

## ALIENATION OF PUBLIC LANDS IN COLONIES.

PUBLIC lands can be disposed of in two ways in new colonies—they can be sold, as it is done in the United States and, generally, in Australia; or the possession of the land can be made over on lease for a long period, as it is practised by the Dutch Government in Java. A law recently passed by the Dutch Chambers enacts that Crown lands can be given out on hereditary lease (*Erbpacht*) for a term of seventy-five years. In New Zealand it has also been enacted that Crown lands may be leased for a term of fourteen years, which may be renewed by the Waste Lands Board; but the lessee, nevertheless, has the right to purchase the land at a price per acre to be fixed by the Board (*vide* "An Act for Leasing Crown Lands in the Province of Nelson," 1869; amended in 1871). The long-lease system for seventy-five, eighty, or ninety years, adopted by the Dutch, appears to me preferable to the definite alienation of public lands, and even to the short renewable lease, with the privilege for the lessee to buy the land. The Dutch have governed their colonies with much prudence and foresight, as, among others, M. Money has shown in his book on Java, in which he sets himself to demonstrate that this island has been far better administered than British India.

The subject is of the highest moment, for it should be known in what manner the new societies which are being founded at our antipodes, with a whole continent before them, are to organize their land property. Are they to adopt the regimen of quiritary property which we borrowed of Rome, or is it possible for them to return to the system of collective land property which was long in force among our ancestors, the Germans, and which was the only one known to the primitive nations?

An association has been formed in Melbourne under the title of "Land Tenure Reform League of Victoria." It resumes in the following terms the object it has in view:—

- "1. The immediate cessation of the sale of all Crown lands.
- "2. The fee-simple of the public domain to vest in perpetuity in the State (that is, the people in their corporate capacity).
- "3. Occupancy, with fixity of tenure and right of transfer, subject to rental for revenue purposes.
- "4. Land already alienated from the State to be repurchased by the State. No resale to individuals to be permitted.
- "5. The gradual abolition of all indirect taxes whatever. The revenues of the State to be derived solely from the rentals of the land."

I do not know what extent of authority this association may com-

mand in Australia; but John Stuart Mill approved of the object it had in view. In a letter dated the 13th of April, 1873, addressed to Mr. John Ross, of Melbourne, he said: "I am very glad to see the progress of the land tenure movement in Victoria. Now is the time to stop the alienation of public lands, before the great mass of them is granted away." This movement was, indeed, in entire conformity with the order of ideas which engrossed Mill during the last years of his life. I shall endeavour to show how the system of concession of public lands adopted by the Dutch Government is to be preferred to that which prevails in America and Australia.

The enormous advantage the State must derive from the return of the lands to its possession, at the expiration of the lease, is obvious. Actually the State sells at a ridiculous rate—one dollar, or five shillings, per acre—lands which half a century hence will be worth a hundred, and even two hundred, times as much. Consider the incalculable fortune which will devolve on the lords who own the soil on which the west-end of London has been erected, at the expiration of the leases conceded by their predecessors. Suppose this land belonged to the City, is it not obvious that the latter would derive from this property enough to defray all the expenses entailed by the instruction of the people, and even other municipal wants, without having recourse to taxes? In the new townships of America the sixteenth part of the soil is awarded to schools, under the name of "school section." The school-boards alienate these granted lands as rapidly as they can, and thus they find some immediate resource; but if they gave a lease of a hundred years, instead of final alienation, they would actually obtain the same price, and prepare for the schools of the future a source of ever-increasing prosperity. At the expiration of the lease the land would become the property of the township, and it would rent it to those who held it, or to others; and henceforth it would draw the rent exactly as Lord Westminster does in the West End. This revenue, which would augment in proportion to the increase of population and wealth, would most likely cover all the township, county, and State expenses. Thus, imposts could be dispensed with, and customs and excises might be suppressed. Then would the boons of free trade be really enjoyed—free beer, free coffee, free wine, free sugar. One can readily imagine the impetus which the radical suppression of customs would give to industry and commerce and to all exchanges. Such was the idea of the founders of political economy, the Physiocrats, who were for one single tax based on land. It is also the tendency of the modern economists, who recommend the suppression of all indirect taxes.

John Stuart Mill has shown that in a country that progresses the revenue increases, not by the action of landlords, but by reason of the



general progress of society ; and the result is that the holders of the land reap the fruit brought forth by others—a result contrary to justice and to the very notion of property :—

“ Suppose there is a kind of income that constantly tends to increase without any exertion or sacrifice on the part of the owner, those owners constituting a class in the community whom the natural course of things progressively enriches, consistently with complete passiveness on their part ; in such a case it would be no violation of the principles on which private property is grounded if the State should appropriate this increase of wealth, or part of it, as it arises. Now this is exactly the case with the rent.”—(*Principles of Political Economy*, vol. ii. p. 380.)

To put a stop to an injustice, and to restore to the whole of society what is really the fruit of its work and of its discoveries, Mr. Mill proposed then to place at the disposition of the State, by means of a tax, all the excess of profit which did not result from the improvements due to the landlord.

