in reality payments or taxes to the state) are of comparatively recent origin. Landlordism made its way out of feudalism, because the landed classes everywhere controlled the state. Not only the state but the schools and the universities, the bench and the bar, the Church and all of the agencies of public opinion as well. Those who had previously ruled by force now ruled by law. Through law they gave a solemn sanction and respect for their decrees. The idea of obedience was taught by the Church as the first duty of man.

Private ownership of the land is a product of class legislation, just as is the tariff, just as are the great manorial estates which have been stolen from the public domain in the West, just as are the privileges which have been conferred upon the franchise cor-

lord could not take back their lands or increase their rent. On the condition that they paid the old charges, they were free to dispose of their holding, to bequeath it as they would, to transfer it, even (at least in France) to parcel it out. . . . The difference is that while our farmers have but a precarious position and are in danger of seeing their charges increased at the end of the lease, the tenant of the middle ages enjoyed an assured position, encumbered only with fixed charges. He was consequently in a firmer position, one that was nearer to ownership."—*The Feudal Regime*, by Charles Seignobos, pp. 13 and 25.

porations and water-power companies of America to-day. The ideas of the private ownership of the land and of rent for its use are merely an evidence of the long-continued control of the governments of Europe by the land-owning classes. They are not an evidence of progress or of reason, of custom or of popular sanction. The genesis of private ownership of lands is to be found in force and in fraud.