

## THE BASIS OF OWNERSHIP

LIKE most of the problems of modern life that of property is neither purely theoretical nor purely practical. We live in a transitional period in which profound social changes together with changes in the spiritual outlook of mankind have at once divorced legal institutions from their basis in the socio-physical life of men and have set in profound and dynamic movement desires and forces wholly disruptive to the compact life of a traditional social order. The challenge to the Christian thinker is taken up glibly enough at the level of pure theory, but an impatience is growing within the Christian body itself at the failure of theory effectively to modify and to change the system of dynamic disorder under which we live. In particular the defence of traditional property rights can and does lead to attitudes of pugnacious defence not of the traditional but in effect of the existing "order," while a spirit of understandable but shrill and dangerous exasperation throws its hopes into one, and the most potent, of the forces of disruption. This does at least represent a real force for change rather than a system of hardened arteries through which the life of society cannot flow again; but in espousing the cause of Communism the loss for the Christian is the loss of a Christian mind. What shall it profit a man if he shall gain the whole world for the workers and suffer the loss of his own soul? How terrifying a pedestal!

It is a pedestal both for the metaphysician whose ideal verities have hardened into a mind-picture and for the plodding politician whose reaction to proletarian claims is to assert his loyalty to a negative system of political ideas which can only be called anti-Communist. The task of the Christian metaphysician is rather to discover the essence of those human rights, relationships and activities which give to the institution of property its internal justification, and to apply this knowledge to the network of activities by which the gifts of nature are worked and used for the maintenance of social life.

Both privacy (which is social reverence for the human person) and property (which is the demarcation of what belongs to one person or group rather than another) have an essential and not an accidental social reference. Privacy implies rights which cannot be overruled by the ordering of the social aggregate, rights which belong firstly to the human person and secondly to the human family. It implies a *noli me tangere* of the interior life of the person and of the organic life of the primary community; a withdrawal from the jurisdiction of aggregate law of what belongs to these two by their own intrinsic nature and life. But the conception of privacy is that of withdrawal, and its social reference, though present, is negative. Privacy as a constitutional right in society rests on a positive social ethos of respect for the human person and a consent of the larger community to respect and actively reverence its personal and organic constituents. Where this respect is weakened privacy also is weakened, for privacy is founded in respect.

If privacy implies rights, "property" states them. That which is proper; that which belongs; that which is one's own does not permit of a merely negative or circumscriptive definition. In English the words "own," "ownership," "belong," "belongings," serve to make clear a relation of external things to the human person which is antecedent to aggregate law, and is the radical justification of the demarcations of ownership in complex societies. What belongs to a man is related to him in a way derivative from the way in which the parts of his own body belong to him; what is his own, in a way derivative from the way in which his thoughts and his actions are his.

Belonging is so, by a natural law deeper than the civil laws which enforce it, founded in a relation to the human person of those external things which are necessary to its fulfilment. Such things pertain either to the sustenance of the body or to the proper embodiment of activity: for it is through activity that we aspire individually and socially to perfection.<sup>1</sup> Since the body's needs are not particularized,

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<sup>1</sup> To know, to love, to pray, are activities but they are not "action."

but hunger is for bread and not for any particular loaf rather than another, (and the same applies to warmth, clothing and shelter precisely in so far as the need they satisfy is material) bodily need as such expresses a general claim to the fruits of nature, but not to dominion over nature, (which has its roots in the nature of the intellectual being as such); certainly not to special proprietorship. Precisely in so far as we are receivers of the fruit of nature and of the product of human industry for our bodily sustenance, our need is at one with the need of all other men and we have no claim at all to special proprietorship (except and except *only* in so far as special claims actually facilitate general distribution—a plea which is valid only on grounds of the *common* good) we have no claim at all to preference or privilege. What belongs to me on the score of bodily need belongs to me as part of the total aggregate of men whose needs are to be satisfied. For in so far as I am a bodily creature and nothing else I am only numerically distinct from any other man, whether pope or outcast.

The same is true by analogy of the things of the intelligence. Truth in its objective nature belongs neither to that man nor to this, but those things we need to know are universal. But whereas we communicate in material things as numerical units or parts of an aggregate humanity which is to be quantitatively satisfied by them, we communicate in intelligible things as each representing the intellectual nature of an integral humanity which is to be qualitatively fulfilled in them. Though bodily needs have a common claim they are individually satisfied, and through their satisfaction we remain no more than individuals. For though the fruits of nature are common to all, in their consumption they only confirm the incommunicable limits of the individual. It is impossible both to eat your bread and give it to the beggar. It is through the intelligence alone that we are objectively united, and intelligible things alone are communicable by the very fact of their being possessed.