This important theory of Mill's is grounded on facts recognised on all sides. Thus, in Belgium the income of the land has doubled since 1830, even on soil unimproved by the landowner. The rate of agricultural produce has greatly increased ; that of meat and butter has doubled ; thanks to improved processes of culture, the harvest has been much more abundant, and thus the tenant has been enabled to pay a constantly increasing rent. After an operation called “*per-équation cadastrale*,” the State, taking into account the overdue surplus acquired by certain lands, has increased the tax imposed on these ; and now the land-tax in Belgium rises every year in proportion with the increase in the value of lands. No doubt the tax does not appropriate the whole of the surplus value—far from it ; but at least the principle is affirmed. At Liège the Echevin of Finances proposed to impose a special tax on grounds and houses of which the value had exceptionally increased in consequence of any improvement executed by the town. No doubt these are very restricted applications of Mill's idea, and it must be admitted that if his system were completely, stringently, and, above all, equitably applied, one could not but encounter very great difficulties which have been frequently objected, perhaps with undue exaggeration. Howbeit, all such difficulties vanish if the soil belong to the commune. The surplus value of the land, which becomes manifest by an increase of the rent, benefits the whole of the society which has conduced to it, and whose legitimate property it is. The land-registrar need not search with difficulty and with great chance of mistake by what value each domain has increased, and what proportion of this surplus value is the product of personal work and of social work. The income naturally augments by the law of supply and demand, and in proportion to the increase of the profits realised by the tenants ; and the community, by drawing the rent, enjoys the surplus value of the land.

But, it may be said, if the communities in Australia and America get into possession of the soil at the expiration of the leases, this state of things amounts to no more nor less than the application of communism, and to show how absurd and impracticable is this regimen is needless. It is true that communism is impracticable so far as it enacts the equality of salaries and the common enjoyment of the produce of work, because in that case communism would obliterate the personal interest which is the indispensable inducement to production. But here the case is quite different. The agriculturists are stimulated to produce well, whoever those are to whom they pay their rent. Communities on the Continent, boards of charitable and ecclesiastical institutions in England, and a large number of corporations everywhere, possess farms and let them. It has not been remarked that their farmers work less than those of private owners. Whoever gets the rents, the general laws of political economy are in no way modified. Personal interest and competition are none the less at play for the fixity of rates, salaries, and the rent. At the present day more than one great landowner possesses a whole locality, and his steward remits to him the produce of all the farmings paid by the agriculturists. Suppose the commune itself owned the soil: the steward pays in the money to the communal exchequer, and nothing is changed, except that the rent, instead of being invested in racehorses, in packs of dogs, and sumptuous feasts or travelling abroad, is spent in the erection of schools, the tracing of roads, the creation of libraries, the payment of the schoolmaster, &c. It is clear that civilisation must progress infinitely more quickly in the second case than in the first. Certain noblemen in England are said to devote the whole of the income derived in one locality to the amelioration of its material and intellectual state. In the system of township property it would be as if each community possessed a nobleman as munificent.

The economists of the old school declared impracticable a great number of social arrangements which, in reality, they might have seen at work, had they chosen to abandon their abstract formulæ to observe facts. In Russia, for instance, the greater part of the soil belongs to the State, for there were on the crown and appanage lands twenty-six millions of serfs, and only twenty-two millions on private lands. "The crown peasant pays a yearly rental, *obrok*. The rents, the capitalisation of which, at five per cent., represents the price of the land, are fixed only for twenty years, after which they will be raised." Mr. Mitchell, the English consul at St. Petersburg, in whose excellent report I find these details,<sup>1</sup> adds: "As their earnings could not be taken from them by any rapacious landowner, they

(1) Blue Book, "Report from Her Majesty's Representative respecting the Tenure of Land." 1870.

generally considered themselves freemen." In the Cobden Club essays on land tenure, Mr. Campbell, expounding the system of property existing in India, shows that in the province of Bombay the State owns the soil and collects directly the rent (Ryotwaree system). The result is that the agriculturists are far happier and hard-working than in Bengal, where the mistake has been made of giving the land to the Zemindars who had no right to it. In Java, also, the Netherlands, invoking the Mahometan principle, by which the soil belongs to the sovereign, exercises the rights of property. Java is a most prosperous colony, which has now more than eighteen millions of inhabitants, who live under good economic conditions; for, as is the case in the United States, the population doubles every twenty-five years, and that without immigration. But in this colony we find an organization far more extraordinary than either in India or Russia, and well calculated to amaze old economists: not only does the State collect, under form of a tax, the rent of the lands which the villages periodically divide between their inhabitants, but on other lands the State cultivates, of its own initiative, the coffee and sugar which it sells in Europe. And this is no petty affair; for in 1872 it has employed on these plantations 706,000 workmen; it collects about 110,000,000 francs of produce, and with the net profits, which reach 50,000,000 francs, it executes in Holland the most marvellous works of engineering art—the bridges of Kuylenbourg and Moerdyk, the largest in Europe, the port of Vlissingen, and the opening of the isthmus of the Y. This is what property, in the hands of the State, can produce. Remark that the culture of coffee is much more difficult than that of corn and cotton. Each sprig must be grown in a nursery, replanted with the greatest care, and shaded by other trees. The soil must be cleansed, the bay gathered at a given time, and dried with care. The coffee-tree produces but a few years after its growth, and is soon exhausted; it must, therefore, be renewed in good time. The accounts of these products are kept with so much minuteness that tables indicate the number of coffee-trees existing in every plantation and of those that are useful in the nurseries. One is amazed, when one thinks that this so complicated administration is directed from the mother country, situated in the other hemisphere. In Belgium the State not only possesses, but works most of the railroads, and it gradually gains possession of those it had primarily conceded; so that, in the long run, it will concentrate in its hands the whole network. Now no industry offers greater difficulties than the working of a railroad: the care of the road and of the rolling stock demands technical knowledge; that of the fixation of fares and rates requires great commercial experience; enormous accounts with an infinity of

details; and, lastly, an ever-vigilant body of officials who discharge their duties regularly and without mishap. In Prussia, the State works the large coal-pits of Saarbrück. When the Dutch Government manages coffee and sugar plantations in India, and the Belgian State works a whole network of railroads, what serious economist will maintain that a township could not collect the revenue of the lands it might rent? This rent would, in some sort, be no more than the land-tax, so far improved that it would bestow on the whole of society the advantages of the natural fertility of the soil, and of the surplus value resulting from social work.

As to permanent and costly improvements, such as drainage, enclosures, construction of buildings and roads, which the farmer has no interest in doing, and which the landlord actually sees to—they might be regulated by a special board, like the Ecclesiastical board, which now manages the property of the Church in England, the income of which amounted in 1872 to £1,253,245. A perfect form of what the Board of Common Lands should be, could be found in the *polders* of Holland. These polders are a more or less great extent of land below the level of the sea, which have, therefore, to be protected by dykes, and kept dry by means of wind or steam mills. Each *polder* forms a corporation, managed by a council elected by the landlords. The majority decides on the annual tax to be levied on each acre, and the manner in which this tax is to be invested. Some of these polders are as extensive as a whole parish, and the works that have to be undertaken there are often very difficult and onerous. This is simply the kind of management adopted by a joint-stock society applied to an economic body, holding the perpetuity and the power of a political body. The same system might be introduced in the Australian communities, after they had regained possession of the soil at the expiration of the leases.

By concurring to the suppression of all taxes, and thus establishing free trade in the real sense of the expression, this system would not only impart an extraordinary impetus to commerce and industry; it would contribute towards the solution of the social question which threatens the future of modern societies. This point demands explanation.

How can absolute liberty and the maintenance of the actual order of things be conciliated; and how can political equality, which is decreed, be made to co-exist with inequality of condition, which is regarded as inevitable? Such is the formidable problem which our societies must solve, under pain of perishing like ancient societies. Democracy leads us to the abyss, the Conservatives say; and they are right. Either you shall establish a more equitable division of property, or democracy must end fatally in despotism and decadence

through a series of social struggles of which the horrors committed in Paris in 1871 may furnish a foretaste.

Inspired by the Christian spirit, with insane recklessness, you proclaim all men equal in right, and, in effect, you concede the right of suffrage to all, which permits them to elect legislators and therefore to make laws. At the same time, economists constantly tell the mass that all property comes from work. However, they see that under the influence of actual institutions those who work have no property, and earn hardly enough to live on, while on the other hand those who do not work live in opulence and possess the land. The former constitute the great majority; how, then, can they be prevented from some day availing themselves of their preponderance to try and change the laws which prescribe the distribution of riches, in a manner which would give force to the word of St. Paul, "qui non laborat non manducet"?

The fate of modern democracy is written in the history of ancient democracy. The struggle between rich and poor was the death-warrant of the latter, and may be ours, unless we see to it. In Greece, also, equal rights had been accorded to all citizens. But the ancient legislators had recognised that fundamental truth constantly repeated by Aristotle, that liberty and democracy cannot subsist without equality of positions. They had recourse to all kinds of expedients to maintain this equality—integrity of patrimonies, limitation of right of succession, maintenance of collective property for forests and pastures, public banquets in which all took part,—the *Sussitia* and the *Copis*,—of which such frequent mention is made by ancient authors. As is well known, all these expedients could not prevent the progress of inequality, and immediately the social struggle commenced, hurling against each other two classes nearly as apart in interest as two rival nations, exactly as in France and Germany at the present time. Let us quote this grave word of Plato (*The Rep.*, B. iv.):—"Each Greek state is not one, but contains at least two states—one composed of rich, the other of poor men."

The poor, who enjoyed political rights, tried to use these to establish equality. At times all taxes were heaped on the rich; at others, their property was confiscated, after condemning them to death or exile. Often debts were abolished, and the poor went to the extent of equally sharing all lands. Naturally, the rich resisted by all the means in their power, even with arms; whence constant civil wars. Polybius resumes this lamentable history in one phrase—"the object of all civil wars is the displacement of fortunes." "The Greek cities," says M. Fustel de Coulanges, in his excellent work, "*La Cité Antique*," "always tottered between two revolutions—one which despoiled the rich, the other which restored their fortunes.



This lasted from the time of the Poloponnesian war to the conquest of Greece by the Romans." Bœkh, in his "Political Economy of Athens,"<sup>1</sup> expresses himself almost in the same terms.