If the movement of bodily need proceeds from a general claim to an individual satisfaction, that relation to men of

external things which arises from the embodying of activity proceeds differently. Whereas bodily need is of its nature general and unparticularised (for food rather than for bacon and tomatoes, for bread rather than for this loaf) human activity embodied in external action is essentially particularised in so far as it is productive. Action which fails of any particular object fails of any object at all. It fails to produce or to construct anything. It fails to be embodied, (for activity is not embodied in generalisations), and remains an aimless and sterile exercise of powers.<sup>2</sup> Productive or constructive action particularises because it begins where consumption finishes, that is with *materia signata*, matter appropriated and disposed for this specific work and no other.

The same is again true by analogy in the order of the spirit. Though metaphysical contemplation is of the universal truth, utterance is of the particular enunciation, and elective judgment, the decisive principle of love, is precisely the principle by which love is defined as love of this and not of that: since the field of the will's choice is that of real alternatives and love is that in us which realises and actualises the sources of our activity. Love particularises because its object is and must always be something real in the order of being. If, for instance, love of truth is to escape the mere self-intoxication of the intelligence, then it must be love of that *prima veritas* from whom as a personal source all truth proceeds, the real, objective and substantial Word of God through whom all things are made. The object of love is real and substantial, and love particularises by a law so inevitable that any preference for vagueness in the object of love is reducible to the real and particular love of self.

We communicate in activity through the laws of the intelligence by which human activity proceeds. But since

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<sup>2</sup> The purchaser of a statue may want no more than a pious object to fill a niche, but a pious object to fill a niche is essentially *unmakeable*. What is made is a figure of Our Lady in Hopwood stone three feet high by ten inches wide, with a certain arrangement of the carved robes, a certain disposition of the face and limbs.

we are not a choir of free principles communicating in pure light, and in so far as our activity is embodied and made transitive in the world of things, we are conditioned in the exercise of action and of the elective judgment which informs it by the nature both of human society and of the material world. Our activity implies a receptivity without which it is not made real. We communicate in social and in bodily activity through the subordination of the primal community of goods (which is due to bodily need) to the laws of intelligence governing human activity precisely as human and personal. From the side of intelligence *concretion* is necessary for the fulfilment and embodiment of activity through the will. From the side of bodily action things belong to one person rather than another as soon as they cease to be consumed and are used for the embodiment of something new and real in the order of things. For as the action which is embodied is the action of a person and belongs to him, so the materials for the embodiment of that action belong to him. And they belong by a natural right which is anterior to legislation.

But not only does activity become embodied in material things so that it is right and just that their continued use should be secured to the user. It also imposes on matter obedience to human purposes. And all those activities confer "belonging" which engage on matter from the phase of raw material to the final delivery of the product into the hands of the consumer. Belonging represents man's natural need of livelihood embodied in the things he uses. But the use, being human, includes the formal and directive fashioning of the intelligence, and the full and decisive right of ownership represents man's dominion over the material creation. At the one level man's collaboration with matter in his work substantiates a belonging in the things he uses, a right which is called *usus*; at the other man's subjection of matter to final causes of his own dictation substantiates a more particularised and decisive belonging, a right which is called *dominium*. For not only is the final cause of economic activity the general satisfaction of human

## BLACKFRIARS

needs; the final cause of particular economic activity is the satisfaction of particular and specified needs: production specified not only by its kind but also by its direction: not only of this kind of thing rather than that but also for this group of persons rather than that. *Usus* reflects man's formal or technical mastery of matter, *dominium* his final (teleological) and purposive mastery. And it is quite clear that without technical mastery, purposive dominion over nature will not stand. But because economic activity in so far as it is real is not an abstract or generalised activity, but the activity of this man or that intending definite purposes by what he does, the activity covered by *dominium* includes specification of the destination of the product and disposal of the proceeds of exchange, together with the right to dispose of the instruments of production themselves.

*Dominium* therefore is directive in a way that *usus* is not. *Ususus* confers a right over the technique of the work and such control over its instruments as ensures this to the user. Founded in *usus*, *dominium* directs, and implies a responsibility for, the social effects of the work. Both rights are social rights but *dominium* is more explicitly social. Its implications are more readily formulated into law while those of *usus* depend more for their enforcement and defence upon free associations of workmen and a social ethos of respect for the conditions and quality of the work. The interdependence of both forms of right is an exceedingly close one. Where this interdependence is shaken; where owners are not normally concerned with the technical use of productive instruments but only with the social privileges of ownership; where the emphasis of the law is an unconditional defence of these privileges, and the body of the workmen are unconcerned with maintaining the human and personal quality of their work, the institution of private property becomes emptied of its significance and justification, and becomes almost exclusively an instrument for the domination of man by man and of the class of the owners over the class of those who do the work.

BERNARD KELLY.