Inequality was then the cause of the loss of Grecian democracies. Rome shows us almost the same sight. From the first days of the republic, the two classes, the people and the aristocracy, are at feud. The people gradually acquires political rights, but little by little it is deprived of property; and thus, while equality of rights is being established, inequality of condition becomes extreme. Licinius Stolo, the Gracchi, and, after them, other tribunes of the people, endeavour by means of agrarian laws to re-establish equality, by proposing the division of the *ager publicus*; but in vain. On one side are great property and slavery; on the other, the disinherited proletariat takes the place of the petty proprietors who were the marrow of the republic. There is no longer a Roman people, there are only rich and poor who quarrel, and veto each other; and from the antagonism of classes despotism here as everywhere emerges. Pliny resumes the drama by a word, which sounds through history like a warning: "Latifundia perdidere Italiam." At Rome, as in Greece, inequality destroyed the State after destroying liberty.

M. H. Passy has written a book, "On the Form of Government," to show that republics can become monarchies; but that from a monarchy a normal republic cannot emerge, because the hostility of classes prevents the regular establishment of democratic institutions. Contemporary events in France and Spain would appear to corroborate this.

Now-a-days, our modern societies have paused before the problem which antiquity could not elucidate, and we do not even seem to understand its gravity, for all the sinister events we occasionally witness. The situation is now far more critical than it was at

(1) V. Staatsh. der Athen., I. p. 201. No writer has understood better than Aristotle the problem raised by the constitution of a democratic state. His admirable work, *The Politics*, throws fearful light on the question. "Inequality," he says, "is the source of all revolutions, for no compensation can make up for inequality" (book v. chap. 1). "Men who are equal in one respect wish to be equal in everything. Equal in liberty, they want absolute equality. One becomes convinced that he is wronged in the exercise of his rights; insurrection follows." To prevent insurrections and revolutions, it is then indispensable to maintain a certain amount of equality: "Let even a poor man have a small inheritance," exclaims Aristotle (book ii. chap. 5). In the same chapter he praises the legislator Phaleas of Chalcedon, for having taken measures to establish equality of fortunes among the citizens. "The equality of fortunes is," he says, "the only means to forestall discords." He takes to task the Lacedæmonian constitution for "its imperfect legislation and its repartition of property. Some possess immense property, while others are hardly proprietors; so that nearly the whole of the country is in the hands of a few individuals. This disorder comes from the laws." "A state, by the will of nature, must be composed of elements which approach equality the most." He then shows how, in a state where there are a rich class and a poor class, struggles must be constant. "The conqueror looks upon government as the prize of victory, and he uses it to oppress the conquered."



Rome or in Greece. Two causes add singularly to its intensity—an economic cause and a moral cause. Formerly, work used to be done by slaves, who generally took no part in social struggles. The dissensions of rich and poor did not then arrest the production of wealth. While fighting was going on in the *agora*, servile work nevertheless continued to supply the two parties at feud. But now the working men themselves enter the arena, and it is on the field of work that the battle takes place. Social struggles, therefore, could not be prolonged without entailing the impoverishment and disorganization of society. That is the economic difficulty; the moral difficulty consists in this, that a higher idea of justice aggravates our peril.

The ancients, not admitting the equality of nature of all men, did not recognise the same rights in all. The slave who directed the plough, or set the shuttle in motion, was, in their mind, a beast of burthen: he could claim neither suffrage nor property. The social question was thus singularly simplified. But the same resource is not in our hands. Equality, for us, is a dogma, and we confer the same rights on negroes and whites. Christianity is a religion of equality. The Gospel is the "good news" brought to the poor; and Christ is no friend of the rich: his doctrine leads straight to communism. His immediate disciples, and the religious orders that have attempted to follow strictly his teachings, have lived in common. If Christianity were taught and understood in consonance with the spirit of its Founder, the present social organization would not last a day.

The slave has thus become a citizen, and the worker the equal of all. He votes; he enters Parliament. He claims, or he will claim, property. How can he be resisted by a philosophy and a religion which fully justify him? The ancients, whose philosophical ideas and creed absolutely condemned such pretensions, and even prevented their birth, could not make democratic institutions and inequality of positions co-exist, although the problem only applied to free citizens living by the work of others: how shall we do now what they could not do then, having, as we have, to deal with a whole people without any excepted order?

In France the question already appears under its most threatening aspect. It has reached a stage, frequent in history, when the superior classes, threatened by the claims of those below them, and terrified by the horror of social struggles, ask salvation from the hands of a dictator. If the Versailles Assembly impedes the establishment of the Republic, it is not led by a doctrinaire attachment to the monarchical form of government, but rather by the fear that the triumphing democracy may soon lead to the claims of the spirit of equality. Let us not regard the sad position of France with contemptuous pity: her fate will be ours some day; *hodie*

*mihi eras tibi*, as the funeral inscription runs. Socialism rapidly progresses everywhere.

In Germany socialism is a constituted party which disposes of newspapers, struggles in all the great towns, and sends to the Reichstag a steadily increasing number of representatives. In Austria, Spain, and England, socialism instils its ideas into the labouring masses; and even what is more serious, professors of political economy become *Cathedra Socialisten*. If the crisis appears more intense in France, it does not imply greater danger there than elsewhere. On the contrary, social order in France is solidly grounded on the repartition of the soil between five millions of proprietors; but the expansive spirit, the natural eloquence, and the quick logic of the French, endow every problem with a neater formula, so that the struggle bursts out sooner. The high imagination of this brilliant people also exaggerates the danger, and on both sides impels to extreme revolutions. But, sooner or later, the economic situation being the same almost everywhere, the hostility of classes will everywhere imperil liberty; and the more property is concentrated, and the contrast between rich and poor marked, the more society is menaced with profound cataclysms. Either equality will prevail, or free institutions must disappear. Tocqueville failed to perceive that this was the real reef of democracy; but Macaulay has pointed to it with awful eloquence in his famous letter to the *Times* (March 23, 1857), in which he shows the future reserved for the United States.

In my sense, modern democracies can only avoid the fate of ancient democracies by enacting laws, whereof the effect is the distribution of property in a large number of hands, and the establishment of great equality of conditions. That superior maxim of justice, "*to each according to his deserts*," must be realised so that property be really the result of work, and the welfare of each individual be in proportion to the part he has taken in the task of production.

In order to attain this result, I think that quiritary property, such as it has been bequeathed to us by the harsh genius of the Romans, is not sufficiently flexible and humane. Without returning to institutions of primitive times, I think that we could borrow of the Germanic and Slave system of possession principles more fitted than Roman law to the requirements of democracy, because those principles recognise in each the individual and natural right of property. Usually, when property is spoken of, it seems as if it could only be under one single form—that which now exists around us. This is a profound and unfortunate misapprehension, because it debars us from rising to a higher conception of right. The fact is, that the exclusive personal and hereditary *dominium* applied to

the land is comparatively very recent, and that during a far longer time men only knew and practised collective possession. Since, then, social organization has been subjected to deep modifications throughout ages, the search after social institutions more perfect than ours should not be deprecated.<sup>1</sup> Much more, we are compelled to meditate the question, and devise improvements, under pain of coming to a crisis in which civilisation would perish.

(1) Mr. Mill attached great importance to the demonstration of this truth, and he encouraged me to persevere in the studies which I had begun on the primitive form of property, in a letter which I do not think useless to reproduce here. I give it in French, just as it was written. It may be seen with what facility and perfect discrimination of accurate expression Mr. Mill wrote in that language:—

“ Avignon, le 17 Novembre, 1873.

“ CHER MONSIEUR,—

“ J’ai lu vos articles dans la *Revue des Deux Mondes*, du 1er Juillet, 1er Août, et 1er Septembre. Votre esquisse de l’histoire de la propriété territoriale, et votre description des différentes formes que cette institution a revêtues à différentes époques, et dont la plupart se conservent encore dans quelqu’endroit, me semblent très propres au but que vous avez en vue, et que je poursuis aussi depuis longtemps—celui de faire voir que la propriété n’est pas chose fixe, mais une institution multiforme, qui a subi de grandes modifications, et qui est susceptible d’en subir de nouvelles avec grand avantage. Vos trois articles appellent et font désirer un quatrième, qui traiterait de l’application pratique de cette leçon à la société actuelle. C’est ce qu’on trouvera sans doute dans votre livre.

“ Quant à l’institution des *Allmends*, du moins comme elle existe à présent, vous en avez si peu dit dans vos articles que je ne la connais jusqu’ici que par votre lettre. Il faudrait en avoir bien étudié l’opération pour être en état de juger de son applicabilité à l’Angleterre. Mais je ne crois pas qu’on puisse nier que les réformes à faire dans l’institution de la propriété consistent surtout à organiser quelque mode de propriété collective, en concurrence avec la propriété individuelle. Reste le problème de la manière de gérer cette propriété collective, et l’on ne peut trouver la meilleure manière qu’en essayant de celles qui se présentent: peut-être même est-il à désirer que plusieurs de ces modes existent, afin d’obtenir les avantages de chacun et d’en compenser les désavantages. Il me semble donc qu’à titre d’expérience, le système des *Allmends*, constitué de la manière que vous proposez, pourrait être mis en pratique en Angleterre avec avantage.

“ Jusqu’ici les hommes politiques de la classe ouvrière anglaise ne se sont pas portés vers cette solution de la question: ils préfèrent que la propriété collective soit affermée, soit à des cultivateurs capitalistes, soit à des associations co-opératives de travailleurs. Ce dernier mode a été essayé avec succès, et il jouit déjà d’une certaine faveur. La petite propriété, au contraire, n’a guère de partisans que quelques économistes et quelques philanthropes: la classe ouvrière paraît la repousser comme une manière de multiplier le nombre de ceux qui seraient intéressés à s’opposer à une nouvelle constitution de la propriété territoriale. Pareil reproche ne peut point s’adresser au système des *Allmends*, et j’espère que ce système sera pleinement exposé et discuté dans votre volume.\*

“ Je vois avec plaisir que vous prenez un peu l’habitude d’écrire pour l’Angleterre. Vous y trouverez un public beaucoup mieux préparé qu’autrefois pour profiter de ce que vous avez à lui dire, et un penseur belge est dans une position de haute impartialité à l’égard des choses du continent d’Europe qui le rend particulièrement propre à en donner de saines appréciations à des lecteurs qui sont souvent réduits à croire sur parole.

“ Agréer, cher Monsieur, l’expression de ma haute considération et de ma sincère amitié,

“ J. S. MILL.”

\* The book of which Mr. Mill speaks will soon be published.

There are certain countries that have maintained for ages the most radical democracy without passing through feudalism and royalty, and in which the most complete liberty has always prevailed, without leading to the struggle of classes and to social war. These are the central cantons of Switzerland, whose curious institutions Mr. Edward Freeman has so well described. There one finds the direct government dreamed of by J. J. Rousseau. The whole people, assembled in its comitia, passes laws, elects all its magistrates, and governs exactly in the same way as in the Greek republics. Here the object vainly pursued by ancient legislators has been attained. As Aristotle desired, the equality of positions has been maintained; and thus political equality has not conduced to despotism through anarchy. That primitive form of property has been respected which alone is compatible with natural right, and alone also allows real democracy to last without throwing society into confusion.

In all early societies, in Asia, Europe, and Africa, among the Teutons, the Slaves, and the Germans, as still at the present day in Russia and Java, the soil, as the collective property of the tribe, was periodically divided among all the families, so that all might live by their labour, according to the commandments of nature. The position of each was proportionate to his activity and intelligence; but, in any case, none were completely deprived of means of sustenance, and hereditary and increasing inequality was prevented. In most countries this primitive form of property has been superseded by quiritary property, and the inequality of positions has had for result the domination of the superior classes and the greater or less subjection of the worker. But in Switzerland, beside private properties, a great portion of the territory of each commune has remained the collective domain of all. The collective domain is the *Allmend*, of which the name itself indicates the nature. The *Allmend* comprises forest, pasture, and cultivated fields—*Wald, Weide, und Feld*. On the pasture each villager can bring as many heads of cattle as he has kept in his stables during the winter. In the forest, he may take what he needs of wood for fire, or to repair or rebuild his house. The fields are shared, and awarded for thirty years or for life, so that young couples gain the possession of portions that have been vacated by death. In Uri the communes have many woods and pasture lands. In Unterwald they have many common lands. The archaic type of the *Allmend* may still be found in Scotland, in the village of Lauder,<sup>1</sup> as also in many villages of Württemberg, Baden, the Eifel, Westphalia, Drenthe in Holland, and of the Ardennes in Belgium. The fields of the *Allmend* are not briars or sterile grounds, as communal properties are in France; the plots of

(1) Sir Henry Maine, "Village Communities," p. 96.

land are admirably cultivated; turned into kitchen gardens, they give rich produce. What leads to sterility is not collective possession, but common enjoyment. If the agriculturist be only certain to reap the fruit of his work, he will not spare his pains. Provided he has a long lease, he cares little whether the land belongs to a private individual or to the community. If you go from Interlaken to Bönigen, on the Lake of Brienz, you cross the delta of the Lutschine, which is divided into a large number of compartments like the squares of a chess-board. In these are grown potatoes, cabbage, all kinds of vegetables, and often fruit-trees. It is the *Allmend* of Bönigen, of which every family has its part. With the produce of these portions of land, one or two cows on the common Alp, and the forest wood, the inhabitant is at least protected against the extremities of misery. Pauperism, with its hideous cortège of suffering, hatred, and accumulated wrongs, is impossible. The *Latifundium* cannot gradually invade the territory, putting in opposition a lord and a host of forsaken *prolétaires*. The old Germanic law possessed an admirable expression to designate the inhabitants of a village; they were called *Geerbten*, "the heirs." All the children of the great communal family had a right to a part of inheritance as men; none were ever "disinherited."

The *Allmend* is administered by a board, the *Genossenrath*, elected by all the villagers associated as *Genossen*. This board directs works of maintenance and improvement, decides on the manner of enjoyment of property, and regulates the periodical award of fell-wood and land-portions. The board has the same function as the administrative council of a joint-stock society.

As the *Allmend* links men to the land by the natural tie of possession, it compels them to remain in the country. It thus impedes the emigration of countrymen to towns, and the formation of those legions of salaried workers, without hearth, capital, or country, who constitute the ever-prepared army of social wars. As a natural institution, it maintains man within social conditions compatible with his nature.

The probable objection of economists to the system of the *Allmend* will be that, by warranting to each family a life-possession of a property, it must encourage the increase of the population and thus reach pauperism, in consequence of the successive reduction of the portions. The fact may be adduced in answer, that this state of things has been in force in Switzerland since time immemorial, and that it has not led to the evil consequences pointed out. The reason of this is simple: when man enjoys a certain prosperity, he becomes provident, and usually does not contract an ill-advised or precocious marriage. Look at France, with its five millions of landed proprietors: population increases very little, and it has even



diminished within a few years. In Switzerland the population augments less than in England, and in the forest cantons with *Allmends* less so than in the cantons that are deprived of them.

The old Germanic and Slave custom, which insures to each man the privilege of a fund from which he has to derive his sustenance, is alone in consonance with the rational notion of property. The generally accepted theory of property must be wholly revised, for it stands on premisses that are in complete contradiction to facts, to history, and even to the conclusions at which it is wished to arrive. The first argument adduced in favour of quiritary property is that it has existed everywhere and of all times, *ubique et semper*. Now, history in hand, it can be proved that the primitive and universal form of property was possession such as it was conceived by the Slave and Germanic tribes. Jurists, inspiring themselves with the *Digest* and the *Institutes*, make believe that property is derived from the occupation of the *res nullius*. But at no time was land *res nullius*. Among hunting tribes, the hunting-lands, among pasturing races, the pastures, and, lastly, among the early agricultural nations, the cultivated fields, were regarded as the collective property of the tribe, and the idea occurred to no one that an individual could hold in them an exclusive and hereditary right. Occupation could only give rise to property with regard to movable objects which could really be seized and detained. The formalities attendant on sale among the early Romans show that as applied to the transmission of real estate it was quite a recent extension. Besides, on what conditions is occupation to be exercised? Does the intention of occupying—*animus occupandi*—suffice? In that case I may by a word, by a gesture, seize a whole province, a whole continent, as navigators do when they take possession of a territory by setting up the flag of their country there. Must there be, on the contrary, an effective occupation of the soil manifested by work? In this last case a man can never, in strict conformity with the rigour of the principle, possess more than the extent of land which he can himself cultivate. The theory of property grounded on occupation is nothing but a lawyer's hypothesis in contradiction to facts observed everywhere.

Economists make property issue from labour, and all that they say on the subject appears very rational. But they are in absolute difference with the lawyers and the legislators of all countries. "Specification" has never been regarded as giving right of property on the object "specified." If you build a house or plant trees on another's man's land, you can only claim compensation for your useful outlay. Even should you give a new form to the matter, you cannot acquire it by your labour, if it does not belong to you. Therefore you can only labour for yourself on a land which



already belonged to you. Now if property must always precede labour, it cannot issue from labour. Besides, how is a nation to be persuaded that property is the fruit of work, when it sees those who work in poverty and those who do not work in opulence?

The French legislator Portalis, speaking of property, demonstrates its necessity and legitimacy in the following manner:—Man can only exist by his labour; in order to labour, he must be enabled to appropriate a part of the soil so as to dispose of it at his list; therefore property is necessary. Nothing can be truer; but, if property is indispensable to work and live, obviously each individual must have some property. Bastiat poses the same premisses as Portalis, without seeing their consequence:—“In the full meaning of the term,” he says, “man is born a landlord, because he is born with wants of which the satisfaction is indispensable to life—with organs and faculties of which the exercise is indispensable to the satisfaction of wants.” Therefore, unless certain individuals be condemned to death, the right of property must be recognised in all. If man is born a landlord, it is for the law to see that he should continue so. “Man,” Bastiat says again, “lives and thrives by appropriation. Appropriation is a phenomenon natural, providential, and essential to life; and property is no more than appropriation made a right by labour.” If appropriation is essential to life, all should be permitted to appropriate a portion of property by labour. This natural right is recognised in the régime of the *Allmend* and in the ancient Germanic law, but completely overlooked in legislations issued from Roman law. “Property is not an innate right,” says the French jurist Dalloz, “but it proceeds from an innate right, which is liberty.” But if property is indispensable to liberty, all men, having the right to be free, have also the right to be land-owners. Without property they would indeed be dependent on those from whom they would get their salary. Troplong, the famous jurist of the Second Empire, in a little work, “*La Propriété d’après le Code Civil*,” published in 1848 to refute the errings of socialists, expresses himself as follows (p. 12):—“If liberty founds property, equality makes it sacred. All men being equal, therefore equally free, each individual must recognise in others the sovereign independence of right.” This resonant phrase has no sense, or it signifies that we must insure to each the enjoyment of a property which shall be the guarantee of his independence.

The greater number of modern authors proclaim that property is a natural right; this means a right so inherent in human nature that no man can be dispossessed of it, unless he has forfeited it by misdeeds. When Malthus says that a man who comes into a world already occupied has no right whatsoever, and has only to die if his labour is not wanted, he ignores “natural right” to property, but he is the organ of quiritary right now in force.

The Advocate-General of the Supreme Court of France, M. Renouard, says, in his excellent work on "Industrial Property," "Sovereign harmony has placed those principal things beyond the apprehension of private domain, without which life must become impossible to those who would be excluded from them, if they were appropriated, as light, air, water." Manifestly he should have added the soil, for how am I to live if I am deprived of it? I cannot nourish myself with a drop of dew or a ray of the sun. It is for the very reason invoked by M. Renouard that Mr. Herbert Spencer<sup>1</sup> and M. Karl Röder, professor at Heidelberg, do not admit that private property can apply to the soil.

Is it not remarkable that all the arguments adduced by economists and jurists to prove the righteousness of quiritary property should, on the contrary, unwittingly condemn them, and justify Germanic property open to all, as in the *Allmend*?

The jurist-philosophers of Germany, as Imanuel Fichte, Ahrens, Röder, and certain other economists, like the eminent professor of Vienna, M. Schäffle, formerly minister of finances of Austria, return to the early notion of property such as it was spontaneously understood by all primitive men. These alone are in conformity with notions of right, with sentiments of justice and humanity, and with the Christian spirit. In his work, "System der Ethik," Fichte forecasts in striking terms the transformation which is in course of preparation.

"The actual laws of property are necessary at present," he says; "but they contain in themselves the embryo of their transformation, and from these shall spring a perfect conception and a real practice of property in the future. . . . Until now the State has had for sole duty to guarantee to every one the peaceable enjoyment of that which he possesses. Henceforth the duty of the State shall be to lead every one to the property to which his capacities entitle him, and of which he will live by his legitimate work. . . . Christianity carries still in itself an undisputed power of renovation. Until now it has only acted on individuals, and indirectly by them on the State. But he who has recognised all the power of the doctrine of Christ, either as a thinker or as a believer, will not doubt that one day it must become the internal organizing strength of the State, and then only shall it appear in all the depth of its principle and all the richness of its blessings."

(1) "Briefly reviewing the argument, we see that the right of each man to the use of the earth, limited only by the like rights of his fellow men, is immediately deducible from the law of equal freedom. We see that the maintenance of this right necessarily forbids private property in land. . . . We find, lastly, that the theory of the heirship of all men to the soil is consistent with the highest civilisation, and that, however difficult it may be to embody that theory in fact, equity sternly commands it to be done." ("Social Statics," by Herbert Spencer, chap. ix.) "Things indispensable to all men," says Karl Röder, "cannot be the object of exclusive individual property. Such are the sea, the water, and also the soil. Land can never bear an individual mark as much as a movable object. It is useful only by use, not by consumption. This indicates that it must not be taken by an absolute and exclusive domain. The supreme title belongs only to society." ("Grundsätze des Naturrechts," von Karl Röder, profess. zu Heidelberg.)

Our old societies shall only attain an order of things more in conformity with justice and Christianity, through a series of social struggles, in which, it is to be apprehended, liberty may succumb; but the new societies which are in course of establishment in another hemisphere can avoid those fearful tests by taking into account the lesson of history, and selecting those institutions which in certain countries have rendered possible the existence of democracy without endangering order and liberty. Let a portion of territory in each parish be reserved to be divided for life between all the families of the locality, as it is done in the forest cantons of Switzerland: thus will limits be provided against the progress of inequality and the extension of pauperism. If, in England, the seven million acres of commons invaded by the *Latifundia*, thanks to the Enclosure Acts, had been shared between and cultivated by the agricultural labourers themselves, so that each family should have had one or two acres gratuitously to grow potatoes, vegetables, and fruit, how much happier would be the lot of the rural working classes, and how great the guarantee for social order!—if, as in Unterwalden and Uri, they should still possess the common forest, the *communis silva*, formerly turned into hunting domains by the Norman aristocracy, they would have also wood to build a house with and to burn for fuel.

Citizens of America and Australia, do not adopt the narrow and exclusive law which we borrowed of Rome, and which leads us to social war! Return to the early traditions of your ancestors. If occidental societies had preserved equality by consecrating the natural right of property, their normal development must have been like that of Switzerland. They might not have passed through feudal aristocracy, absolute monarchy, and the demagogic democracy that threatens us with its advent. The communes, peopled with free, equal, and landed men, would have been united by a federal bond to constitute a State, and in their turn the States could have federated, as in North America. England, with her laws which place property in the hands of a small number of families, presents, like the Roman Empire, the alarming sight of a society that contains the crying contrast of extreme opulence and extreme misery, and in which "disinherited" workmen are far more numerous than all the other classes put together. By an imprudence due to political rivalries, the number of electors is constantly being increased, while that of landowners diminishes.

In this manner laws are preserved which make inequality greater and more visible at the very time when the passion of equality is invading all classes. To make of the possession of the land an indisputable monopoly, and to increase the political powers of those who are inexorably excluded therefrom, is both inciting and facili-

tating levelling measures. To the working man, bereft of everything, a vote is given, and to the individual deprived of property is granted the right to make the laws which regulate property. How perilous the contradiction! If you give him a vote, give him property also; or if you cannot give him property, take away his vote.

To sum up, democracies wherein a certain equality of positions cannot be maintained, and in which two hostile classes—the rich and the poor—are in presence, must stumble over despotism after passing through anarchy. So much is taught us by Greece, by the lips of Aristotle, and is clearly shown at the same time by history and our actual situation. To maintain liberty in a democratic State, the institutions of that State must maintain equality. Our European societies, in which democracy and inequality develop themselves at the same time, are in real peril, and I do not know if they will find in their own midst the wisdom, energy, and science needed to change their institutions. But the new societies which are dawning on virgin soil can avoid the danger by adopting laws and custom which since time immemorial have given to the small Swiss cantons liberty and felicity under the most radically democratic régime that can be conceived.

Let the public lands only be conceded on lease, so that when these contracts expire the income may be applied to the expenses entailed by all public interests—instruction, national strength, security, intercommunication, art—instead of contributing to the defrayment of frivolous or even depraved and corruptive wants. Let a part of the fields and forests form the *Allmend*, of which every family can claim its portion of enjoyment, so that, by such means, a certain equality may be maintained, and that the class of disinherited prolétaires—the eternal peril of civilisation—may not spring up. Europe is engaged in a social crisis whereof it is impossible to foresee the issue. May it be given at least to Australia and America to settle the problem which may cost the old continent both order and liberty.

EMILE DE LAVELEYE.